

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable G. Thomas Cooper, Circuit Court Judge

JONATHAN JOHNSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2020-000068

APPENDIX

SARAH E. SHIPE
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

CHELSEY MARTO
Assistant Attorney General
1000 Assembly St.
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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S.C. SUPREME COURT

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Jonathan Cleodis Johnson,) 2017-GS-42-4883-4888
6 Defendant.) March 30, 2018
7 Spartanburg, South Carolina

8
9
10 B E F O R E:

11 HONORABLE GRACE GILCHRIST KNIE, JUDGE
12

13
14 A P P E A R A N C E S:

15 BARRY JOE BARNETTE, ESQUIRE
16 Attorney for the State

17 JACQUELINE ALICIA MOSS, ESQUIRE
18 Attorney for the Defendant
19
20

21 Linda D. Moffitt
22 Circuit Court Reporter
23
24
25

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-1	Sheriff's documents	4	22
S-2	DVD	4	22
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1 (Proceedings March 30, 2018)

2 (Sheriff's documents marked State's Exhibit No. 1 for
3 Identification; DVD marked State's Exhibit No. 2 for
4 Identification; DVD marked State's Exhibit No. 3 for
5 Identification; statement marked State's Exhibit No. 4 for
6 Identification; statement marked State's Exhibit No. 5 for
7 Identification; photograph marked State's Exhibit No. 6 for
8 Identification; SLED reports marked State's Exhibit No. 7
9 for Identification; SLED reports marked State's Exhibit No.
10 8 for Identification; record marked State's Exhibit No. 9
11 for Identification.)

12 (Whereupon, the defendant was duly sworn.)

13 MR. BARNETTE: May it please the Court, Your Honor.

14 THE COURT: Just give me one minute.

15 (Pause.)

16 THE COURT: Counsel, can y'all approach just one
17 moment? I had a question about the kidnapping.

18 MR. BARNETTE: Yes, ma'am.

19 THE COURT: Is the sex offender registry being sought?

20 MR. BARNETTE: No, ma'am.

21 (Bench conference held off the record.)

22 THE COURT: Is the possession of pistol, is that being
23 dismissed?

24 MR. BARNETTE: No, ma'am, it's not. It's possession
25 of a weapon during a violent crime.

1 THE COURT: And then I had a possession of stolen
2 pistol.

3 MR. BARNETTE: Yes, ma'am. Those are two separate
4 offenses.

5 THE COURT: Okay. Thank you all.

6 We are here on the matter Jonathan Cleodis Johnson, is
7 that correct, Counsel?

8 MS. MOSS: Yes, Your Honor.

9 MR. BARNETTE: Yes, Your Honor.

10 THE COURT: Okay. Solicitor, I'm happy to hear from
11 you, sir.

12 MR. BARNETTE: May it please the Court, Your Honor.

13 He is pleading guilty to the following indictments and
14 counts, Your Honor.

15 First indictment is 17-GS-42-4883, Your Honor. Count
16 one is for armed robbery, Your Honor, which carries a
17 minimum of ten years, up to 30 years, Your Honor. It's
18 both most serious and violent, Your Honor.

19 Then count two, possession of a weapon during the
20 commission of a violent crime, Your Honor. It is
21 nonviolent. It carries zero to five years, Your Honor.

22 The next one is 17-GS-42-4884, Your Honor. It is
23 another armed robbery indictment. Your Honor, he's
24 pleading guilty to that. It carries up to ten years to 30
25 years. It's also violent and most serious, Your Honor.

1 17-GS-42-4885, Your Honor, is the next indictment.
2 It's two counts of assault and battery in the first degree.
3 Your Honor, each count on that indictment carries up to
4 zero to ten. It is nonviolent, Your Honor.

5 The next one is 17-GS-42-4886. Your Honor, he's
6 pleading guilty to burglary first degree. Your Honor, that
7 is most serious and violent, Your Honor. It carries a
8 minimum of 15 years in prison, up to life, Your Honor.

9 Next one is 17-GS-42-4887, Your Honor, possession of a
10 stolen pistol, Your Honor. It is nonviolent. It carries
11 up to zero to five years, Your Honor.

12 And then the last indictment, Your Honor, contains two
13 counts. It's 17-GS-42-4888, Your Honor. Two counts of
14 kidnapping, Your Honor. Both of those are violent and most
15 serious. Your Honor, it carries zero to 30 years.

16 All of these counts have been true billed by the grand
17 jury, Your Honor.

18 He is represented by Ms. Jackie Moss in this case.

19 This is a straight-up plea, Your Honor, in this case.
20 No recommendations and no negotiations in this case, Your
21 Honor.

22 Your Honor, I do have nine exhibits that I'm going to
23 make part of the facts and evidence in the case. I've
24 shared that with defense counsel, Your Honor.

25 I believe Your Honor's had a chance to review those

1 also, Your Honor. I'd like to make those part of the
2 record when I go into the facts of the case and make them
3 part of the facts and evidence of the case.

4 THE COURT: Okay. Thank you. If I may have the
5 sentencing sheets.

6 (Pause.)

7 THE COURT: Okay. Are the victims here, Counsel?

8 MR. BARNETTE: Yes, ma'am.

9 THE COURT: Okay. And they will be addressing the
10 Court?

11 MR. BARNETTE: Yes, ma'am. Both of them are here, but
12 I think Michelle Tidd is the only one that's going to be
13 addressing the Court.

14 THE COURT: Okay. Good morning, sir. You are
15 Jonathan Cleodis --

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: -- Johnson, is that correct?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: All right. Sir, let me address this to
20 Ms. Moss.

21 Ms. Moss, is this a normal plea or an Alford plea?

22 MS. MOSS: Your Honor, we'd like to enter it as an
23 Alford plea.

24 THE COURT: Okay.

25 MR. BARNETTE: Your Honor, we did not discuss that

1 prior to the plea. I don't -- it's whatever the Court's
2 decision on that. If you'd like to do it as an Alford
3 plead, I do not have objection to it.

4 THE COURT: You do not?

5 MR. BARNETTE: Because the way I understand it would
6 be, he would admit that the evidence would be enough to
7 convict him and then basically would be a guilty plea.

8 THE COURT: Okay. Do you need to discuss that with
9 your client? Do you need to explain to him how I will be
10 asking the questions?

11 MS. MOSS: We -- we discussed that, Your Honor. We
12 actually discussed that.

13 THE COURT: Okay.

14 MS. MOSS: And I'm sorry. I didn't talk to Mr.
15 Barnette about that but I --

16 MR. BARNETTE: I have no objection. I didn't know,
17 but I have no objection to it, Your Honor.

18 THE COURT: Okay. And that would be under all
19 indictments, is that correct?

20 MS. MOSS: Yes, yes, Your Honor.

21 THE COURT: All right. Mr. Johnson, sir, have you
22 been sworn?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Okay. And I need for you to speak up for
25 me. All right?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right, sir. I have -- the way that
3 this will work I will -- I need to go over some questions
4 with you concerning the plea itself.

5 I will then hear from the state; I will hear from the
6 victims if they wish to address me.

7 I will then hear from your lawyer, Ms. Moss. I will
8 hear from any family members that you wish to have address
9 me, sir, or friends, anybody.

10 And then lastly, most importantly, sir, I will hear
11 from you before I issue my sentence. And so don't worry.
12 I need to get through these questions with you first, and
13 these questions regard the plea itself. And then with
14 regard to sentencing and mitigation, I will hear from you
15 before I issue that sentence at the very end. Okay?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: All right. If at any time, sir, I confuse
18 you or you need to confer with your legal counsel, I will
19 give you that opportunity. Do you understand?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: All right. And I will ask that you keep
22 your voice up so the court reporter here, Ms. Moffitt, can
23 take down what you're saying. Do you understand?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right. All right. Mr. Johnson, sir,

1 do you understand that the purpose of your being here this
2 morning is to enter a plea? And you are entering that plea
3 under North Carolina vs. Alford. But whether it's a guilty
4 plea or you're entering it under North Carolina vs. Alford,
5 you waive very important constitutional rights, sir.

6 You are waiving your right to a trial by a jury; you
7 waive your right to confront witnesses against you; and you
8 waive your right to remain silent. Do you understand that?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Okay. And, sir, if you were to go forward
11 and you were to have a trial on these charges against you
12 it's very important that you understand that the burden of
13 proof would not be on you and Ms. Moss or you and any other
14 lawyer that you might have.

15 The burden of proof is on the state, on the solicitor,
16 to prove every element of every charge against you beyond a
17 reasonable doubt. You are presumed to be innocent until
18 proven guilty. Do you understand?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And, sir, it's also very important for you
21 to understand that if you were to have a jury trial every
22 member of your jury would have to agree as to your guilt
23 for you to be found guilty, sir, of these charges. Do you
24 understand that?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Knowing all of that, sir, is it still your
2 wish that you go forward with your plea or pleas this
3 morning on these indictments under North Carolina vs.
4 Alford?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: All right. Now, Mr. Johnson, I'm going to
7 go through each indictment with you. I'm going to make
8 sure that you understand what you're pleading guilty to and
9 the potential penalty on each offense.

10 Okay. And I'm going to ask that your legal counsel
11 listen to me and that the solicitor listen to me to make
12 sure that I don't mess this part up.

13 okay. On all of these is he pleading as indicted,
14 Counsel, or is he -- or are some of these being pled to
15 lesser?

16 MR. BARNETTE: No. They're all as indicted, Your
17 Honor.

18 THE COURT: Okay. All right. The first indictment,
19 sir, is a true-billed indictment, and it's Indictment
20 No. 2017-GS-42-4886, and it is an indictment for burglary
21 in the first degree, a dwelling, in violation of South
22 Carolina Code Section 16-11-311.

23 And, sir, the potential penalty for this offense is
24 under -- on burglary first is 15 years to life.

25 And, sir, this is classified as a violent offense and

1 a most serious offense, and it is not suspendible.

2 Do you have any questions about this offense that you
3 are pleading guilty to, sir, or the potential penalty for
4 this offense?

5 THE DEFENDANT: No, ma'am.

6 THE COURT: Do you have any questions about the fact
7 that these offenses, this offense, is classified as violent
8 and most serious?

9 THE DEFENDANT: No.

10 THE COURT: You have to answer verbally, sir.

11 MS. MOSS: Just say it out loud.

12 THE COURT: Yes or no? Do you have any questions?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: Okay. So that has been explained to you
15 by your legal counsel.

16 MS. MOSS: I think he's indicating that he has a
17 question.

18 THE DEFENDANT: No. I forgot the question.

19 MS. MOSS: Sorry. She forgot -- he forgot the
20 question that you had asked him.

21 THE COURT: Okay. Sir, the question was do you have
22 any question about the fact that this offense is classified
23 as being violent and most serious?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: All right. Has Ms. Moss explained to you

1 the significance of that?

2 THE DEFENDANT: Yes, ma'am. She did.

3 THE COURT: All right. And that there is no
4 suspendible sentence on that. Do you understand?

5 THE DEFENDANT: Yes, ma'am. I do.

6 THE COURT: All right. With regard to Indictment
7 No. 2017-GS-42-488 [sic] -- and this is an indictment for
8 kidnapping, and there are two counts of kidnapping in
9 violation of South Carolina Code Section 16-3-910.

10 And, sir, the potential penalty for this offense is
11 zero to 30 years. This is classified as a violent and most
12 serious offense and it -- there is no parole with regard to
13 this offense. Do you have any questions about any of that?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: And it's my understanding that there would
16 be no request as to register as a sex offender.

17 MR. BARNETTE: That's correct, Your Honor.

18 THE COURT: We also have Indictment 2017-GS-42-4888-A,
19 which is the second count for kidnapping in violation of
20 South Carolina Code Section 16-3-910 with the same
21 potential penalty, zero to 30 years, and is also classified
22 as violent and most serious. Sir, do you understand?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. Indictment 2017-GS-42-4885,
25 and this is an indictment for assault and battery, a

1 true-billed indictment for assault and battery, in the
2 first degree, count one, in violation of South Carolina
3 Code Section 16-3-600-(C)(1), is count one of this
4 indictment with a potential penalty of zero to ten years.

5 And we have count two on 2017-GS-42-4885-A for the
6 same offense of assault and battery in the first degree in
7 violation of South Carolina Code Section 16-3-600(C)(1)
8 with the same penalty, sir, of zero to ten years.

9 Do you have any questions with regard to this offense
10 or these offenses that you are charged with, sir, or the
11 potential penalties for these offenses?

12 THE DEFENDANT: No, ma'am.

13 THE COURT: We have Indictment 2017-GS-42-4883, and
14 this is for the offense of armed robbery and possession of
15 a weapon during the commission of a violent crime.

16 The potential penalty, sir, for this offense is 10 to
17 30 years.

18 This is considered to be a violent and most serious
19 offense, and it is a no-suspendible-sentence offense.

20 Do you have any questions with regard to this
21 indictment, the potential penalty for this or the
22 classification of this offense as being violent and most
23 serious?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: All right. And as count two of this

1 indictment, 2017-GS-42-4883-A, this is for the offense of
2 possession of a weapon during a violent crime.

3 And, sir, the potential penalty for this offense is
4 zero to five years, and it is a non-suspendible offense.

5 Do you have any questions about that, sir?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: Then we have Indictment 2017-GS-42-4884,
8 and this is an indictment for armed robbery in violation of
9 South Carolina Code Section 16-11-330(A) with a potential
10 penalty, sir, of 10 to 30 years.

11 This is classified as a violent and most serious
12 offense with no suspendible sentence.

13 Do you understand that, sir?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Do you have any questions about that?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: Okay. If you all will just bear with me
18 one moment.

19 (Pause.)

20 THE COURT: Okay. And then, sir, we have the offense
21 of sale or delivery -- this is Indictment 2017-GS-42-4887,
22 and it is an indictment for possession of a stolen pistol
23 in violation of South Carolina Code Section 16-23-30. And
24 the offense is the sale or delivery of a pistol -- of a
25 stolen pistol with a potential penalty of not more than

1 five years and/or a fine of not more than \$2,000.

2 Sir, do you have any questions with regard to that
3 offense or the potential penalty for that offense?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Has anyone threatened you, coerced you or
6 promised you anything, sir, to get you to enter your plea
7 today?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Don't be offended. I ask everybody the
10 next questions.

11 All right, sir. Sir, were you at any time during your
12 communications with your lawyer, or are you today, under
13 the influence of alcohol, drugs or any intoxicant that
14 would impair your judgment, sir?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Do you suffer from any mental or physical
17 infirmity that would affect your ability to understand what
18 we're doing?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Do you take any prescribed medications?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: And, sir, are you satisfied with the
23 services of legal counsel? You have to answer verbally.

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Okay. Now, because this is under North

1 Carolina vs. Alford I need to ask some additional questions
2 before I get to the plea.

3 Solicitor, was discovery shared in this matter with
4 Ms. Moss?

5 MR. BARNETTE: Yes, ma'am.

6 THE COURT: Okay. And, Ms. Moss, did you have an
7 opportunity to review all of the evidence and discovery in
8 this matter with your client, Mr. Johnson?

9 MS. MOSS: Yes, Your Honor.

10 THE COURT: Also, did you have an opportunity to
11 discuss with Mr. Johnson the pros and cons of his going
12 forward and having a trial versus entering a plea in this
13 case?

14 MS. MOSS: Yes, Your Honor.

15 THE COURT: All right. Mr. Johnson, now, with regard
16 to the discovery and evidence against you, sir, were you
17 able to review the discovery and evidence against you in
18 this matter?

19 THE DEFENDANT: Yes, ma'am. I have.

20 THE COURT: All right. Did you have discussions with
21 your legal counsel about going forward and having a trial
22 versus entering a plea?

23 THE DEFENDANT: Yes, ma'am. I have.

24 THE COURT: All right. And based on those
25 communications, sir, do you believe that the state could

1 produce sufficient evidence to prove your guilt of these
2 charges beyond a reasonable doubt and that if you went to
3 trial that a jury would most likely find you guilty?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: All right. And so, sir, today are you
6 willing -- are you waiving your very important
7 constitutional rights that we discussed at the very
8 beginning -- your right to a trial by a jury, your right to
9 confront witnesses against you, your right to remain silent
10 and enter a plea today under North Carolina vs. Alford?

11 THE DEFENDANT: Yes, ma'am. I do.

12 THE COURT: And are you doing so freely, knowingly and
13 voluntarily?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. Lastly, sir, please be advised
16 that that in the event you wish to appeal any aspect of the
17 plea hearing today, sir, you only have ten days to do so in
18 writing to this Court. Do you understand?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: All right. Anything else, Counsel, before
21 I hear from the solicitor?

22 MR. BARNETTE: The only thing, I think you did cover
23 no-parole offenses on that, Your Honor. I think the armed
24 robbery, the burglary first and the kidnapping are
25 no-parole offenses.

1 THE COURT: Okay. Mr. Johnson, sir, just to make it
2 clear. The solicitor has stated that three of these
3 offenses -- some of them are two counts -- are no-parole
4 offenses. State that again.

5 MR. BARNETTE: Yes, ma'am. The burglary first, the
6 kidnapping and the armed robbery are no-parole offenses. I
7 believe you said that on one or two of them. I just wanted
8 to make sure it's clear on all of them.

9 THE COURT: Okay. And, so, Mr. Johnson, do you
10 understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Do you have any questions at all about
13 that for Ms. Moss? If you do we can take a break and you
14 can talk to her about it.

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Do you understand?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: All right. Anything else?

19 MR. BARNETTE: No, ma'am.

20 THE COURT: Anything else?

21 MS. MOSS: No, Your Honor.

22 THE COURT: Okay. Mr. Johnson, sir, I am now going to
23 ask you to direct your attention to Mr. Barnette, the
24 solicitor, and anyone else that will wish to address the
25 Court on behalf of the state. And I believe at this time

1 we will move those exhibits into evidence.

2 MR. BARNETTE: Yes, ma'am, if I can go through those
3 quickly and then just move into evidence as part of the
4 facts of the case.

5 THE COURT: Yes, sir.

6 MR. BARNETTE: State's Exhibit 1, Your Honor, is the
7 incident reports, as well as the warrants, line-ups,
8 evidence sheets, as well as the CAD sheets, that's involved
9 in this case, Your Honor. That's through the sheriff's
10 department, through their case number or the case number
11 incident, 17071456, Your Honor.

12 State's Exhibit 2, Your Honor, is the actual 9-1-1
13 calls and CAD sheets that was done in this case.

14 State's Exhibit 3, Your Honor, is actual body cams of
15 the officers that was involved from the sheriff's
16 department in this case.

17 State's Exhibit No. 4, Your Honor, is the written
18 statement of Michelle Tidd, one of the victims in this
19 case, Your Honor.

20 State's Exhibit 5, Your Honor, is Michael Birk. It's
21 his written statement in this case, Your Honor.

22 State's Exhibit 6, Your Honor, is numerous pictures.
23 There's pictures of the victim in this case, Mr. Birk.
24 There's also pictures of the money that was found, the
25 bullets, the play station, the marijuana, the guns that

1 were found, the two guns that was used in this case, Your
2 Honor.

3 State's Exhibit 7, Your Honor, is a SLED report. It's
4 lab No. L1712956, Your Honor. It was sent to SLED for
5 analysis, Your Honor.

6 There was one fired shot inside of the residence, Your
7 Honor. I believe you can hear that on the 9-1-1 call even.
8 And it matched up to one of the guns that was found, the
9 Saiga -- the Saiga Model 9mm weapon, Your Honor. One of
10 them was found. It did match up with that.

11 They also did analysis on the Taurus weapon that was
12 also found, Your Honor, that was used in the event.

13 State's Exhibit 8, Your Honor, I just entered that to
14 show there was fingerprints done. They came up negative.
15 It's not surprising because we rarely get fingerprints, but
16 just to show it was done, Your Honor.

17 State's Exhibit No. 9 is also in this, Your Honor.

18 And he has no prior record -- record, Your Honor.

19 Can I enter these into evidence at this time and make
20 them part of the facts and hand them up to the Court, Your
21 Honor?

22 THE COURT: Counsel, Ms. Moss, have you had an
23 opportunity to review those exhibits?

24 MS. MOSS: I have, Your Honor.

25 THE COURT: Do you object to those coming in?

1 MS. MOSS: I do not, Your Honor.

2 THE COURT: Okay. And so State's 1 through 9 will be
3 admitted into evidence without objection.

4 And I will put on the record that in an effort to be
5 most efficient today counsel had agreed for me to review
6 those exhibits prior to this morning, which I have done.

7 (Sheriff's documents marked State's Exhibit No. 1; DVD
8 marked State's Exhibit No. 2; DVD marked State's Exhibit No.
9 3; statement marked State's Exhibit No. 4; statement marked
10 State's Exhibit No. 5; photograph marked State's Exhibit No.
11 6; SLED reports marked State's Exhibit No. 7; SLED reports
12 marked State's Exhibit No. 8; record marked State's Exhibit
13 No. 9.)

14 MR. BARNETTE: Thank you, Your Honor.

15 Just to go briefly into the facts, Your Honor, I know
16 you've had the evidence, and we're making those part of the
17 facts of the case.

18 But this occurred on July 28th of 2017, Your Honor, at
19 approximately 8:30 p.m., Your Honor, at [REDACTED] Belcher Road,
20 Your Honor. Michael Birk lived there, and his mother was
21 with him, Michelle Tidd.

22 This defendant, as well as Kado Bunche, went up to the
23 residence, Your Honor, broke in. And I think you can see
24 where the door was kicked in, Your Honor.

25 What happened was they actually saw them come to the

1 door. Ms. Tidd actually called 9-1-1, and she was on the
2 phone. When they came in she dropped the phone and the
3 phone kept on going where you could hear the 9-1-1 call,
4 Your Honor.

5 The CAD sheet at the end of Exhibit 1 goes through
6 what was discussed. Basically, they went in demanding
7 money, drugs and different things. They even fired a shot.

8 Mr. Birk was hit in the head. I believe you can see
9 that through the pictures of the State's Exhibit 6, Your
10 Honor.

11 They took the money, play station, Your Honor, took
12 marijuana out of the residence also, Your Honor.

13 The thing about her calling 9-1-1, when the 9-1-1 call
14 keeps going, the sheriff's department was going to the
15 scene as fast as they could.

16 When they arrived there they found out what was going
17 on. They started searching. They found both defendants,
18 Mr. Johnson and Mr. Bunche. They found the items right
19 there, Your Honor. There was jewelry taken -- money.

20 If you go through the reports and everything they talk
21 about the money that was found. They found \$210. It
22 was on the ground, left of the residence, a \$20 bill, a \$10
23 bill to the left of the residence. The \$20 bill was
24 directly behind the residence. A \$20 bill was located on
25 the ground at the fence at the back yard. Found silver

1 necklaces with silver cross which was Mr. Birk's, Your
2 Honor. They also collected another hundred one dollars on
3 the ground at the intersection, Your Honor.

4 They moved to [REDACTED] Moss Lane, Your Honor. Basically,
5 after they caught the individuals, Your Honor, they found a
6 dish, H.D.M. cable, glass jar containing approximately one
7 ounce of green plant material believed to be marijuana.
8 They found a black cell phone in a red case, Your Honor, a
9 black play station game console cover, Your Honor, as well
10 as a control, Your Honor.

11 In this case there was two weapons that was also
12 found, Your Honor. Those are the two weapons listed in the
13 SLED reports, as well as the incident reports in this case,
14 Your Honor, one being a Saiga Saudi P-938 9mm they took,
15 Taurus Curve, a 9mm, Your Honor. The Saiga Saudi is
16 actually a stolen weapon. They ran it through N.C.I.C. and
17 found out it was a stolen gun, Your Honor. That's the
18 basis for the stolen pistol charge in this case.

19 Your Honor, I could go into more detail in the facts,
20 but I believe you've been supplied the incident reports,
21 and they would cover anything else, covering the facts of
22 the case, Your Honor.

23 I do have -- I think Ms. Tidd would like to address
24 the Court at the appropriate time, Your Honor.

25 THE COURT: Okay. And, Counsel, just, again, to

1 reiterate, the address where this occurred?

2 MR. BARNETTE: Was [REDACTED] Belcher Road, Your Honor,
3 Boiling Springs, South Carolina, which is in Spartanburg
4 County, Your Honor.

5 THE COURT: Okay. Thank you.

6 Yes, ma'am. If Michelle Angela Annette Tidd would
7 please come forward.

8 Okay. Good morning, Ms. Tidd.

9 MICHELLE TIDD: Good morning.

10 THE COURT: I'm happy to hear from you, ma'am. And I
11 need for you to speak loudly so that we can get this on the
12 record.

13 MICHELLE TIDD: First thing I want to do is let Mr.
14 Johnson know that as a Christian I do forgive him.

15 I really don't know what to say even though I had a
16 million things to say. I know that this has not only
17 affected me and my family, but it has also affected his
18 family.

19 I know what it's like to have somebody incarcerated
20 for years. I received the phone calls; I sent the care
21 packages. So I know what his family is going to be going
22 through.

23 I really I -- I guess that I had so much to say I just
24 wish this would have never happened. I wish that when I
25 seen them walking down Moss Lane I would have stepped on my

1 front porch and yelled at them to go away.

2 I didn't know who they were. My dogs warned me. My
3 dogs barked. I looked outside. I live up on a hill. I
4 seen him and another man walking down Moss Lane. I looked
5 over. I dismissed it. I went back to what I was doing in
6 the home.

7 Then when my hundred-pound lab that's been trained to
8 protect me started doing her under-belly growl I
9 automatically grabbed my phone knowing something was wrong
10 if my dog was making that sound.

11 When I looked back out my window the only person I
12 seen was Jonathan walking up my driveway. I've never met
13 them before.

14 I automatically called 9-1-1 because I knew he did not
15 belong in that driveway, in my driveway.

16 I'd just moved in there. I didn't even reside there
17 at the time. I'd just moved into my son's house.

18 I worked all day. I moved furniture out of my home.
19 My son helped me put it in storage. My son was resting. I
20 was cleaning.

21 And, like I said, when I see them walking down the
22 road I dismissed it because there was, you know, no reason
23 for me to think anything other than two men walking down
24 the street until I seen Jonathan in my driveway. And I
25 knew something was wrong.

1 And then when I dialed 9-1-1 and I looked back up he
2 was staring at me through the window, and I had a red beam
3 pointing at my chest.

4 He ordered me to open up my front door, and I
5 blatantly told him no. I won't repeat what I actually
6 said, but I refused to open up my front door. And I went
7 and hid in the corner.

8 And when they busted in through my door -- I know on
9 the tape it says they're in. And I tossed my phone. The
10 first thing they wanted from me was my phone. I didn't
11 know where my phone went. And I just tried to keep the
12 situation calm so that nobody would get hurt.

13 And then I was very scared when -- when Jonathan took
14 me into my grandson's bedroom and ordered me to lay on my
15 belly. And when he ordered me to lay on my belly I
16 refused. I refused to lay on my belly.

17 And I turned to him and I looked him in the face and I
18 told him if you're going to shoot me it's not going to be
19 me laying down, face down, on the ground.

20 And I actually compromised with him and told him I'd
21 get on one knee so that if he does shoot me and kill me
22 that's where my Lord and Savior is going to find me.

23 I put my head down so I wouldn't have to see it, and
24 he shot the gun. And I have to look at that gun hole in
25 the wall every single night now.

1 My heart goes out to him because I wish he would have
2 never done this. I don't know what led him to come to that
3 house. The marijuana, the play station, whatever it was, I
4 think me being there was an element of surprise because he
5 doesn't know who I am.

6 But the things that I learned growing up in Fort
7 Lauderdale, Florida, about being safe and being aware of
8 your surroundings paid off in South Carolina because I knew
9 to throw my phone.

10 He showed absolutely no respect for me whatsoever, and
11 the only thing that goes through my mind is what went
12 wrong, why would he treat me this way.

13 I know he wouldn't want no one doing that to his
14 mother, and I hope he's given that thought, how he would
15 feel if somebody ordered his mother to the ground.

16 There was a couple of times I had to push the gun away
17 from my head. I don't know what would cause a young man to
18 behave this way.

19 And I really, I don't have anything else to say, that
20 I'm -- I'm sorry for his family. I really truly am. I'm
21 sorry that they have to go through this with him.

22 I've been on the other side before with a brother, and
23 I know what it's like to have somebody put away from the
24 people that love him. And I know there's people that love
25 him.

1 My life has gone on and I've gotten a little bit
2 better at dealing with it. And I'm going to just keep
3 moving on. That's really all I really have to say.

4 THE COURT: Thank you, ma'am.

5 MICHELLE TIDD: Can I -- can I really -- can I look at
6 Jonathan just once?

7 THE COURT: Yes, ma'am.

8 MICHELLE TIDD: Jonathan, I'm sorry that you came to
9 my house. I'm sorry that you're going to be put away. I
10 truly am. My heart breaks for you as a mother, as a mother
11 of -- please look at me. My heart breaks for you.

12 THE COURT: Thank you, ma'am.

13 MR. BARNETTE: Your Honor, I've looked. Mr. Birk
14 doesn't want to speak, Your Honor, but he is present in the
15 courtroom.

16 Just a couple of things, Your Honor, just to tie in.
17 They -- they were both I.D.'d, both defendants, through
18 lineups. And, as a matter of fact, Mr. Johnson had worked
19 with Mr. Burke at Amazon, so they knew each other from
20 work. So there's no question about I.D.'s in this
21 situation from there.

22 THE COURT: Yes, sir.

23 MR. BARNETTE: So I just wanted to make sure that was
24 clear for the record.

25 And I believe -- we're done with our presentation. I

1 don't know if you'd accepted the plea or not at this time,
2 Your Honor.

3 THE COURT: Okay. Yes, yes, sir. I -- Mr. Johnson,
4 sir, I do accept the plea.

5 And I will now hear from Ms. Moss.

6 MR. BARNETTE: Your Honor, may we approach for one
7 second?

8 THE COURT: Yes.

9 (Bench conference held off the record.)

10 THE COURT: Mr. Johnson, sir, I do find that there is
11 a substantial factual basis for the plea under North
12 Carolina vs. Alford, sir. And I find that you have freely,
13 knowingly and voluntarily made your plea today under North
14 Carolina vs. Alford. All right.

15 MR. BARNETTE: Thank you, Your Honor.

16 THE COURT: All right. And so now, Ms. Moss, ma'am,
17 if you are ready to proceed I am happy to hear from you and
18 anyone that you would like to have speak on behalf of Mr.
19 Johnson.

20 MS. MOSS: Thank you, Your Honor.

21 Mr. Johnson is very soft-spoken, as the Court has
22 already recognized. That is his nature. Each time that
23 I've visited with him when we've reviewed the evidence he's
24 been soft-spoken.

25 On July the 28th of 2017 he told me he was under the

1 influence of marijuana, cocaine and some pills that he
2 didn't even -- he couldn't name, in mitigation, because he
3 has accepted responsibility for his actions, Your Honor.

4 He is 25 years old and he has no criminal history.
5 There's a codefendant in this case, Kado Bunche. They were
6 together when this incident occurred.

7 He has expressed extreme remorse each and every time
8 that I've met with him.

9 We went over the volumes of evidence together, Your
10 Honor. We talked about possible defenses. We went over
11 every stitch of the evidence together. And he was
12 apologetic every step of the way. And he explained to
13 me -- and I talked and counseled him -- about the drug use
14 that occurred on that night and the circumstances that it
15 placed him in.

16 As I stated, this is a difficult plea because he has
17 so much community and family support, Your Honor. And that
18 community and family support has been with him since this
19 arrest, Your Honor.

20 They are here today on the front row and the second
21 row, Your Honor. Some of them would like to speak on his
22 behalf, but they are here in support of him.

23 We talked about the nature of this, these charges, and
24 the things that occurred. And the reason the plea is under
25 North Carolina vs. Alford, after reviewing the evidence he

1 realized what happened, but, in his words, he was highly
2 high. He was high.

3 And he knew that there was marijuana at that home. He
4 had had prior dealings with the victim. And based upon
5 that, I believe, is the reason why they entered that home
6 that night, Your Honor. There was marijuana found at that
7 home. Again, in mitigation because there is no excuse for
8 what happened.

9 He has so much potential, Your Honor. I have spoken
10 with him. We have talked about goals and dreams and things
11 that he wants to do.

12 He has a nephew that he has up until this point been a
13 role model. Like I said, he's 25. He did not have a
14 criminal history until this occurred, Your Honor, when he
15 was arrested. And he spent time with that nephew when the
16 father was not with the nephew, Your Honor, and he
17 expressed some concern about that.

18 Mr. Johnson is a good person. He is facing some
19 substantial uphill issues based upon that one date and that
20 timeframe that night. And we've talked extensively about
21 that date defining his destiny and defining what will
22 happen.

23 But even when I was saddened about what was going on
24 he was positive about his future because he wanted to
25 accept responsibility and hoped to get some mercy from the

1 Court so that he could move on. He's talked to me about
2 prison programs because he knew that there was a minimum
3 sentence, and he's talked to me about moving forward and
4 doing the things that he needed to do to get on the right
5 track, Your Honor.

6 He does not have a criminal history at all, Your
7 Honor, and he's accepting full responsibility for these
8 actions, this occurrence, and his place in the process of
9 Moss Lane that night. And we're just asking for the mercy
10 of the Court, Your Honor, because I do believe that he has
11 some potential to do the right thing and I do believe that
12 he can do the right thing.

13 And I do understand that this was one day, one night,
14 horrible incidents that occurred. We heard what the victim
15 said. And I'm saddened to hear about what the victim said
16 because there are some difficult circumstances that
17 occurred that night. But we'd like for that not to define
18 the entirety of this life, Your Honor, because I do believe
19 he has potential and I do believe he can do things and he
20 can go places.

21 I've spent a lot of time with him at the jail, and I
22 know that he has goals that he wants to seek. He wants to
23 be a productive member of society. So we're asking for the
24 mercy of the Court, Your Honor, because my client has told
25 me all along from the first time I met with him through

1 being in the jail room a few moments ago that he wanted to
2 accept responsibility and he knew what he was facing
3 because he wanted to move on with his life. Thank you,
4 Your Honor.

5 THE COURT: Okay. And would the family members like
6 to speak at this time, or the friends?

7 MS. MOSS: His father will come first, Your Honor.

8 GREGORY JOHNSON, SR.: My name is Gregory Johnson, Sr.
9 I am Jonathan's father. This is my -- my younger son.

10 THE COURT: Yes, sir. Just take your time.

11 GREGORY JOHNSON, SR.: We understand that what
12 Jonathan done was very wrong, and we apologize to the
13 family for what he did.

14 But the only thing we can ask Your Honor is just
15 please have mercy on my son. He is a young man, never been
16 in trouble before. And he knows what he done was wrong.
17 And we, the family, would just like to say, just leave it
18 in your hands, Your Honor, and hope that you will do the
19 right thing and not punish him for making one mistake in
20 his life, because he still does have a bright future ahead
21 of him. Thank you.

22 THE COURT: Okay. Thank you, sir.

23 Yes, sir.

24 ARTHUR F. GRANT: May it please the Court. My name is
25 Arthur F. Grant. I am a licensed minister at the church of

1 Jonathan's family. I'm also a licensed professional
2 counselor.

3 During my time of knowing this young man I can fully
4 state without question that he has always been willing to
5 accept responsibility for the mistakes that he has made.

6 One of the big mistakes that Jonathan has made
7 throughout his life is wanting to be liked, wanting to be
8 accepted, wanting to be a part of something better than the
9 current circumstances around him.

10 There are no words that can heal the pain suffered by
11 the family in this case, and I understand that.

12 And I congratulate you for enduring the process as
13 well as you have been.

14 I also congratulate his family for offering support
15 here.

16 Johnathan was also on a team that I coached, a church
17 league basketball team. And one of the things I remember
18 most about him during that time was that when some of his
19 friends were knowingly doing things that he knew I didn't
20 approve of and such as his -- well, just things that were
21 unacceptable behavior that would lead to the team
22 suffering, Jonathan was always the first one to come
23 forward and say, "Coach, you need to talk to so and so.
24 He's about to make a bad decision. Coach, you need to talk
25 to this young man because he -- you know, he really doesn't

1 mean to do the things that he's doing but he's -- he's
2 under duress." In other words, he was always reaching out
3 to try to help someone else.

4 We all make bad decisions in life. There's no excuse
5 for the pain and suffering that people have had to endure
6 as a part of this. But I think there is something to be
7 said for being willing to take responsibility for one's
8 actions.

9 He could have prolonged this procedure to hurt and
10 pain for everybody by going to trial and having everybody
11 relive all of this pain over and over and over again. He
12 didn't choose to do that, and I pray that this is worth
13 something in your eyesight.

14 You have a difficult decision to make -- I understand
15 that -- as a judge. I also understand as a grandfather and
16 a father the pain experienced by his family, the pain
17 experienced by the other families, which that pain was so
18 artfully expressed.

19 I also understand that when a person recognizes that
20 there is something that they need to change -- and I truly
21 believe Jonathan recognizes that, and I hope that he will
22 have an opportunity to say those words to you, because the
23 Jonathan I know and knew is a person who is about being
24 better, about changing that that has caused pain to family
25 and friends.

1 I could go on and on, but I think the chief thing I
2 wanted to say was that we're all victims in this situation
3 in one way or another.

4 Jonathan knows the consequences of what he did and is
5 willing to accept responsibility for that. I'm just asking
6 and pleading that this be taken under strong consideration.
7 Thank you.

8 THE COURT: Thank you, sir. Thank you for being here.
9 Okay.

10 MS. MOSS: Your Honor, I believe Mr. Johnson would
11 like to address the Court at this time.

12 THE COURT: Of course.

13 All right. Mr. Johnson, you remember at the beginning
14 of this proceeding, sir, I promised you that you would have
15 an opportunity to address me. Now is that opportunity,
16 sir.

17 THE DEFENDANT: Your Honor, I know these charges
18 against me are serious-offense charges, and I know what I
19 did was wrong, and I would like to apologize to the family.
20 I really am sorry. I also want to apologize to my own
21 family for putting them through this.

22 The night of that crime I really was under the
23 influence of a lot of drugs, and I really don't know,
24 remember, remember anything.

25 I do accept the consequences of these charges, and I'm

1 willing to be a man and stand in front of you right now and
2 take the blame for these charges.

3 THE COURT: Okay. Anything else, sir?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: All right. Ms. Moss.

6 And thank you, sir.

7 How many days has Mr. Johnson been incarcerated?

8 MS. MOSS: I don't know. It was from July 28th of
9 2017. Eight months. I don't have the exact days. I'm
10 sorry.

11 MR. BARNETTE: May we approach for one second, Your
12 Honor?

13 THE COURT: Yes.

14 (Bench conference held off the record.)

15 THE COURT: Lastly, Mr. Johnson, sir, do you
16 understand that any defenses that you might have under the
17 law with regard to these charges, sir, will not be
18 available to you once you enter your plea even though
19 you're doing that under North Carolina vs. Alford?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: All right. Okay. If you all will, bear
22 with me for just a few moments.

23 (Pause.)

24 THE COURT: Solicitor, I just want to confirm. There
25 is no restitution being sought?

1 MR. BARNETTE: No, ma'am. There is not.

2 THE COURT: Counsel, did y'all figure that out?

3 MR. BARNETTE: Yes, ma'am. We agreed. I think
4 Ashley's got the number for you, Your Honor.

5 (Pause.)

6 THE COURT: Okay. We are back on the record with
7 regard to the matter of the State of South Carolina, County
8 of Spartanburg, vs. Jonathan Cleodis Johnson, Indictment
9 No. 2017-GS-42-4886. And this is the indictment for
10 burglary in the first degree. It would be the Order of the
11 Court that the defendant be committed to the state
12 department of corrections for 25 years.

13 He will get credit for time served of 245 days.

14 During that period I have made a request that he be
15 referred to the addiction treatment unit and that he have
16 no contact with the victims.

17 With regard to Indictment 2017-GS-42-4888 and 4888-A,
18 as to the offense of kidnapping, two counts, it would be
19 the Order of the Court that the defendant be committed to
20 the state department of corrections for 25 years.

21 There will be no sex offender registry requirement.

22 These sentences are concurrent to 4886. And he will
23 get the same credit for time served.

24 With regard to Indictment 2017-GS-42-4884, and this is
25 the offense -- and 4883, armed robbery while armed or

1 allegedly armed with a deadly weapon, it would be ordered
2 that the defendant be committed to the state department of
3 corrections for 15 years. The same credit for time served
4 will apply and the same conditions apply.

5 With regard to 2017-GS-42-4883-A, possession of a
6 weapon during a violent crime, the defendant shall be
7 sentenced to the state department of corrections for five
8 years.

9 And with regard to Indictment 2017-GS-42-4885 and the
10 offense of assault and battery first degree, and count two,
11 2017-GS-42-4885-A for the same offense, it is ordered that
12 the defendant be committed to the state department of
13 corrections for ten years.

14 That will be suspended upon the service of five years
15 and probation for five years. The probationary period will
16 commence at the completion of this sentence.

17 The special conditions would be that he will submit to
18 random drug and alcohol testing and substance abuse
19 counseling.

20 As to Indictment 2017-GS-42-4887 and the offense of
21 sale or delivery of a pistol, of a stolen pistol, it would
22 be the Order of the Court that the defendant be committed
23 to the state department of corrections for five years.

24 He will receive the same credit of 245 days.

25 These, as stated, are all concurrent sentences. Thank

1 you.

2 MS. MOSS: Thank you.

3 MR. BARNETTE: Thank you, Your Honor.

4 END OF REQUESTED TRANSCRIPT OF RECORD

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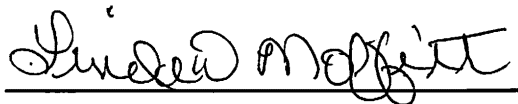
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 30th day of March 2018.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 27, 2018

A handwritten signature in cursive script, reading "Linda D. Moffitt", is written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

County of SPARTANBURG)

IN THE COURT OF COMMON PLEAS

JONATHAN JOHNSON # 375868)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention BROAD RIVER CORRECTIONAL INSTITUTION
4460 BROAD RIVER ROAD COLUMBIA, S.C. 29210
2. Name and location of Court which imposed sentence COURT OF GENERAL
SESSIONS SPARTANBURG, SOUTH CAROLINA
3. Name(s) of co-defendant(s) (if any) Kado Shyheim Bunche
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 17-45-42-4883 ARMED ROBBERY (COUNT 1);
POSSESSION OF A WEAPON DURING COMMISSION
OF A VIOLENT CRIME (COUNT 2)

- 17-GS-42-4888 KIDNAPPING (2 COUNTS)
 17-GS-42-4887 POSSESSION OF STOLEN PISTOL
 (b) 17-GS-42-4884 ARMED ROBBERY, 17-GS-42-4883
 (c) ASSAULT & BATTERY 1ST DEGREE (2 COUNTS) 17-GS-42-4886
 BURGLARY FIRST DEGREE.

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) MARCH 30, 2018
 (b) SENTENCE TO 25 YEARS
 (c) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty ✓
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

8. If you answered Ayes@ to (7), list:

(a) the name of each Court to which you appealed:

- i. N/A
 ii. |
 iii. _____

(b) the result in each such Court to which you appealed:

- i. N/A
 ii. |
 iii. _____

(c) the date of each such result:

- i. N/A
 ii. |
 iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. N/A
 ii. |
 iii. _____

9. If you answered Ano@ to (7), state your reasons for not so appealing:

- (a) APPLICANT DID NOT KNOW THAT HE COULD APPEAL
NO ONE NEVER TOLD HIM THAT HE COULD APPEAL.

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 SPARTANBURG COUNTY
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- (b) _____
- (c) _____

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) AMENDMENTS V, PRESENTMENT OR INDICTMENT,
- (b) AMENDMENT VI, INEFFECTIVE ASSISTANCE
- (c) OF COUNSEL. & AMENDMENT XIV, DUE PROCESS OF LAW.

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) SEE ATTACHMENT⁹⁸
- (b) " " "
- (c) " " "

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____

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SPARTANBURG COUNTY
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M. HOBBS-CLACLEY

iv. _____

(c) the disposition thereof:

i. _____ N/A

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____ N/A

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____ N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

No

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____ N/A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____ N/A

ii. _____

iii. _____

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Facts Which Support Grounds in (10):

- 1.) On July 28, 2017 Applicant Was denied The Sixth Amendment right to Counsel by The Spartanburg County Sheriff Dept. during the line-up.
- 2.) Applicant was denied the eighth Amendment right to Bail on or about August 23, 2017.
- 3.) On or about August and November 2017 Head Public Defender Clay T. Allen, did changed Applicant Public Defender three time without telling the Applicant why.
- 4.) On October 30 2017 Applicant Was denied The Fourteenth Amendment right to a Preliminary hearing.
- 5.) On January 12 2018 The Applicant saw his Attorney Jacqueline A. Moss. For the first time in five months of being lock-up in the County Jail.
- 6.) On March 30 2018 Applicant Attorney told him right before he Pled that she Was going to get him a Sentence between 15 - 20 Years and that She Was going to do her best to get him the lower end of the Sentence which Was 15 Years Non-Violent.

LEGAL MAIL
MAIL ROOM

- 7.) The State or Applicant Attorney lied to him and Breach the Plea agreement.
- 8.) Applicant Attorney Was Ineffective for not keeping her word.

RIGHT TO COUNSEL:

- 9.) The Sixth Amendment Provides that "all Criminal Prosecutions the accused shall enjoy the right... to have the Assistance of Counsel for his defense." The Sixth Amendment right to Counsel applies to all federal and state Criminal Prosecutions in which the defendant is accused of a felony or of a misdemeanor if a sentence of imprisonment is actually imposed the accused need not affirmatively request Counsel for the right to attach. The right to Counsel attaches in a Criminal Prosecution after the initiation of adversarial judicial proceedings. U.S. Constitution Amendment Sixth.

South Carolina Rules of Criminal Procedure / Preliminary Hearings:

- 10.) Rule 2.(a)(b) Any defendant charged with a crime not triable by a magistrate shall be brought before a magistrate and shall be given notice of his right to a preliminary hearing solely to determine whether sufficient evidence exists to warrant the defendant's detention and trial. (b) Time for Hearing:

If the defendant request a preliminary hearing the hearing shall be held within ten days following the request.

11.) The Fourteenth Amendment:

NO State shall make or enforce any law which shall abridge the Privileges or immunities of citizens of the United States; nor shall any State deprive any Person of life, liberty, or Property, without due Process of law; nor deny to any Person within its Jurisdiction the equal Protection of the laws.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

- (a) _____
- (b) _____
- (c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? YES
- (b) your trial, if any? NO
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? YES

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SPARTANBURG COUNTY
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M. JEFFREY BLANKLEY

18. If you answered Ayes@ to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Seventh Judicial Circuit Public Defender
366 North Church Street Suite 3000
 - ii. Spartanburg South Carolina 29303
 - iii. Attorney Jacqueline A. Moss,
Address UNKNOWN.
- (b) the proceedings at which each such attorney represented you:
 - i. _____
 - ii. _____
 - iii. _____

19. State clearly the relief you seek in filing this application:

Applicant respectfully Pray that this Court enter Judgment Granting Applicant Jonathan Johnson 15 Years Non-Violent or Pull the Plea & Take it to Trial.

20. Are you now under sentence from any other court that you have not challenged?

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of Spartanburg)

VERIFICATION

I, Jonathan Johnson, #375868, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Jonathan Johnson

SWORN to and subscribed before me this 4th day of September, 2018.

Kenneth M. Mutch (L.S.)
Notary Public

My Commission Expires: May 23, 2028

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2018 SEP 10 PM 2:01
M. HOPE BLACKLEY

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Jonathan Johnson, #375868, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Jonathan Johnson
Applicant

SWORN or affirmed to and subscribed before me this
4th day of September, 2018.

Kendall Mitchell
Notary Public

My Commission Expires: May 23, 2020

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2018 SEP 10 PM 2:01
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Jonathan Johnson,	)	Case No.: 2018-CP-42-3121
S.C.D.C. No. 375868,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the application for post-conviction relief filed by Jonathan Johnson (Applicant) on September 10, 2018, Respondent would show this Court:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the October 2017 term of the Spartanburg County Grand Jury for two counts of kidnapping (2017-GS-42-4888, 4888A) two counts of first degree assault and battery (4885, 4885A) possession of a stolen pistol (4887) two counts of armed robbery (4883, 4884) first degree burglary (4886) and possession of a weapon during a violent crime (4883A). Originally, Roger Poole ("Poole") represented Applicant. Thereafter, Mary Stuart Shealy ("Shealy") represented Applicant. On November 20, 2017, Jacqueline Alicia Moss ("Moss") began representing Applicant. Barry J. Barnette of the Seventh Circuit Solicitor's Office, prosecuted the case.

On March 30, 2018, Applicant pled guilty, under Alfred v. North Carolina, 400 U.S. 25, (1970), to two counts of armed robbery, possession of a weapon during the commission of a violent crime, two counts of assault and battery, first degree burglary, possession of a stolen

pistol, and two counts of kidnapping. The Solicitor did not offer a recommendation. The Honorable Grace G. Knie sentenced Applicant to imprisonment for concurrent terms totaling at twenty-five years followed by five years of probation.

On April 2, 2018, Applicant's mother filed a notice of appeal on his behalf. On May, 2, 2018, the South Carolina Court of Appeals dismissed Applicant's notice of appeal because 1) Applicant's mother not an attorney licensed to practice in South Carolina; and 2) hybrid representation prevent Applicant from filing it on his own behalf because Moss still represented him. (Case No. 2018-000606). A remittitur was issued on May 17, 2018.

II. STATEMENT OF THE FACTS

The underlying facts of the crime(s) for which Applicant is incarcerated were articulated by the State during the plea proceeding as follows:

On July 28, 2017, Applicant broke into the home located at [REDACTED] Belcher Road in Spartanburg County, SC. One of the Victims saw Applicant kick in the door, and dialed 9-1-1. Applicant, with a co-defendant, demanded money, drugs, and other items from the Victims. (Tr. 22-3).

Applicant, with a co-defendant, fired a shot at some point during the confrontation. Also, one of the Victims was hit in the head. Applicant, with a co-defendant, took money, a play-station, jewelry, and marijuana from the Victims' home. Upon arrival, Spartanburg County police located Applicant and his co-defendant near the home. (Tr. 22-3).

Spartanburg County Law Enforcement located several items at the scene. They found \$210 near the residence, a \$20 bill behind the residence, and a \$10 to the left of the residence. They found a silver necklace that belonged to one of the Victims. They found another \$100 on the ground at the intersection where Applicant was caught. They found an ounce of marijuana.

They found the black play station game that belonged to the Victims, a play-station controller, and a black cell phone. They also found two weapons, and one was identified as stolen.

(Tr. 24).

III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. Constitutional Claims

- a. On July 28, 2017 Applicant was denied sixth amendment right to counsel by the Spartanburg County Sheriff Department during the line-up.
- b. Defendant has right to counsel after initiation of adversarial judicial proceeding.
- c. Applicant was denied the eighth amendment right to bail on or about August 23, 2017.
- d. On October 30, 2017, Applicant was denied the fourteenth amendment right to a preliminary hearing.
- e. Preliminary hearing shall be held within ten days following the request by Defendant
- f. Fourteenth Amendment violation based upon due process

2. Ineffective Assistance of Counsel

- a. Between August 2017 and November 2017, Head Public Defender Clay Allen changed Applicant's lawyer three times without giving Applicant notice.
- b. Applicant's attorney was ineffective for not keeping her word.
- c. On January 12, 2018, Applicant saw his lawyer Jacqueline A. Moss for the first time in five months of being incarcerated.

3. Involuntary Plea

- a. On March 30, 2018, Applicant told him right before he pled that she was going to get him a sentence between 15-20 years and that she was going to do her best to get him lower end of the sentence which was 15 years non-violent.

4. Prosecutorial Misconduct

- a. State or Public Defender lied to Applicant and breached the plea agreement.

Applicant requests relief as follows:

- 1) Enter judgment granting fifteen years non-violent; or
- 2) Pull the plea and take it to trial.

Attached to and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, Applicant's appellate records, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

Ineffective Assistance of Plea Counsel, Generally

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel's performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional

judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Right to Counsel

Applicant alleges he was denied the right to counsel at a critical stage of adversarial judicial proceeding, the lineup. Applicant's claim is a constitutional issues which falls under the ineffective assistance of counsel claim umbrella. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). An applicant's statements during the plea hearing are considered “conclusive unless [he] presents valid reasons why he should be allowed to depart from the truth” of them. Dalton State, 376 S.C. 130, 654 S.E.2d 870 (Ct. App. 2007). At the plea hearing, Applicant testified to reviewing all evidence and discovery with Moss before entering into a plea agreement. (Tr. 17, L. 19). Thereafter, the Solicitor entered information about lineups into evidence.¹ (Tr. 20, L. 7).

¹ Records suggest no lineup was conducted for Applicant because one of the victims provided a written statement identifying him as a previous co-worker. The only lineup conducted was to identify his co-defendant.

Moss then notified the plea court no objection was warranted based upon previous review.² (Tr. 21, L. 22-5) (Tr. 22, L. 1). Importantly, Applicant has not presented a valid reason to depart from the truth that Moss reviewed all evidence and discovery before the hearing, including lineup information. Therefore, Moss was not deficient in addressing potential lineup issues.

Denial of Bail

Applicant alleges he was denied bail in violation of his eight amendment right on August, 23, 2017. Applicant's claim is a constitutional issues which falls under the ineffective assistance of counsel claim umbrella. Roscoe, 345 S.C. 16, 546 S.E.2d 417. A person charged with a non-capital offense should be released pending trial unless the court determines in its discretion that such a release will not reasonably assure the appearance of the person as required, or unreasonable danger to the community or an individual will result." S.C. Code Ann. § 17-15-10 (2019). On August 7, 2017, Poole filed a motion for bond on behalf of Applicant. On August 11, 2017, Poole represented Applicant at a bond hearing. Thereafter, Applicant's bail was denied because the court found he was a danger to the community. Therefore, this allegation is without merit.

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STANFORD COUNTY
COURT

² On September 7, 2017, the photo-lineup information was included in an affidavit of service discovery material signed over to Shealy.

Preliminary Hearing

Applicant alleges he was denied a preliminary hearing in violation of due process under the fourteenth amendment. Applicant's claim is a constitutional issues which falls under the ineffective assistance of counsel claim umbrella. Roscoe, 345 S.C. 16, 546 S.E.2d 417. However, a preliminary hearing is not necessary "if the defendant is indicted by a grand jury." SCRCrimP. 2. Applicant was indicted on all charges during the October 2017 grand jury term. Therefore, this allegation is without merit.

Failure to Advise

Applicant alleges Counsel did not keep her word. Specifically, Applicant asserts Counsel promised fifteen to twenty years if he pled guilty. Applicant was sentenced to twenty five years followed by probation. A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Taylor v. State, 404 S.C. 350, 745 S.E.2d 97 (2013). On March 27, 2018, Applicant filled out and signed an affidavit reaffirming his guilty plea. In that affidavit, Applicant acknowledged his minimum sentence was fifteen to twenty years, maximum sentence was life and the Solicitor would not recommend a sentence. Applicant further acknowledged the court is not bound to follow any recommendation by the Solicitor. Thereafter, Applicant asserted nobody offered him "benefit, hope, or reward" to plea. Therefore, this allegation is without merit.

General Denial

Applicant can satisfy neither requirement of the Hill test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not

conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. INVOLUNTARY PLEA

Applicant alleges he entered into the plea agreement based upon counsel's guarantee his sentence would be a maximum of twenty years. Applicant's involuntary plea deal is a constitutional issue which falls under the ineffective assistance of counsel claim umbrella. Roscoe, 345 S.C. 16, 546 S.E.2d 417. Assuming *arguendo* plea counsel did not adequately advise Applicant about consequences of accepting a plea, Counsel's alleged deficiency was arguably cured by the plea court. (Tr. 16-8). See Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997) (stating that plea counsel's deficient performance can be cured by the plea court's colloquy). Specifically, the Court told Applicant his burglary charge could carry up to thirty years with no possibility of parole. (Tr. 13, L. 10-4). Therefore, this allegation is without merit.

VI. PROSECUTORIAL MISCONDUCT

Applicant alleges that the Solicitor lied to him about the plea agreement. A prosecutor has discretion in choosing how to proceed with a case, including whether to prosecute in the place and whether he brings it to trial or offers a plea bargain. State v. Blakely, 402 S.C. 650, 658, 742 S.E.2d 29, 33 (Ct. App. 2013). Only certain limited circumstances pose a realistic likelihood of vindictiveness by a prosecutor and, therefore, warrant the application of a presumption of vindictiveness; the inquiry is not focused solely on the presence or absence of actual vindictive motive, but includes whether the action taken, which exposes the accused to an increased punishment, poses such a reasonable likelihood of vindictiveness as to require a presumption of vindictiveness. Id. In this case, the Solicitor decided to offer Applicant a plea

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CLARK COUNTY
SOLICITOR GENERAL

instead of going to trial. The details of this agreement were reflected in a guilty plea affidavit Applicant filled out and signed before the plea hearing. Therefore, this allegation is without merit.

VI. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments *will be opposed by the State at an evidentiary hearing* pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VII. GENERAL DENIAL

Respondent denies each allegation not expressly admitted, qualified, or explained.

VIII. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel and involuntary plea.

Respectfully submitted,

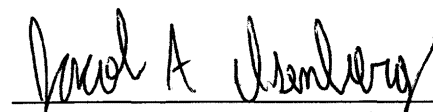
ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JACOB A. ISENBERG
Assistant Attorney General

By:


ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

April 16th, 2019

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CLERK OF COURT
SOUTH CAROLINA
JACOB A. ISENBERG

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF COMMON PLEAS

3
4 JONATHAN JOHNSON,)
5 APPLICANT,) TRANSCRIPT OF RECORD
6 -vs-) 2018-CP-42-03121
7 STATE OF SOUTH) OCTOBER 8, 2019
8 CAROLINA,) SPARTANBURG, SOUTH CAROLINA
9 RESPONDENT.)

10
11 B E F O R E:

12 THE HONORABLE G. THOMAS COOPER, JUDGE.
13
14

15 A P P E A R A N C E S:

16 RODNEY W. RICHEY, ESQUIRE
17 ATTORNEY FOR THE APPLICANT

18 JACOB A. ISENBERG, ASSISTANT ATTORNEY GENERAL
19 ATTORNEY FOR THE RESPONDENT
20
21

22 MICHAEL R. WATTS
23 CIRCUIT COURT REPORTER
24
25

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EXHIBITS

	NO.	DESCRIPTION	ID.	EV.
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3		(NO EXHIBITS MARKED)		
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1 (PROCEEDINGS, OCTOBER 8, 2019)

2 THE COURT: All right. Attorney General, you may
3 proceed.

4 MR. ISENBERG: Thank you, Your Honor.

5 May it please the court, the next case is Jonathan
6 Johnson v. The State of South Carolina, Case Number
7 2018-CP-42-3121.

8 Mr. Johnson is currently confined in the South
9 Carolina Department of Corrections pursuant to orders of
10 commitment of the Spartanburg County Clerk of Court.

11 He was indicted at the October 2017 term of the
12 Spartanburg County Grand Jury for two counts of kidnapping,
13 two counts of first degree assault and battery, possession
14 of a stolen pistol, two counts of armed robbery, first
15 degree burglary, possession of a weapon during a violent
16 crime.

17 Originally Roger Poole represented him.
18 Thereafter, Mary Stewart Shealy represented him. And then
19 on November 20th, 2017 Jacqueline Moss began representing
20 him.

21 Barry Barnette of the Seventh Circuit Solicitor's
22 Office prosecuted the case.

23 On March 30th, 2018 he pled guilty under Alford to
24 two counts of armed robbery, possession of a weapon during a
25 commission of a violent crime, two counts of assault and

1 battery, first degree burglary, possession of a stolen
2 pistol, two counts of kidnapping.

3 The solicitor did not offer a recommendation.

4 The Honorable Grace Knie sentenced him to
5 imprisonment for concurrent terms totaling at 25 years,
6 followed by 5 years of probation.

7 On April 2nd, 2018 his mother filed a notice of
8 appeal on his behalf.

9 On May 2nd, 2018 the South Carolina Court of
10 Appeals dismissed the applicant's notice of appeal because
11 his mother is not an attorney licensed to practice and
12 hybrid representation would prevent him from filing it on
13 his own behalf because Ms. Moss still represented him.

14 A remittitur was issued on May 17th, 2018.

15 And with that I'll let his counsel, Mr. Richey,
16 proceed with their case.

17 MR. RICHEY: I call Mr. Johnson.

18 THE COURT: Come around Mr. Johnson.

19 Put your left hand on the Bible and raise your
20 right hand.

21 JONATHAN JOHNSON, having been first duly sworn,
22 testified as follows:

23 THE WITNESS: Yes, sir.

24 DIRECT EXAMINATION BY MR. RICHEY:

25 Q. Sir, would you state your name, please?

1 A. Jonathan Johnson.

2 Q. Mr. Johnson, are you currently in the department of
3 corrections?

4 A. Yes, sir.

5 Q. And what are you in there for?

6 A. Two counts of kidnapping, two armed robberies, a
7 burglary, two assault and batteries, a stolen pistol and
8 a --

9 Q. Okay. And who represented you on those charges?

10 A. Jacqueline Moss.

11 Q. Okay. And you filed an application for post-conviction
12 relief, is that correct?

13 A. Yes, sir.

14 Q. Because you believed that she did not effectively
15 represent you, is that correct?

16 A. Yes, sir.

17 Q. And in your application your contention with her --
18 You did an Alford Plea, is that correct?

19 A. Yes, sir.

20 Q. And because when this happened, were you under the
21 influence of any drugs or alcohol at the time?

22 A. Well, she came to represent me --

23 Q. No, no, when the incident --

24 A. Yes, sir.

25 Q. -- occurred.

1 A. Yes, sir, I was. I was under the influence.

2 Q. Okay. And were you under the influence of what?

3 A. Coke, pills, and alcohol.

4 Q. Okay. And so when this incident occurred, did you
5 remember what happened?

6 A. No, sir.

7 Q. You had no memory of the incident at all?

8 A. Not at all.

9 Q. Okay. And did you tell Ms. Moss that?

10 A. Yes, sir.

11 Q. And was that the basis for your Alford Plea is that you
12 couldn't say whether you were guilty or innocent, because
13 you didn't remember, correct?

14 A. I don't remember anything.

15 Q. Okay. And so -- but with that being said, you agreed
16 to do the Alford guilty plea, correct?

17 A. (Shaking head yes).

18 Q. You have got to answer yes or not. He's taking it
19 down.

20 A. Yes, sir.

21 Q. Okay. And did you discuss this plea with your lawyer
22 prior to getting it from the judge?

23 A. Yes, sir.

24 Q. And did y'all talk about what the sentence could be?

25 A. She said that it could have got me a life sentence, but

1 she could have worked and got me a better sentence.

2 Q. Okay. And what particular sentence that Ms. Moss said
3 she could get you?

4 A. 15.

5 Q. Okay. Did you believe that she could do that?

6 A. Yes, sir, I did.

7 Q. And what kind of -- did she give you any assurances
8 that you would get 15 years?

9 A. Well, she actually said that she was going to work to
10 get with the solicitor to get me 15, and she also promised
11 my family as well, the bottom of that 15 years.

12 Q. Okay. And in your application you state that it was
13 going to be 15 years nonviolent. You have that in your
14 application, that you believe it would be 15 years
15 nonviolent.

16 A. Well, it was supposed to be 15 violent, but that's a
17 typo.

18 Q. Okay, that's a typo. Okay.

19 So she told you and your family you were going to get
20 15 years?

21 A. Yes, sir.

22 Q. Okay. And so you believed that she was ineffective
23 because you did not get that sentence, correct?

24 A. Yes, sir.

25 Q. And had you known that she could not get you those

1 15 years, would you have pled?

2 A. No, sir.

3 Q. You wouldn't?

4 A. I would have never pled. I would have never pled to a
5 plea agreement if -- if I had known -- if I had known I had
6 got 15 years, I would have pled, but if I wasn't going to
7 get my 15, I would have took it all the way to trial.

8 Q. You would have took it to trial?

9 A. Yes.

10 Q. Okay. Even though you did not remember the incident,
11 you still would have went to trial?

12 A. I still would have went to trial.

13 Q. Okay. Because you would not want to risk -- you would
14 want to get 15 at trial, correct?

15 A. Yes, sir.

16 Q. And that's the problem that you have with Ms. Moss,
17 isn't that correct?

18 A. Yes, sir.

19 Q. And you are asking this court to grant you a new trial,
20 is that correct?

21 A. Yes, sir.

22 Q. Okay. Thank you.

23 Answer the questions the Attorney General has for you.

24 MR. ISENBERG: May it please the court?

25 THE COURT: Yes, sir.

1 CROSS EXAMINATION BY MR. ISENBERG:

2 Q. Good morning. How are you doing today?

3 A. Fine.

4 Q. You testified on direct examination that you were
5 guaranteed a 15 year sentence, correct?

6 A. Yes, sir.

7 Q. And that you would not have pled unless you had that 15
8 year sentence locked down, correct?

9 A. Yes, sir.

10 Q. Okay. Do you remember your plea hearing?

11 A. No, not really. It was a long time ago.

12 Q. Okay. Do you remember anything about your plea
13 hearing?

14 A. I can't really -- I can't really think back to it.
15 It's been like two years since I had that plea agreement.

16 Q. Okay. Well, do you remember the judge talking at your
17 plea hearing at all?

18 A. I remember the judge I went in front of --

19 Q. Okay.

20 A. -- now.

21 Q. But you don't remember the judge telling you for one of
22 the offenses that you could be potentially sentenced to zero
23 to 30 years, do you?

24 A. No.

25 Q. That's what --

1 A. Other than the -- which I know kidnapping, that goes
2 from zero to 30.

3 Q. Right.

4 So you know that she could have potentially sentenced
5 you to 30 years for kidnapping, right?

6 A. But she also could have sentenced me a life sentence as
7 well.

8 Q. Right.

9 So she could have given you a life sentence, is that
10 correct?

11 A. Yes.

12 Q. And she told you that she could have given you a life
13 sentence, right?

14 A. I don't know if she did that or not.

15 Q. Okay. You don't remember if she did?

16 A. No.

17 Q. Okay. Do you remember her telling you she could have
18 given you zero to 30 years for either kidnapping charge?

19 A. I don't remember that.

20 Q. Okay. Do you remember her telling you that you could
21 have received 10 to 30 years for armed robbery?

22 A. Who?

23 Q. Do you remember the judge telling you that you could
24 receive 10 to 30 years for armed robbery?

25 A. Not exactly.

1 Q. Okay. And you also probably don't remember her telling
2 you that you could receive 10 to 30 years for a second armed
3 robbery charge?

4 A. Uh-uh.

5 Q. Okay. So here we have the judge telling you you could
6 receive life for one charge; you could receive 30 years on
7 two other charges; and you could receive 30 years on the
8 armed robbery charge; and you also could receive 30 years on
9 a separate charge. So that's four potential 30 year
10 sentences and a life sentence and you are saying here today
11 that you thought that you were guaranteed a 15 year
12 sentence, correct?

13 A. Yes, sir.

14 Q. Okay.

15 A. But she basically promised me 15. I mean, what else
16 could I --

17 Q. Okay. Even if she promised you that, when the judge
18 notified you that you could receive potentially 30
19 separate -- I mean four separate 30 year sentences and a
20 life sentence, you still decided to plead guilty?

21 A. Well, my lawyer talked me into taking the plea, yes.

22 Q. Okay. And you didn't receive those sentences, did you?
23 You received an 18 year sentence, correct? Not 18 years. I
24 apologize. 25 years, correct?

25 A. Yes, sir.

1 Q. So instead of four separate sentences for 30 years, you
2 only receive 25 years, correct?

3 A. Yes, sir.

4 Q. Okay. What's better 25 years, or 30 years plus four --
5 times four?

6 Sorry, I'll withdraw that question.

7 What's better?

8 I'm bad at math, man. That's why I became a lawyer.
9 What do you expect?

10 What's better, a 25 year sentence or four 30 year
11 sentences?

12 A. Really neither one, because I have a family I got to
13 take care of. I mean, I miss my family and I don't want to
14 be gone that long away from my family. I mean, you got to
15 understand I understand what I did was wrong.

16 Q. Right.

17 A. And I really -- I do accept full responsibility for
18 what I done, for my actions, but I just don't remember
19 anything. But me accepting 25 years away from my family, I
20 can't do that, because she promised me something and she has
21 to honor her word for it.

22 Q. Right, I can certainly understand that.

23 MR. ISENBERG: I have no further questions for
24 this witness.

25 Thank you Mr. Johnson.

1 MR. RICHEY: No other questions, Your Honor.

2 THE COURT: All right, sir. You may come down.

3 MR. RICHEY: We call Ms. Moss.

4 THE COURT: Place your left hand on the Bible and
5 raise your right hand.

6 JACQUELINE MOSS, ESQUIRE, having been first duly
7 sworn, testified as follows:

8 THE WITNESS: I do.

9 THE COURT: Thank you.

10 DIRECT EXAMINATION BY MR. RICHEY:

11 Q. Ma'am, would you state your name, please?

12 A. Jacqueline Moss.

13 Q. And Ms. Moss, are you an attorney in Spartanburg?

14 A. I am.

15 Q. And how long have you been a lawyer in Spartanburg?

16 A. This is my 25th year.

17 Q. And you have practiced criminal law, is that correct?

18 A. That's correct.

19 Q. Okay. And you recall representing Mr. Johnson, is that
20 correct?

21 A. I do.

22 Q. And you heard his testimony and that's the issue here.

23 His testimony was that you promised, assured, or however you
24 want to phrase it that he was going to get 15 years. Is
25 that correct?

1 A. No, it's not.

2 Q. Okay. Did you make any -- did you have any
3 conversations with him about getting 15 years?

4 A. As I listened to his testimony, the only thing that I
5 could think of is when we reviewed the guilty plea
6 affidavit, maybe he confused one of his sentences as a
7 lesser being 15, because on the guilty plea affidavit that
8 we went through one of the sentences has a range of 15 to
9 something, but it was very clear to him in his guilty plea
10 affidavit that we went over together that he was facing
11 life, and that's what I stressed to him, because that was
12 the lengthier sentence that he could have received.

13 Q. So you are referring to the burglary first charge, 15
14 to life?

15 A. That's correct.

16 Q. And so it's your testimony that you believed because
17 the 15 to life was on there, he could have mistakenly
18 believed that you were saying it was 15 years?

19 A. That's the only thing that I could think of that
20 remotely relates to him thinking it was a promise of
21 15 years, but -- that's the only thing that I could think
22 of.

23 Q. So your testimony is you never promised him that he
24 would get 15 years?

25 A. No, I can't promise anyone anything when they are going

1 before a judge.

2 Q. So you didn't give him any --

3 Okay. So you made no assurances to his family or
4 anyone that he would get 15 years?

5 A. No.

6 Q. Okay. And in his application he alleges that you said
7 that you were going to do your best to get him a lower end
8 of a sentence, which was 15 years.

9 In your conversations with clients, you also try to --
10 do you tell them that you are going to try to do the best
11 that you can?

12 A. I do.

13 Q. And did you -- your position going into it was you were
14 going to try to get him the least amount he could get and 15
15 would be that?

16 A. And that would have been our goal, yes.

17 Q. Yeah, but did you ever assure him that was going to
18 happen?

19 A. No, I could never do that.

20 Q. Thank you.

21 Answer any questions the Attorney General has.

22 CROSS EXAMINATION BY MR. ISENBERG:

23 Q. Good morning Ms. Moss.

24 A. Good morning.

25 Q. Thank you for being here today.

1 You testified on direct that you advised him that first
2 degree burglary carried 15 to life, correct?

3 A. Correct.

4 Q. And you testified that you went through all the charges
5 and their potential sentences with him, correct?

6 A. That's correct.

7 Q. And you also went over the fact that he was pleading as
8 indicted, correct?

9 A. Correct.

10 Q. And so that would mean that there would be no
11 recommendation for these sentences, correct?

12 A. That's correct.

13 Q. Okay. I have no further questions for you, Ms. Moss.
14 Thank you.

15 THE COURT: Anything further?

16 MR. RICHEY: No other questions.

17 THE COURT: Sir?

18 MR. RICHEY: No more questions. That's all from
19 the applicant.

20 THE COURT: You may come down.

21 Witness be excused?

22 MR. ISENBERG: Yes, Your Honor.

23 THE WITNESS: Thank you.

24 THE COURT: Without objection.

25 Any argument?

1 MR. ISENBERG: Your Honor, I request a brief
2 closing argument.

3 THE COURT: Yes, go ahead.

4 MR. ISENBERG: The applicant has alleged I guess
5 essentially "you had guaranteed 15 years before pleading
6 guilty." As his attorney indicated, she never guaranteed
7 him 15 years. She advised him of all these separate charges
8 and that they were -- he was pleading guilty as indicted, so
9 there would be no -- not even a recommendation on the
10 charges.

11 And as I went over with the applicant in his
12 testimony, the judge also advised him of the potential
13 sentences for each of those charges he was pleading guilty
14 to.

15 Therefore, for a deficiency the applicant has not
16 met his burden, based on the testimony from counsel. She
17 credibly said that she went over everything with him.

18 And as for prejudice, the judge's colloquy handled
19 any issues about misadvise for potential sentences the
20 applicant could receive; i.e., he could have received 30
21 years for four separate sentences. So there was never a
22 guarantee that he would receive 15 years. And for that
23 reason we don't feel that he's met his burden of proof
24 prejudice for that allegation either.

25 For those reasons we would ask that his

1 application be denied and dismissed with prejudice. Thank
2 you.

3 THE COURT: Mr. Richey?

4 MR. RICHEY: Thank you, Your Honor.

5 Your Honor, we will just rely on the applicant's
6 testimony that he believed with conversations that the
7 lawyer made some assurances that he gets 15 years. We will
8 just rely on his testimony. That's the only thing that we
9 have.

10 THE COURT: Okay. Proposed orders in 30 days.
11 Thank you very much.

12 MR. ISENBERG: Thank you, Your Honor.

13 (END OF REQUESTED TRANSCRIPT OF RECORD)

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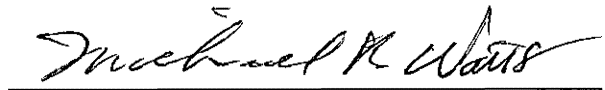
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CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Spartanburg County, South Carolina, on the 8th day of October, 2019.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

MARCH 26, 2020



Michael R. Watts
Circuit Court Reporter

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG) FOR THE SEVENTH JUDICIAL CIRCUIT

Jonathan Johnson,) Case No.: 2018-CP-42-3121
S.C.D.C. No. 375868,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief filed by Jonathan Johnson ("Applicant") on September 10, 2018. Respondent made its return on or about April 16, 2019. The Court convened an evidentiary hearing into the matter on October 8, 2019, at the Spartanburg County Courthouse in South Carolina. Applicant was present at the hearing and represented by Rodney Richey, Esquire. Jacob A. Isenberg, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel, Jacqueline Alicia Moss ("Counsel") also testified. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records of the Spartanburg County Clerk of Court regarding the subject convictions and the pleadings. After a thorough review of the credible evidence and testimony, this Court finds the application should be dismissed with prejudice.

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was indicted at the October

2017 term of the Spartanburg County Grand Jury for two counts of kidnapping (2017-GS-42-4888, 4888A) two counts of first degree assault and battery (4885, 4885A) possession of a stolen pistol (4887) two counts of armed robbery (4883, 4884) first degree burglary (4886) and possession of a weapon during a violent crime (4883A). Roger Poole ("Poole") first represented Applicant. Thereafter, Mary Stuart Shealy ("Shealy") represented Applicant. On November 20, 2017, Jacqueline Alicia Moss ("Moss") began representing Applicant. Barry J. Barnette of the Seventh Circuit Solicitor's Office, prosecuted the case.

On March 30, 2018, Applicant pled guilty, under Alford v. North Carolina, 400 U.S. 25, (1970), to two counts of armed robbery, possession of a weapon during the commission of a violent crime, two counts of assault and battery, first degree burglary, possession of a stolen pistol, and two counts of kidnapping. The Solicitor did not offer a recommendation. The Honorable Grace G. Knie sentenced Applicant to imprisonment for concurrent terms totaling twenty-five (25) years followed by five (5) years of probation.

On April 2, 2018, Applicant's mother filed a notice of appeal on his behalf. On May, 2, 2018, the South Carolina Court of Appeals dismissed Applicant's notice of appeal because 1) Applicant's mother not an attorney licensed to practice in South Carolina; and 2) hybrid representation prevents Applicant from filing it on his own behalf because Moss still represented him. (Case No. 2018-000606). A remittitur was issued on May 17, 2018.

II. STATEMENT OF THE FACTS

The underlying facts of the crime(s) for which Applicant is incarcerated were articulated by the State during the plea proceeding as follows:

On July 28, 2017, Applicant broke into the home located at [REDACTED] Belcher Road in Spartanburg County, SC. One of the Victims saw Applicant kick in the door, and dialed 9-1-1.

Applicant, with a co-defendant, demanded money, drugs, and other items from the Victims. (Tr. 22-3).

Applicant, with a co-defendant, fired a shot at some point during the confrontation. One of the Victims was hit in the head. Applicant, with his co-defendant, took money, a play-station, jewelry, and marijuana from the Victims' home. Upon arrival, Spartanburg County police located Applicant and his co-defendant near the home. (Tr. 22-3).

Spartanburg County Law Enforcement located several items at the scene. They found \$210 near the residence, a \$20 bill behind the residence, and a \$10 bill to the left of the residence. They found a silver necklace that belonged to one of the Victims. They found another \$100 on the ground at the intersection where Applicant was caught. They found an ounce of marijuana. They found the black play station game that belonged to the Victims, a play-station controller, and a black cell phone. They also found two weapons, one of which was identified as stolen. (Tr. 24).

III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. Constitutional Claims
 - a. On July 28, 2017 Applicant was denied sixth amendment right to counsel by the Spartanburg County Sheriff Department during the line-up.
 - b. Defendant has right to counsel after initiation of adversarial judicial proceeding.
 - c. Applicant was denied the eighth amendment right to bail on or about August 23, 2017.
 - d. On October 30, 2017, Applicant was denied the fourteenth amendment right to a preliminary hearing.
 - e. Preliminary hearing shall be held within ten days following the request by Defendant
 - f. Fourteenth Amendment violation based upon due process
2. Ineffective Assistance of Counsel



- a. Between August 2017 and November 2017, Head Public Defender Clay Allen changed Applicant's lawyer three times without giving Applicant notice.
 - b. Applicant's attorney was ineffective for not keeping her word.
 - c. On January 12, 2018, Applicant saw his lawyer Jacqueline A. Moss for the first time in five months of being incarcerated.
3. Involuntary Plea
- a. On March 30, 2018, Applicant told him right before he pled that she was going to get him a sentence between 15-20 years and that she was going to do her best to get him lower end of the sentence which was 15 years non-violent.
4. Prosecutorial Misconduct
- a. State or Public Defender lied to Applicant and breached the plea agreement.

Applicant requests relief as follows:

- 1) Enter judgment granting fifteen years non-violent; or
- 2) Pull the plea and take it to trial.

At the evidentiary hearing, Applicant only proceeded forward on the following claims: 1) Ineffective assistance of counsel based upon a failure to advise Applicant he could receive more than fifteen years; and 2) Involuntary plea based upon his belief the sentence imposed would not be higher than fifteen years. Accordingly, this Court finds all other claims are dismissed with prejudice based upon Applicant's failure to proffer evidence in support.

IV. SUMMARY OF TESTIMONY PRESENTED AT EVIDENTIARY HEARING

Applicant

Applicant testified on his own behalf at the evidentiary hearing. Applicant testified he believed Counsel effectively represented him. Applicant testified Counsel advised him he could potentially receive a life sentence. However, Applicant testified Counsel advised him she would advocate for less time. Applicant stated Counsel told him she would attempt to get him fifteen years. Applicant testified he would not have pled if he believed he would get more than fifteen years.

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Applicant testified he was under the influence during the incident at issue. He further testified to having no memory of the incident.

Applicant testified he did not remember the plea hearing. He did not remember the plea court notifying him of the potential sentences of the charges he pled guilty to. He also did not remember the plea court telling him he could receive life on his burglary first charge. Finally, Applicant testified he was unhappy with his sentence.

Counsel

Counsel testified on behalf of Respondent at the evidentiary hearing. Counsel testified she was in her twenty-fifth year of practicing law. She testified she advised Applicant of the potential sentence for each charge and went over every indictment with Applicant. She did not promise Applicant a sentence of fifteen years but she did advise Applicant he could receive fifteen to life for the first degree burglary charge. Counsel testified, based upon her experience, she never promises anything to a client before appearing before a judge in Court.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented.

A. Ineffective Assistance of Counsel

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of

counsel as a ground for relief, Applicant must prove that “counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel's performance was deficient. Strickland, 466 U.S. at 686; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing Strickland, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. Cullen v. Pinholster, 563 U.S. 170, 196 (2011); Harrington v. Richter, 562 U.S. 86, 109-10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” Yarborough at 6; see also Murphy v. Davis, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel's performance need not be optimal to be reasonable.”). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury." United States v. Basham, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting Elmore v. Ozmint, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he/she would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. Dalton v. State, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975)).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. Strickland, 466 U.S. at 696. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is

easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

1. *Erroneous Advice about Potential Sentence*

Applicant contends Counsel guaranteed him that a guilty plea would result in a sentence no higher than fifteen years. However, Counsel testified she did not promise Applicant a fifteen year sentence and she would never promise a client anything before a plea hearing.

Additionally, Counsel testified she advised Applicant about the first degree burglary charge consequences. She stated she told Applicant the court could impose the mandatory minimum of fifteen years on this charge, and she told Applicant the court could impose a maximum of life without parole on this charge. She testified she told Applicant she would advocate for the court to impose a fifteen year sentence.

This Court finds Counsel gave credible testimony on the issue. Therefore, this Court finds Counsel did not guarantee Applicant he would receive fifteen years. As a result, this Court finds Applicant has failed to overcome the burden to prove prejudice.

Applicant contends he entered a guilty plea after Counsel allegedly guaranteed a fifteen year sentence. However, erroneous advice from counsel can be cured, on the record, through information supplied during a defendant's plea hearing. *Wolfe v. State*, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997).

The plea court advised Applicant the potential penalty for first degree burglary was fifteen years to life. (Tr. 11). Thereafter, the plea court told Applicant the potential penalty for kidnapping was zero to thirty years. (Tr. 13). The plea court then told Applicant the potential penalty for armed robbery was ten to thirty years. (Tr. 14, 15). Applicant told the plea court nobody promised

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him anything in exchange for pleading guilty. (Tr. 16). Finally, Counsel advocated for mercy from the plea court before the sentence was imposed. (Tr. 33).

Accordingly, this Court finds the record cures any erroneous advice given by Counsel. Specifically, this Court finds the record reflects the plea court gave appropriate advice about the potential consequences of these charges. Moreover, this Court finds the record adequately reflects Applicant stated he was not promised anything to plead guilty. Therefore, this Court finds Applicant has failed to overcome the burden to prove prejudice based upon this allegation.

VI. INVOLUNTARY PLEA

Applicant alleges his guilty plea was involuntary based upon being promised a fifteen year sentence. To find a guilty plea voluntarily and knowingly, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Roddy v. State, 339 S.C. 29, 528 S.E.2d 418 (2000). Also, an applicant's statements during the plea hearing are considered "conclusive unless [he] presents valid reasons why he should be allowed to depart from the truth" of them. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007). Finally, the plea colloquy can cure any alleged deficiency if counsel does not properly advise an applicant about the consequences of accepting it. See Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997) (stating that plea counsel's deficient performance can be cured by the plea court's colloquy).

At the plea hearing, Applicant stated he was not promised anything to plead guilty. (Tr. 16). At the evidentiary hearing, Applicant testified he did not remember the plea hearing. Accordingly, this Court finds Applicant has not presented a valid reason to depart from those statements. Therefore, this Court finds Applicant has failed to prove his plea was involuntary based upon a promise made by Counsel.

III. CONCLUSION

Based on the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

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SOUTH CAROLINA
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IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 27 day of December, 2019.



G. THOMAS COOPER
Presiding Judge
Seventh Judicial Circuit

Culver, South Carolina

WITNESSES

Spartanburg County Sheriff's Office

1. REPORT ENTERED

2. CARD PULLED

3. INDEXED

4. CHECKED WARRANTS

5. CHECKED SIGNATURE

6. ASSESSMENT AND
FINE CARD MADE

ARREST WARRANT NUMBER

2017A4210202463

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

SEP 29 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 17-GS-42-4887

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 02 2017

TERM

THE STATE
v.

JONATHAN CLEODIS JOHNSON

Indictment for

POSSESSION OF STOLEN PISTOL

SC Code: 16-23-30, 0050 (A) (1)

CDR Code: 2364

Class FEL/F

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STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

SEP 29 2017

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

POSSESSION OF STOLEN PISTOL

That the defendant, Jonathan Cleodis Johnson, did in Spartanburg County on or about July 28, 2017, buy, sell, receive, transport, pawn, or possess a stolen pistol, knowing the pistol to be stolen or converted under circumstances constituting a crime, in violation of §16-23-30, 50 (A) (1), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


Solicitor

WITNESSES

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

Spartanburg County Sheriff's Office

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

2017A4210202466; 2017A4210202467

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

SEP 29 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

17-GS-42- 4885

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 02 2017

TERM

THE STATE

v.

JONATHAN CLEODIS JOHNSON

Indictment for
ASSAULT AND BATTERY
FIRST DEGREE (2 Counts)

SC Code: 16-3-600(c)(1)

CDR Code: 3412

Class FEL-E

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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

SEP 29 2017

At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

ASSAULT AND BATTERY FIRST DEGREE (Count I)

That the Defendant, Jonathan Cleodis Johnson, did in Spartanburg County on or about July 28, 2017 commit an act causing an unlawful injury to Michael Vincent Birk, and the act:

- (1) involved nonconsensual touching of the private parts of an adult with lewd and lascivious intent, or
- (2) occurred during the commission of a robbery, burglary, kidnapping, or theft, or
- (3) involves an offer or attempt to injure another person with the present ability to do so, and the act is accomplished by means likely to produce death or great bodily injury, or occurred during the commission of a robbery, burglary, kidnapping, or theft,

all in violation of § 16-3-600, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

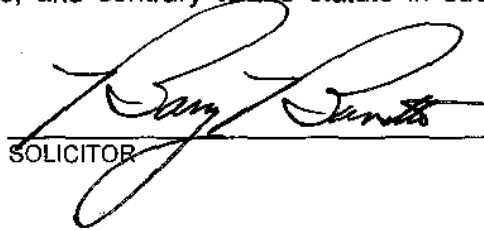
ASSAULT AND BATTERY FIRST DEGREE (Count II)

That the Defendant, Jonathan Cleodis Johnson, did in Spartanburg County on or about July 28, 2017 commit an act causing an unlawful injury to Michelle Antonette Tidd, and the act:

- (1) involved nonconsensual touching of the private parts of an adult with lewd and lascivious intent, or
- (2) occurred during the commission of a robbery, burglary, kidnapping, or theft, or
- (3) involves an offer or attempt to injure another person with the present ability to do so, and the act is accomplished by means likely to produce death or great bodily injury, or occurred during the commission of a robbery, burglary, kidnapping, or theft,

all in violation of § 16-3-600, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

WITNESSES

1. SENTENCE MADE

2. REPORTED

3. Spartanburg County Sheriff's Office

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT

FINE CARD MADE

8. REGISTRATION

ARREST WARRANT NUMBER

2017A4210202470

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

SEP 29 2017

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO 17-GS-42-4886

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 6 2 2017

TERM

THE STATE

v.

JONATHAN CLEODIS JOHNSON

Indictment for

BURGLARY FIRST DEGREE
(DWELLING)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2017 OCT -4 PM 4:12
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

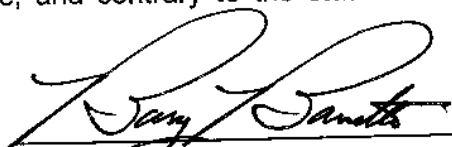
At a Court of General Sessions, convened on SEP 29 2017, the Grand Jurors of
Spartanburg County present upon their oath:

BURGLARY FIRST DEGREE (DWELLING)

That the Defendant, Jonathan Cleodis Johnson, did in Spartanburg County on or about July 28, 2017 willfully and intentionally enter a dwelling occupied by Michael Vincent Birk and Michelle Antonette Tidd located at [REDACTED] Belcher Road, Boiling Springs, South Carolina without consent and with intent to commit a crime therein, and either in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime:

- (1) was armed with a deadly weapon or explosive, and/or
 - (2) caused physical injury to any person who was not a participant in the crime, and/or
 - (3) used or threatened the use of a dangerous instrument, and/or
 - (4) displayed what was or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm, and/or
 - (5) entered the dwelling during the nighttime, and/or
 - (6) committed the crime while possessing a prior record of two or more convictions for burglary or housebreaking or a combination of both,
- all in violation of Section 16-11-0311 of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

1. SENTENCE MADE ☒

2. REPORT ENDED ☒

3. CARD FILLED ☒

4. INDEXED ☒

5. CHECKED WARRANTS ☒

6. CHECKED SIGNATURE ☒

7. ASSESSMENT AND
FINE CARD MADE ☒

ARREST WARRANT NUMBER

Count One - 2017A4210202468✓

Count Two - 2017A4210202464✓

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

SEP 29 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. -

17-GS-42-4883

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 02 2017

TERM

THE STATE

v.

JONATHAN CLEODIS JOHNSON

Indictment for
ARMED ROBBERY (Count I);
POSSESSION OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME
(Count II)

SC Code: 16-11-330 (A); 16-23-490

CDR Code: 139; 549

Class: FEL/A; FEL/F

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2017 OCT -4 PM 4:12
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

SEP 29 2017

At a Court of General Sessions, convened on _____, the Grand
 Jurors of Spartanburg County present upon their oath:

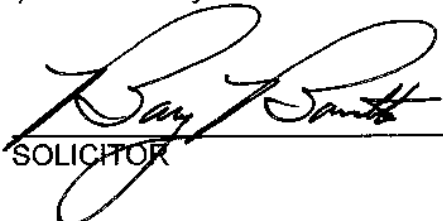
COUNT ONE – ARMED ROBBERY

That the Defendant, Jonathan Cleodis Johnson, did in Spartanburg County on or about July 28, 2017, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take property and/or currency from the person or presence of Michael Vincent Birk, including but not limited to a Playstation IV, a Silver Necklace, a watch, and \$400.00 in U.S. currency, by means of force, violence, and/or intimidation with the intent to deprive him permanently of such property, in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

**COUNT TWO – POSSESSION OF A WEAPON DURING
 COMMISSION OF A VIOLENT CRIME**

That the Defendant, Jonathan Cleodis Johnson, did in Spartanburg County on or about July 28, 2017 possess or visibly display a firearm or a knife during the commission of a violent crime, to-wit: ARMED ROBBERY, in violation of Code §16-23-490, *CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

WITNESSES

SENTENCE MADE
Spartanburg County Sheriff's Office

REPORT ENDED **Compute**

1. CARD PULLED ☒

4. INDEXED ☒

5. CHECKED WARRANTS ☒

6. CHECKED SIGNATURE ☒

7. ASSESSMENT AND
FINE CARD MADE **Compute**

8. COMPLAINT VIOLATION COPY ☒

ARREST WARRANT NUMBER

2017A4210202469

ACTION OF GRAND JURY

True Bill

AE
Foreperson of Grand Jury

SEP 29 2017

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. -

17-GS-42-4884

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 02 2017

TERM

THE STATE

v.

JONATHAN CLEODIS JOHNSON

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class: FEL/A; FEL/F

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2017 OCT -4 PM 4:12
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

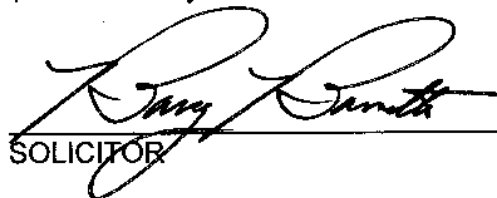
INDICTMENT

At a Court of General Sessions, convened on SEP 29 2017, the Grand Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That the Defendant, Jonathan Cleodis Johnson, did in Spartanburg County on or about July 28, 2017, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, feloniously take property and/or currency from the person or presence of [REDACTED] including but not limited to a Playstation IV, a silver necklace, a watch, and \$400.00 in U.S. Currency, by means of force, violence, and/or intimidation with the intent to deprive her permanently of such property, in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

WITNESSES

1. SENTENCE MADE ☒
2. REPORT FILED ☒
Spartanburg County Sheriff's Office
3. CARD PULLED ☒
4. INDEXED ☒
5. CHECKED WARRANTS ☒
6. CHECKED SIGNATURE ☒
7. ASSESSMENT AND FINE CARD MADE ☒
8. TRAFFIC VIOLATION COPY ☒

ARREST WARRANT NUMBER

2017A4210202471 (Count I)

2017A4210202472 (Count II)

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury SEP 29 2017
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. -

17-GS-42-4888

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 2 2017

TERM

THE STATE
v.

JONATHAN CLEODIS JOHNSON

Indictment for

KIDNAPPING (2 Counts)

SC Code: 16-03-910
CDR Code: 0095
Class FEL-A

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2017 OCT -4 PM 4:19
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

SEP 29 2017

At a Court of General Sessions, convened on _____, the
 Grand Jurors of Spartanburg County present upon their oath:

KIDNAPPING (Count I)

That the Defendant, Jonathan Cleodis Johnson, did in Spartanburg County on or about July 28, 2017, willfully and unlawfully with criminal intent seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Michael Vincent Birk, without authority of law, all in violation of Section 16-03-910, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

KIDNAPPING (Count II)

That the Defendant, Jonathan Cleodis Johnson, did in Spartanburg County on or about July 28, 2017, willfully and unlawfully with criminal intent seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Michelle Antonette Tidd, without authority of law, all in violation of Section 16-03-910, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 SOLICITOR

COUNTY OF SPARTANBURG
STATE VS.

Jonathan Cleodis Johnson

AKA:

Race: BLACK Sex: M Age: 25 24

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Birch Ln

City, State, Zip: Roebuck, SC 29376-2801

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Weapons / Sale or delivery of pistol to, and possession by, certain persons unlawful; stolen pistol

in violation of § 16-23-0030 of the S.C. Code of Laws, bearing CDR Code # 2364

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 13039 [Signature] [Signature] 14096
BARNETTE, BARRY SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 245 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.75

TOTAL \$128.75

Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (07/2016)

INDICTMENT/CASE#: 2017GS4204887

A/W#: 2017A4210202463

Date of Offense: 7/28/2017

S.C. Code § : 16-23-0030

CDR Code #: 2364

SENTENCE SHEET

Presiding Judge [Signature]

Judge Code: 2760

Sentence Date: 3/30/18

COUNTY OF 106 SPARTANBURG

COMPUTER

STATE VS.
Jonathan Cleodis Johnson

AKA:

Race: BLACK Sex: M Age: 35 24

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Birch Ln

City, State, Zip: Roebuck, SC 29376-2801

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault / Assault & Battery 1st degree- Count One (1) 0-10

INDICTMENT/CASE#: 2017GS4204885

A/W#: 2017A4210202466

Date of Offense: 7/28/2017

S.C. Code § : 16-03-0600(C)(1)

CDR Code #: 3412

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 13039 [Signature] 14094
BARNETTE, BARRY SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of 5 days/months/years and/or paymentof \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 245 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (07/2016)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

- Refer to ATT

- no contact victims

- Prob begins once released

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.Presiding Judge [Signature]

Judge Code: 2760

Sentence Date: 3/30/18

COUNTY OF SPARTANBURG
STATE VS.
Jonathan Cleodis Johnson

AKA:

Race: BLACK Sex: M Age: 25 1/2

DOB: [REDACTED] SS#: [REDACTED]

Address: Birch Ln

City, State, Zip: Roebuck, SC 29376-2801

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Assault / Assault & Battery 1st degree- Count Two (2)

INDICTMENT/CASE#: 2017GS4204885A

A/W#: 2017A4210202467

Date of Offense: 7/28/2017

S.C. Code § : 16-03-0600(C)(1)

CDR Code #: 3412

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600(C)(1) of the S.C. Code of Laws, bearing CDR Code # 3412

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: BARNETTE, BARRY 13039 Jonathan Cleodis Johnson 14096
SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed 5 years
and/or to pay a fine of \$ 5; provided that upon the service of 5 days/months/years and/or payment
of \$ 5; plus costs and assessments as applicable*; the balance is suspended with probation for 5

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 245 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ PTUP plus 20% fee: \$ PTUP

Payment Terms:

☐ Set by SCDPPPS

Recipient: [REDACTED]

*Fine: \$ [REDACTED]

§ 14-1-206 (Assessments 107.5 %) \$ [REDACTED]

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ [REDACTED]

§ 56-5-2995 (DUI Assessment) \$12 \$ [REDACTED]

§ 56-1-286 (DUI Breath Test) \$25 \$ [REDACTED]

Proviso 61.6 (Public Def/Probation) \$500 \$ [REDACTED]

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ [REDACTED]

§ 50-21-114(BUI Breath Test Fee) \$50 \$ [REDACTED]

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ [REDACTED]

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCA/217 (07/2016)

Presiding Judge [Signature]

Judge Code: 2700

Sentence Date: 3/30/18

PTUP days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. [REDACTED]

May serve W/E beginning [REDACTED]

Substance Abuse Counseling ☒

Random Drug/Alcohol testing ☒

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ [REDACTED] beginning [REDACTED]

\$ [REDACTED] paid to Public Defender Fund

Other:

- Refer to ATU

- No contact victims

- Prob begins once released

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

COMPUTER

COUNTY OF SPARTANBURG
STATE VS.
Jonathan Cleodis Johnson

AKA: _____
Race: BLACK Sex: M Age: 25 24
DOB: [REDACTED] SS# [REDACTED]
Address: [REDACTED] Birch Ln
City, State, Zip: Roebuck, SC 29376-2801
DL#: [REDACTED] SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (After June 20, 1985) - First degree 15-L

INDICTMENT/CASE#: 2017GS4204886

A/W#: 2017A4210202470

Date of Offense: 7/28/2017

S.C. Code § : 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTORNEY: [Signature] 13039 [Signature] [Signature] 14096
BARNETTE, BARRY SC Bar# [REDACTED] Defendant [REDACTED] Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. 245 days

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 61.6 (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.75

TOTAL

\$128.75

Clerk of Court/ Deputy Clerk [Signature]

Court Reporter: [Signature]

SCCA/217 (07/2016)

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

- Refuse to ATTU

- no contact with victims

☐ Appointed PD or appointed other counsel,
Proviso 61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge [Signature]

Judge Code: 2760

Sentence Date: 3/30/18

COUNTY OF SPARTANBURG
STATE VS.

10-30

109

Jonathan Cleodis Johnson

INDICTMENT/CASE#: 2017GS4204883

AKA:

A/W#: 2017A4210202468

Race: BLACK Sex: M Age: 25 24

Date of Offense: 7/28/2017

DOB: SS#:

S.C. Code § : 16-11-0330(A)

Address: Birch Ln

CDR Code #: 0139

City, State, Zip: Roebuck, SC 29376-2801

DL#: SID#:

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADS

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon- Count One (1)

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Barnette, Barry 13039 SC Bar# Jonathan Cleodis Johnson Defendant Jacqueline A. Moss Attorney for Defendant 14096 SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 245 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$3.75

TOTAL

\$128.75

Clerk of Court/ Deputy Clerk

Court Reporter: Moffett

SCCA/217 (07/2016)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

- no contact victims;
- return to AT4☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.Presiding Judge LawskiJudge Code: 2700Sentence Date: 3/30/18

COUNTY OF 110 SPARTANBURG

COMPUTER

STATE VS.
Jonathan Cleodis Johnson

AKA:

Race: BLACK Sex: M Age: 26 24DOB: [REDACTED] SS# [REDACTED]Address: [REDACTED] Birch LnCity, State, Zip: Roeback, SC 29376-2801DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADSTO: Weapons / Possession of weapon during violent crime, if not also sentenced to life without parole or death- Count Two (2)

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC § 17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 13039 [Signature] Jacqueline M. [Signature] 14096
BARNETTE, BARRY SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 245 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5 %) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(I) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ 3.75TOTAL \$ 128.75Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (07/2016)

INDICTMENT/CASE#: 2017GS4204883A

A/W#: 2017A4210202464

Date of Offense: 7/28/2017

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: Refer to ATU
no contact with victims☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.Presiding Judge [Signature]Judge Code: 2760Sentence Date: 3/30/18

COUNTY OF SPARTANBURG
STATE VS.
Jonathan Cleodis Johnson

AKA:

Race: BLACK Sex: M Age: 25 24

DOB: SS#

Address: Birch Ln

City, State Zip: Reebuck, SC 29376-2801

DL#: SID#

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADS

TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The pleas is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: BARNETTE, BARRY 13039 SC Bar# Defendant Attorney for Defendant 14016 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 245 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$3.75

TOTAL \$128.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

INDICTMENT/CASE#: 2017GS4204884

A/W#: 2017A4210202469

Date of Offense: 7/28/2017

S.C. Code § : 16-11-0330(A)

CDR Code #: 0139

SENTENCE SHEET

Presiding Judge

Judge Code: 2760

Sentence Date:

3/30/18

COUNTY OF
STATE

SPARTANBURG

COMPUTER

VS.

Jonathan Cleodis Johnson

AKA:

Race: BLACK Sex: M Age: 25

DOB: [REDACTED] SS#: [REDACTED]

Address: Birch Ln

City, State, Zip: Roebuck, SC 29376-2801

DL#: [REDACTED] SID#: [REDACTED]

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

INDICTMENT/CASE#: 2017GS4204888

A/W#: 2017A4210202471

Date of Offense: 7/28/2017

S.C. Code §: 16-03-0910

CDR Code #: 0095

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: [Signature] 13039 [Signature] 14096
BARNETTE, BARRY SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 245 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$ _____

§ 14-1-206 (Assessments 107.5%) \$ _____

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____

§ 56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$ _____

§ 50-21-114(BUI Breath Test Fee) \$50 \$ _____

§ 56-5-2942(J) (Vehicle Assessment) \$40/en \$ _____

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other:

no sex offender Registry

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Presiding Judge

Judge Code: 27100

Sentence Date:

3/30/18