

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Clarendon County

William Jeffrey Young, Circuit Court Judge

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S.C. Supreme Court

ANTONIO LAMONT BOYKIN,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-212182

A P P E N D I X

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State of South Carolina)
)

County of Clarendon)
)

State of South Carolina,
Plaintiffis

vs.

General Sessions
08-GS-14-59,
08-GS-14-60

Antonio Boykin,
Defendant

August 2nd & 3rd, 2008
Manning, S.C.

Before The Honorable Howard P. King, Judge.

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

Ms. Amy A. Land,
Assistant Solicitor

Ms. Deborah Butcher,
Attorney for Defendant

Margaret T. Sullivan,
Court Reporter

1 THE COURT: It is my understanding then
2 that as far as Indictment No. 08-GS-14-0060,
3 which the court has a copy of or has the
4 original of the Indictment. And is the case
5 which we are trying. The defendant has decided
6 he wishes to enter a plea on that charge. We
7 will get to that in just a minute. If I can
8 have the three sentencing sheets on that
9 charge. First of all, that's the 60.

10 And Now, Ms. Land, tell me about the other
11 matter.

12 MS. LAND: Your Honor, the other matter is
13 2008-GS-14-59. In that case he is also charged
14 with criminal sexual conduct in the first
15 degree, kidnapping, and possession of a weapon
16 during a violent crime. He is also represented
17 by Ms. Butcher on that charge. And this is a
18 negotiated sentence of 40 years on all charges.

19 (Whereupon, the defendant is sworn.)

20 THE COURT: Mr. Boykin, before I can
21 accept your plea to these charges, I need to
22 ask you some questions. And if you don't
23 understand the questions or the words I use,
24 you tell me. I will be glad to explain them to
25 you or you may talk with your lawyer at any

1 time as we go through this process. How old
2 are you?

3 THE DEFENDANT: At this moment I am 21,
4 Your Honor.

5 THE COURT: How far did you go in school?

6 THE DEFENDANT: I got a, I finished my
7 first year in college.

8 THE COURT: Have you been employed in the
9 past?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: What kind of work have you
12 done?

13 THE DEFENDANT: I have done -- I have
14 worked, I have been a bag boy at Food Lion. I
15 have been a server at Shoney's in May 06. I
16 have worked at Wendy's and I have worked at
17 Wal-Mart.

18 THE COURT: What did you do at Wal-Mart?

19 THE DEFENDANT: I was an unloader. Truck
20 unloader.

21 THE COURT: Are you today under the
22 influence of any kind of drugs or alcohol?

23 THE DEFENDANT: No, sir, I am clean.

24 THE COURT: Are you today aware of any
25 physical, emotional or nervous problem that

1 would prevent you from understanding what you
2 are doing here today?

3 THE DEFENDANT: No, sir.

4 THE COURT: Have you ever been treated for
5 the abuse of alcohol or drugs or mental
6 illness?

7 THE DEFENDANT: No, sir.

8 THE COURT: Have you taken any medication,
9 drugs or alcohol in the last 24 hours?

10 THE DEFENDANT: No, sir.

11 THE COURT: Are you today under the
12 influence of any medication, drugs or alcohol?

13 THE DEFENDANT: No, sir.

14 THE COURT: Are today aware of any
15 physical, emotional or nervous problem that
16 would keep you from understanding what you are
17 doing here today?

18 THE DEFENDANT: No, sir.

19 THE COURT: Now of course one of the
20 matters that is before me are the matters that
21 are contained in Indictment 08-GS-14-60. And
22 that is this case currently being tried. And
23 the jury is in the jury room. And we have been
24 here since Monday on that case. But in
25 addition to that, I have been advised that you

1 wish to enter pleas on other charges that are
2 against you that are contained in 08-GS-14-059.
3 That Indictment has also been presented to the
4 Grand Jury and has been returned as a true
5 bill. And the court has a copy of that
6 Indictment. Now, I am going to ask you about
7 that Indictment for just a minute. That is
8 Indictment 59. It charges you with criminal
9 sexual conduct first degree and alleges that on
10 April 22nd of 2007, that you did engage or
11 attempt to engage in a sexual battery upon
12 Edith Johnson. And that was the victim of
13 that. And you are charged with criminal sexual
14 conduct in the first degree in that Indictment.

15 In Count 2, you are charged with
16 kidnapping of Ms. Johnson on April 22nd of
17 2007. And in Count 3, you are charged with a
18 possession of a weapon during the commission of
19 a violent crime in connection with the assault
20 on Ms. Johnson; specifically, the weapon being
21 a razor blade. And those are three charges to
22 which I am advised you wish to plead guilty to
23 Indictment No. 08-GS-14-59 with regard to the
24 victim Edith Johnson. Do you understand those
25 charges?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Ms. Land, the Count 4 is, what
3 is the status on that?

4 MS. LAND: That's being dismissed, yes,
5 sir.

6 THE COURT: There is a fourth count in
7 that Indictment, burglary in the first degree
8 involving Ms. Johnson, but the State has
9 indicated a willingness to dismiss that charge,
10 do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now let me make sure you
13 understand that for the CSC first with regard
14 Ms. Johnson, that is criminal sexual conduct
15 first degree with regard to Ms. Johnson, that
16 you understand that that carries up to 30 years
17 in prison. Do you understand that?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Now the kidnapping also
20 carries up to 30 years in prison. Do you
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And the possession of a weapon
24 during the commission of a violent crime
25 carries up of 5 years in prison. Do you

1 understand that?

2 THE DEFENDANT: Yes, sir..

3 THE COURT: Do you understand that also
4 the criminal sexual conduct and the kidnapping
5 are both considered most serious offenses under
6 our law? And under our two strikes, three
7 strikes law that if you have two most serious
8 offenses, that you're facing up to life in
9 prison. Do you understand that?

10 THE DEFENDANT: I understand.

11 THE COURT: You understand that? Let the
12 record reflect before answering that question
13 that defendant conferred with his counsel. Do
14 you also understand that these are no parole
15 offenses? Meaning that before you would be
16 eligible for any kind of release under
17 community supervision, you would have to serve
18 85 percent of whatever sentence is imposed by
19 the court. Do you understand that?

20 THE DEFENDANT: I understand.

21 THE COURT: Now going over to the
22 Indictment that we are in the middle of the
23 trial, the same offenses occurred, or the same
24 offenses are charged there. And that is, Count
25 1, criminal sexual conduct with the victim

1 Lindsey Bernard. Criminal sexual conduct
2 first, for which you can get up to 30 years.
3 Kidnapping of Lindsey Bernard for which you can
4 get up to 30 years. And possession of a weapon
5 during a violent crime for which you can get up
6 to 5 years. Do you, of course, understand
7 those charges? Because we have been in trial
8 on those all week. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you understand that for
11 that criminal sexual conduct you can also get
12 up to 30 years in prison? For that kidnapping
13 of Ms. Bernard you can also get up to 30 years
14 in prison. And for the possession of a weapon
15 during a violent crime you can get 5 years in
16 prison. Do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And again, that is a most
19 serious offense. And also is considered a
20 violent crime. And it is a no parole offense
21 for which you would have to serve 85 percent of
22 whatever sentence I sentence you to before you
23 would be eligible for release on any kind of
24 community supervision. Do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you have any questions
2 regarding the charges against you, or the
3 maximum punishments in this matter?

4 THE DEFENDANT: No, sir.

5 THE COURT: Now Mr. Boykin, you have
6 certain constitutional rights that you give up
7 when you plead guilty. You gave up, of course,
8 your right to a jury trial. And in the case of
9 the incident involving Ms. Bernard, we are in
10 the middle of a jury trial right now. The jury
11 is sworn, and in the jury room. And in
12 connection with that, you also would not be
13 required to provide testimony against yourself.
14 And I advised you of your constitutional rights
15 to remain silent. Although I did not require
16 you to give me an answer at this time, because
17 we had not gotten to that point in the trial.
18 But you would have the right to exercise your
19 constitutional right to remain silent and not
20 have to testify in this case.

21 And you also have the right to confront
22 the witnesses against you. And, of course, you
23 have done so in this case. Because the
24 witnesses against you have come in to court and
25 testified. And your lawyer has cross examined

1 those witnesses. But with regard to the right
2 to remain silent and the right to have the jury
3 conclude their work in connection with this
4 matter, you would give those up if I accept
5 your plea. And you plead guilty to the charges
6 involving the incidents on May 6th of 2007,
7 involving Ms. Bernard.

8 Do you understand that you will waive or
9 give up those constitutional rights if I accept
10 your plea?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And do you understand that if
13 I accept your plea, the jury that is in the
14 jury room and that has heard the evidence in
15 this case will be discharged and dismissed, and
16 will not make any the decision in connection
17 with this matter?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now also in connection with
20 the other case contained in Indictment No.
21 08-059 you have those same constitutional
22 rights; that is, the right to have a jury
23 trial, the right to remain silent, and the
24 right to confront the witnesses against you and
25 to have your lawyer cross examine those

1 witnesses. And also the right to subpoena and
2 call witnesses on your own behalf. All of
3 those constitutional rights with regard to that
4 case you would waive or give up if I accept
5 your plea. Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you have any question
8 regarding your constitutional rights or the
9 charges against you to which you are pleading?

10 THE DEFENDANT: No, sir.

11 THE COURT: Understanding then the nature
12 of the charges against you and the consequences
13 of guilty plea, let me ask you first as to the
14 charges of contained in the Indictment 08-GS-
15 14-60 criminal sexual conduct first on May 6th
16 2007, involving Lindsey Bernard, and the
17 kidnapping on May 6th 2007, involving Lindsey
18 Bernard. And the possession of a weapon during
19 the commission of a violent crime on May the
20 6th 2007. Those three charges, how do you wish
21 to plead, guilty or not guilty?

22 THE DEFENDANT: Guilty.

23 THE COURT: Do you understand that when
24 you plead guilty, you are admitting the charges
25 against you are true?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: You are pleading guilty
3 because you are guilty?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: With regard to the other
6 Indictment, which is 08-GS-14-059 that is a
7 criminal sexual conduct charge involving the
8 victim Edith Johnson. The kidnapping charge
9 involving Edith Johnson and the possession of a
10 weapon during the commission of a violent crime
11 and all of these having occurred on April 22nd,
12 2007. How do you wish to plead to these three
13 charges? Guilty or not guilty?

14 THE DEFENDANT: Guilty.

15 THE COURT: Do you understand that when
16 you plead guilty, you are admitting those
17 charges against you are true as well?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now you may have defenses to
20 these charges. I don't know whether you do or
21 not. Either the ones contained in Indictment
22 59 or the Indictment No. 060, because we had
23 not gotten to the point of your having the
24 opportunity to present a defense in case No.
25 060. But do you understand that when you plead

1 guilty, you waive or give up any defenses or
2 potential defenses you might have had to either
3 one of these charges. Do you understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You also may have given an
6 incriminating statement. Now I know what your
7 statements are in the case involving Ms.
8 Bernard because that statement was played in
9 court. I don't know of what the status of
10 whether any statements were made in connection
11 with the case involving Ms. Johnson. But do
12 you understand that when you plead guilty, you
13 waive or give up your right to contest whether
14 the statement was given in accordance with your
15 constitutional rights?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Let the record again reflect
20 that before answering that question, Mr. Boykin
21 did confer with his counsel and has indicated
22 that he understood the question and has
23 answered it that he understood the matters
24 involving that question.

25 The plea negotiations, Ms. Land, and as I

1 understand, it is a negotiated sentence. Every
2 detail needs to be placed on the record.
3 Because I have got to follow it as exactly as
4 you give it to me.

5 MS. LAND: That's correct, Judge. Your
6 Honor, the plea negotiations are that he plead
7 guilty to 3 counts on the indictment ending in
8 0060. He pleads guilty to kidnapping. And on
9 that receive 20 years. Plead guilty to
10 criminal sexual conduct in the first degree.
11 And on that charge receive 20 years. That
12 those two sentences run consecutive to one
13 another. And that on the possession of a
14 weapon during a violent crime he receive 5
15 years. With that 5 years running concurrent to
16 the other two.

17 And on that sentence for 2008-14-59 for
18 possession of a weapon during a violent crime,
19 he receive 5 years. Kidnapping he receive 20
20 years. And the criminal sexual conduct in the
21 first degree, he receive 20 years. All of
22 those times running concurrent with each other
23 and with the Indictment ending in 60.

24 THE COURT: Ms. Butcher, is that what you
25 understand the negotiations to be?

1 MS. BUTCHER: It is, Your Honor. He has a
2 question. Yes, Your Honor.

3 THE COURT: Mr. Boykin, is that what you
4 understand the negotiations to be?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You understand that the net
7 effect of all of that will be a 40-year
8 sentence? Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And we didn't put into the
11 record, but I assume part of the negotiations
12 would be credit for time served.

13 MS. LAND: That's correct, Judge.

14 THE COURT: Okay. And you get credit for
15 whatever time you have served. Do you
16 understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you have any questions that
19 you want to ask me about the negotiations, or
20 do you feel that you understand them
21 completely?

22 THE DEFENDANT: I feel that I understand
23 them completely.

24 THE COURT: All right. Other than those
25 negotiations, and let me tell about a

1 negotiated sentence. What that means is that
2 the court will be compelled and be required to
3 enter that sentence exactly as it has been put
4 into the record. After hearing the facts, and
5 of course, I already know the facts in the case
6 involving Ms. Bernard. But in hearing the
7 other facts and putting all those facts
8 together, I decide that I cannot accept that
9 negotiation, and that I would not be willing to
10 accept those pleas, that sentence, I mean,
11 either up or down, that I will give you an
12 opportunity and you could withdraw your plea.

13 In other words, it's that sentence or
14 nothing as far as this guilty plea is
15 concerned. Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Other than that, those
18 negotiations, has anyone promised you anything
19 or held out any hope of reward to get you to
20 plead guilty?

21 THE DEFENDANT: No, sir.

22 THE COURT: Has anyone threatened you or
23 used force to get you to plead guilty?

24 THE DEFENDANT: No, sir.

25 THE COURT: Has anyone used any pressure

1 or intimidation to cause you to plead guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: Have you had enough time to
4 make up your mind as to whether or not you want
5 to plead guilty?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And are you pleading guilty of
8 your own free will and accord?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You are represented in this
11 case by Ms. Butcher. Are you satisfied with
12 the manner in which she has advised and
13 represented you?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Have you talked with her for
16 as often and as long as you feel necessary for
17 her to properly represent you?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you need any more time to
20 talk with her?

21 THE DEFENDANT: No.

22 THE COURT: Has she done everything for
23 you that you feel she could or should have done
24 on your behalf?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Has she done anything you feel
2 she should not have done?

3 THE DEFENDANT: No.

4 THE COURT: And you are completely
5 satisfied with her services?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you have any complaint that
8 you want to make about your lawyer, the
9 Solicitor, or any of the police officers?

10 THE DEFENDANT: No, sir. They're doing
11 their job.

12 THE COURT: Have you understood my
13 questions?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Have your answers to me been
16 truthful?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Is there anything you would
19 like to ask me about what we have been over?

20 THE DEFENDANT: No, sir.

21 THE COURT: And do you understand that you
22 have the right to appeal the guilty plea and
23 sentence of the court and that you and your
24 lawyer must do so within 10 days?

25 THE DEFENDANT: Yes.

1 THE COURT: Ms. Land, I am going to ask
2 you to give me the facts. I really don't think
3 I need any further factual background with
4 regard to Indictment No. 060 involving Ms.
5 Bernard. I heard her testimony. And all the
6 rest of the testimony. And I am satisfied that
7 there is an ample factual basis in the record
8 for that plea.

9 And so if you would just give me the
10 factual basis with regard to the plea 059.

11 MS. LAND: Thank you, Judge. This
12 occurred on April 22nd of 2007, in the Manning
13 area of Clarendon County. The victim's name is
14 Edith Johnson. She had gone to the gas station
15 to get some kerosene. And on her way back, was
16 approached Mr. Boykin who asked her if she
17 wanted a ride. She stated that she did not,
18 and got to her home on [REDACTED]

19 At that time, she attempted to go in and
20 Mr. Boykin again appeared. He asked her at
21 that time what she would do for \$500. She
22 asked him to leave. He produced a knife or a
23 box cutter, and pushed her into the home. At
24 that point, he did have sexual intercourse with
25 her against her will. She did identify him

1 against, in a photo lineup. And among other
2 evidence that was submitted to Sled was a
3 Trojan Condom.

4 THE COURT: Let me ask you about victim
5 notification as far as Ms. Johnson is
6 concerned. And then I will be glad to -- I
7 will address Ms. Bernard.

8 MS. LAND: Your Honor, she did not want to
9 here today unless she absolutely had to be here
10 for a trial.

11 THE COURT: Then in connection with
12 Indictment No. 06-GS-14-059, I would find that
13 the State has complied with the terms of the
14 victim's rights by giving the victim an
15 opportunity to be here. And that she has
16 indicated through the Solicitor's Office that
17 she did not wish to be here and it was not
18 necessary.

19 Ms. Bernard, let me address you for just a
20 minute. Of course, under the law, you have the
21 right to be present. And, of course, you have
22 been present and testified in this case as the
23 victim. But you also have the right at this
24 stage of the proceedings after he has entered
25 the guilty plea, to address the court, and tell

1 me anything that you would like to tell me. If
2 there is anything you would like to tell me, I
3 will be glad to hear from you. Is there
4 anything you would like to say? You can have
5 the victim's advocate say it for you if you
6 prefer.

7 VICTIM ADVOCATE: She's okay, Your Honor.

8 THE COURT: Okay fine, thank you. Before
9 I accept the plea and since it is negotiated,
10 Ms. Butcher, let me hear from you.

11 MS. BUTCHER: Thank you, Your Honor.

12 Your Honor, as Mr. Boykin says, he is
13 21-years-old. He graduated from Manning High.
14 He was on his way to college. Completed one
15 year of college courses. And as he has
16 described the various places he's worked. He's
17 been a very hard working young man. He had
18 never been in trouble before. Had never been
19 in jail. And it's a shame for somebody for the
20 first time to get in trouble, to be in trouble
21 for such serious crimes.

22 I believe, Your Honor, he got caught up in
23 a form of behavior which he now truly regrets.
24 Your Honor, I do want the court to understand
25 when I say caught up in a form of behavior, the

1 incidents were very close in time. I don't
2 think this was, you know, something that he had
3 been accustomed, a form of behavior he had been
4 accustomed to.

5 Your Honor, he does admit that he did
6 attempt to commit the criminal sexual conduct
7 or actually committed it with Ms. Bernard.
8 And with the other incident also. As far as
9 Ms. Bernard, Your Honor, one thing I want the
10 court to keep in mind. He tells me, as they
11 struggled, he understands that he did enter her
12 ever so slightly. And, Your Honor, I believe
13 he could have continued. He tells me that he
14 realized that and regretted his actions. And
15 instead of forcing himself on her further, he
16 withdrew. And he realized how wrong he was in
17 what he was doing.

18 Your Honor, I tell my clients, don't come
19 in front of the Judge telling them you found
20 God or Jesus in jail. Well, Your Honor, I
21 would like to say, I have known for a year.
22 And I will say that he has always not only had
23 a bible in his hand, but he has been to prayer
24 meetings. And, Your Honor, if someone has been
25 changed by such circumstances as that, I

1 believe Mr. Boykin would be that one. And,
2 Your Honor, that is not something I would put
3 in front of a judge.

4 THE COURT: Let me ask you something.

5 MS. BUTCHER: Yes.

6 THE COURT: It's been my concern for 3
7 days as we have sat here listening to this
8 matter. I am concerned now. Tell me about his
9 family situation. I am always alarmed and
10 concerned when a young person; such as,
11 Mr. Boykin in this case, appears in court on
12 charges this serious, and there is no family
13 support.

14 MS. BUTCHER: Your Honor, I don't have an
15 is answer. That is something I have asked him.
16 He is not -- he was in North Carolina for a
17 period of time. I think he also lived in
18 Florida. Came to here. I believe his last 6
19 months of Manning High, which would have been
20 close to 2 years ago, I believe, Your Honor.

21 THE COURT: Who is he living with now?

22 THE DEFENDANT: My grandmother and
23 grandfather.

24 THE COURT: And do they still live there?

25 THE DEFENDANT: Well right now they are

1 driving over the road. So they wanted to be
2 here.

3 THE COURT: They're driving on the road
4 from where?

5 THE DEFENDANT: Huh?

6 THE COURT: They're doing what?

7 THE DEFENDANT: They're droving over the
8 road, Your Honor. They drive a tractor
9 trailer.

10 THE COURT: Okay, go ahead.

11 MS. BUTCHER: And, Your Honor, that's the
12 extent of my knowledge. And, Your Honor, he --
13 his, I just truly feel, Your Honor, that he
14 does regret his actions. I do believe the
15 negotiated plea is appropriate, Your Honor.
16 Forty years is a long time for anyone. And
17 given the age of 20, 40 years is a long time.
18 But it does allow him, Your Honor, to get out
19 and have a life afterwards. And he realizes
20 this, Your Honor. And I believe he would like
21 to say a few words.

22 THE COURT: Yes, sir, Mr. Boykin, I will
23 be glad to hear from you.

24 THE DEFENDANT: I address this to you, to
25 everyone in the court. Most of it to the

1 family, Barnard. At the time that this
2 incident happened, I went through a lot. But
3 at the same time, I am very sorry. I don't
4 really understand everything that went on
5 totally, but I was totally wrong. And I am
6 sorry. The father of Barnard, I am so sorry.

7 At that time, I didn't have Christ Jesus.
8 I have currently found him. And It took me so
9 long to make the decision to come and tell the
10 truth. Because my devotion to him. And I
11 stand here to today to tell you I am so sorry.
12 Jesus Christ has forgiven me when no one else
13 would. And I ask y'all to forgive me. And I
14 ask everyone in the courtroom to forgive me,
15 because I was wrong. I was dead wrong. And I
16 wouldn't want anyone to do that If I had a
17 daughter. I am so sorry.

18 THE COURT: Thank you, sir. Anything
19 else, Ms. Butcher?

20 MS. BUTCHER: Nothing, just that you
21 accept the negotiated.

22 THE COURT: Ms. Land, anything else?

23 MS. LAND: No, sir.

24 THE COURT: Mr. Boykin, the Court does
25 find that the, as I have said, there is a

1 substantial factual basis for the pleas in this
2 case.

3 First of all, from the testimony that I
4 have heard in Indictment 060, and from the
5 factual presentation presented to the Court by
6 the Solicitor in Case No. 059. I would further
7 find that the defendant's decision to plead
8 guilty is freely and voluntarily, knowingly and
9 intelligently made. That he has had the
10 advice and counsel of an attorney with whom he
11 says is satisfied. And the Court is going to
12 accept the pleas and the negotiated sentence.

13 Ms. Barnard, first of all, let me tell
14 you that I am sorry and I regret that you had
15 this unfortunate incident happen to you. And I
16 hope that the plea that was entered today and
17 the punishment that was entered, will bring
18 some closure to this matter for you, and that
19 you will be able to go ahead and go on with
20 your life. I am sorry for you, and I certainly
21 do empathize with you.

22 MS. BERNARD: Thank you, sir.

23 THE COURT: With regard to the sentence on
24 that case, the one involving Ms. Bernard, on
25 the Criminal sexual conduct first degree, the

1 sentence of the Court is the Defendant is
2 committed to the State Department of
3 Corrections for a term of 20 years. That you
4 be given credit for time served. On the
5 kidnapping, the sentence of the Court is the
6 Defendant is committed to the State Department
7 of Corrections for a term of 20 years to run
8 consecutive. I am sorry, yes, to run
9 consecutive to Count 1. I am looking at 59, I
10 got them mixed up. Excuse me just a minute.

11 On 59, which is the matter involving Ms.
12 Bernard, the sentence of the court on the CSC
13 1, is 20 years. On the---

14 MS. LAND: Your Honor, 60 is the
15 Indictment involving Ms. Bernard.

16 THE COURT: You are right. I had them
17 straight and I mixed them up. 60, 60, 60.
18 Let's go back to Indictment 08-GS-14-060, the
19 first count of Criminal sexual conduct first
20 degree, the Sentence of the Court is Defendant
21 is committed to the State Department of
22 Corrections for a period of 20 years. And to
23 be given credit for time served. On Count 2,
24 of Indictment 08-GS-14-060, the Sentence of the
25 Court, the Defendant is committed to the State

1 Department of Corrections for a term of 20
2 years. To run consecutive to Count 1. Again
3 to be given credit for whatever time he is
4 entitled under the Department of Corrections
5 calculations. And in 08-GS-14-060, Count 3,
6 the sentence is 5 years to run concurrent with
7 Count 1 and 2.

8 Now on Indictment 059, for the criminal
9 sexual conduct in Count 1, the sentence of the
10 Court is 20 years to run concurrent with all
11 counts on 08-GS-14-060. On Count 2 for
12 kidnapping, the sentence of the court is
13 20 years to run concurrent. This is where I
14 made a mistake, to run concurrent with Count 1
15 and on all counts on 08-60. And on Count 3 for
16 possession of a weapon during the commission of
17 a violent crime, the sentence is 5 years to run
18 concurrent with Counts 1 and 2, and all counts
19 on 08-060. So everything is to run concurrent
20 except Counts 1 and 2 on Indictments No. 60,
21 and those are the ones that are to run
22 consecutive.

23 Good luck to you, young man. I know that
24 is going to be a long time in prison, but I
25 hope that some day you will be able to get out

(1 and make something out of your life. And I do
2 wish you the best of luck. And, again, Ms.
3 Bernard, I am sorry this unfortunate incident
4 happened to you. We are concluded.

5 --End of Requested Transcript of Record---

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON

I, Margaret T. Sullivan, Official Court Reporter for
the third 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 evidence introduced in the trial of the captioned
case, relative to appeal, in General Sessions Court on
August 2nd and 3rd, 2008, for Clarendon County,
Manning, South Carolina.

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

February 12, 2010
date

Margaret T. Sullivan

Margaret T. Sullivan, Court Reporter
My Commission expires October 3, 2011

FORM 5

STATE OF SOUTH CAROLINA)

County of Clarendon)Antonio Lament Boykin 332153)

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

v.)

State of South Carolina)

2009-CP-14-337
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

2009 JUN 22 AM 10: 26

BEULAH G. ROBERTS
CLERK OF COURT
CLARENDON COUNTY, SCINSTRUCTIONS - 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 Leiber Correctional Institution
2. Name and location of Court which imposed sentence Clarendon County
General Sessions
3. Name(s) of co-defendant(s) (if any) None
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2008-GS-14-0059 - CSC 1st Degree, Kidnapping, & Possession of A Weapon During A
 - (b) 2008-GS-14-0060 - Same As Above

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) December 3, 2008 ^{5 years} ~~10 years~~ poss. weapon (concurrent)
- (b) December 3, 2008 ^{10 years} ~~10 years~~ kidney and CSC (concurrent)
- (c) Same as above
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty 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?
no
8. If you answered "yes" 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 "no" to (7), state your reasons for not so appealing:
- (a) Prosecutor failed to file appeal
- (b) _____

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

(a) Ineffective Assistance of Counsel
 (b) Involuntary plea
 (c) Denial of 6, 14th Amendment

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

(a) Counsel failed to do pretrial investigation
 (b) Counsel's erroneous advice
 (c) Counsel failed to protect my rights

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? _____

13. If you answered "yes" 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. _____
 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?

First filing PCR

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. _____

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) first filing PCR
 (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? NA
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NA
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
NO

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

- (a) the name and address of each attorney who represented you:

i. Deborah Keon - now Deborah Butcher
P.O. Box 1, Manning, SC, 29102

ii. _____

 iii. _____

- (b) the proceedings at which each such attorney represented you:

i. plea

ii. Sentencing

iii. _____

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

vacate Sentence and conviction or in the
alternation, Any relief this Court deems appropriate

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

NO

STATE OF SOUTH CAROLINA)

County of Dorchester)

VERIFICATION

I, Antonio Lamont Boykin, 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.

Antonio Boykin

SWORN to and subscribed before me this 17th
 day of June 2004.

Virginia J. Webb (L.S.)
 Notary Public

My Commission Expires: 4/4/2011

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

I, Antonie Lamont Boykin, 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.

Antonie Boykin
Applicant

SWORN or affirmed to and subscribed before me this

17th day of June, 2009.
[Signature]
Notary Public

My Commission Expires: 4/4/2011

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

Antonio Lamont Boykin, 332153

☐ Plaintiff

v.

State Of South Carolina

☒ Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.

2009-CP-14-0337

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

Plaintiff's Attorney: Scott L. Robinson, Bar No. Address: Post Office Box 1292 Manning SC 29102 phone: (803) 435-8847 fax: (803) 435-8915 e-mail: other:	Defendant's Attorney: Robert Corney, Bar No. Address: Post Office Box 11549 Columbia SC 29211-1549 phone: (803) 734-3737 fax: (803) 734-4113 e-mail: other:
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: Estimated Time Needed: Court Reporter Needed: ☐ YES / ☐ NO	
SECTION II: Motion/Order Type ☐ Written motion attached ☒ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
Signature of Attorney for ☐ Plaintiff / ☒ Defendant <u>September 14, 2011</u> Date submitted	
SECTION III: Motion Fee ☐ PAID - AMOUNT: ☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support (check reason) ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☒ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions. Name of Court Reporter: ☐ Other:	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	<u>W. Jeffrey Young</u> JUDGE CODE: 2156 Date: 9-18-2011
CLERK'S VERIFICATION Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: _____ ☐ CONTESTED - AMOUNT DUE: _____	

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON	)	
	)	
	)	2009-CP-14-0337
	)	
Antonio Lamont Boykin, #332153,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	(Appointment of Counsel Requested)
State of South Carolina,	)	
	)	
Respondent.	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed June 22, 2009, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. The Applicant was indicted at the March 2008 term of the Clarendon County Grand Jury for (1) Criminal Sexual Conduct First Degree, (2) Kidnapping, (3) Possession of a Weapon During Violent Crime, and (4) Burglary 1st Degree (2008-GS-14-0059). Applicant was also indicted at the March 2008 term of court for (1) Criminal Sexual Conduct First, (2) Kidnapping, and (3) Possession of Weapon During Violent Crime (2008-GS-14-0060).¹ He was represented by Deborah Butcher, Esquire. On December 3, 2008, the Applicant pled guilty to before the Honorable Howard P. King. He was sentenced as follows:

¹ Indictment 2008-GS-14-0060 bears a notation by the Honorable Howard P. King that the indictment was amended on the record to reflect the correct date of May 6, 2007, in counts 2 and 3.

- For Criminal Sexual Conduct First Degree (2008-GS-14-0059), Applicant was sentenced to twenty (20) years imprisonment.
- For Kidnapping (2008-GS-14-0059), Applicant was sentenced to twenty (20) years imprisonment.
- For Possession of a Weapon During Violent Crime (2008-GS-14-0059), Applicant was sentenced to five (5) years imprisonment.
- For Criminal Sexual Conduct First (2008-GS-14-0060), Applicant was sentenced to twenty (20) years imprisonment.
- For Kidnapping (2008-GS-14-0060), Applicant was sentenced to twenty (20) years imprisonment.²
- For Possession of a Weapon During Violent Crime (2008-GS-14-0060), Applicant was sentenced to five (5) years imprisonment.

The Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein are the records of the Clarendon County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript.³ The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

² From the sentencing sheet, it appears that this sentence is to be served consecutively.

³ As of the date of this return, the transcript has been ordered but not yet received by Respondent. The same will be forwarded upon receipt.

1. Ineffective assistance of counsel.
 - a. "Counsel failed to do pretrial investigation."
2. Involuntary guilty plea.
 - a. "Counsel's erroneous advice."
3. "Denial of 6, 14th Amendment."
 - a. "Counsel failed to protect my rights."

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

For purposes of this return, Respondent interprets Applicant's first and third allegations to be allegations of ineffective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their 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, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the 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 guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial.

Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

[Signatures on next page.]

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

MARY S. WILLIAMS
Assistant Attorney General

By: Mary S. Williams
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

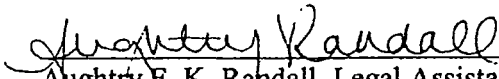
Sept. 24, 2009.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CLARENDON	)	
	)	
	)	2009-CP-14-0337
	)	
ANTONIO L. BOYKIN, 332153	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**William H. Johnson, Esquire
Johnson McKenzie & Robinson, LLC
2 North Brooks Street
Manning SC 29102**

DATED this 2nd day of October, 2009.


Aughton E. K. Randall, Legal Assistant
For Respondent

State of South Carolina)

County of Sumter)

Antonio Lamont Boykin,
Plaintiff

vs.

Transcript of PCR
2009-CP-14-00337

The State of South Carolina
Defendants

BEFORE THE HONORABLE W. Jeffrey Young, Judge.

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

Mr. Scott Robinson,
Attorney for Plaintiff

Ms. Mary Williams,
Attorney for Defendant

Margaret T. Sullivan,
Court Reporter

	<u>Witnesses</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
1	Antonio Boykin				
2	by Mr. Robinson	7			
3	by Ms. Williams		17		
4	Deborah Butcher				
5	by Mr. Robinson	20			
6					
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25					

1 THE COURT: Which one do we want to do first?

2 MR. ROBINSON: Your Honor, this is Antonio
3 Boykin.

4 THE COURT: Antonio Lamont Boykin. Number
5 332153 versus the State of South Carolina under
6 Docket No. 2009-CP-14-337. Present and appearing
7 is Mr. Boykin, along with his attorney, Mr. Scott
8 Robinson. Present for the State is Mary S.
9 Williams.

10 MR. ROBINSON: Your Honor, I have a Motion
11 for a Continuance. And I don't know if you have
12 the actual docket. It lists Mr. William Johnson
13 as Mr. Boykin's attorney. And basically what
14 happened I think it was probably a month or a
15 little better.

16 THE COURT: No, the docket has you down.

17 MR. ROBINSON: The one I have got has me.

18 MS. WILLIAMS: The original.

19 MR. ROBINSON: The original docket that
20 went out has Mr. Johnson. Anyway, William sent me
21 a letter or a copy of the letter he sent to Mary
22 saying I had agreed to take these files.
23 Basically what happened is, I had agreed to do
24 that. I didn't pick it up because his name was on
25 the docket originally. In any event, we are

1 missing a portion of a transcript from Mr. Boykin.

2 He started a trial with Ms. Butcher and
3 tried it for several days. Prior to the end of
4 that trial, he ended up pleading guilty to the
5 charges that he was being tried for as well as
6 some other charges. The only transcript that we
7 have is the guilty plea portion. Mr. Boykin and I
8 have talked this morning and quite frankly, for
9 the first time. And he has requested that I
10 obtain a transcript.

11 THE COURT: But what would you need of the
12 old one since he decided to plead guilty? What
13 relevance does that have on this case?

14 MR. ROBINSON: Well he is alleging that
15 some of the things that she did and did not do
16 during the trial more or less forced his hand into
17 the guilty plea, which goes towards the voluntary
18 nature of his plea. Which is one of the grounds
19 he is asserting; is that, it was an involuntary
20 guilty plea. And quite frankly, Judge, one of the
21 burdens in a guilty plea if we have to prove there
22 was deficiency that but for, that he would not
23 have pled guilty.

24 He alleges that several of these things
25 took place during the trial, that basically sunk

1 his boat. And she told him you have plead guilty.
2 But there were some things that she did not do
3 properly during the trial. Without looking at the
4 transcript I have no way, you know, to way to know
5 that.

6 THE COURT: I just want to look at his
7 transcript to see. Ms. Williams, what do you say
8 you?

9 MS. WILLIAMS: Your Honor, we typically
10 don't order more of the transcript than we need to
11 do the hearing. We usually just order the plea,
12 if there is a plea. And I don't know what...

13 THE COURT: Who is going to pay for that
14 transcript, Mr. Robinson?

15 MR. ROBINSON: Well, I don't if Mr. Boykin
16 has any family, you know. It's one of those
17 situations.

18 THE COURT: The State is not paying for
19 it, I assure you of that.

20 MR. ROBINSON: I guess it would be
21 Mr. Boykin or OID would be paying for it.

22 THE COURT: I mean, he says has anyone
23 threatened you or used force to get you to plead
24 guilty? No. Have you had enough time to make up
25 your mind? Yes. Are you pleading guilty of your

1 own free will and accord. Yes, sir. You are
2 represented by Ms. Butcher. Are you satisfied. I
3 don't know what he could, and I am going to deny
4 your continuance. He may go forward if he wants
5 one on this basis.

6 MR. ROBINSON: Your Honor, and in this
7 case, I would just ask that he be pushed to the
8 back for a few minutes, so I can get a chance to
9 talk to him. Ms. Butcher is not here anyway.
10 So...

11 THE COURT: Will this be Mr. Boykin?

12 MR. ROBINSON: Yes, sir, Your Honor.

13 THE COURT: This is the case of Antonio
14 Lamont Boykin. Actually I think I have already
15 put it on the record.

16 MR. ROBINSON: Yes, sir, Your Honor. You
17 denied his motion for a continuance. Before we go
18 forward, we renew that motion.

19 THE COURT: Denied again. You may
20 proceed, Mr. Robinson.

21 MR. ROBINSON: Thank you, Your Honor, we
22 would call Mr. Antonio Boykin to the stand.

23 Antonio Boykin, being
24 first duly sworn, testified as follows:

25 THE CLERK: State your full name and spell

1 your last name for the record.

2 A Antonio Lamont Boykin. B-O-Y-K-I-N.

3 DIRECT EXAMINATION

4 BY MR. ROBINSON

5 Q Mr. Boykin, you have filed a
6 post-conviction relief in this case, alleging
7 among other things, that Ms. Butcher was
8 ineffective in her representation of you; is that
9 correct?

10 A Yes, sir.

11 Q And you were originally charged with two
12 counts of criminal sexual conduct?

13 A Yes, sir.

14 Q And possession of a weapon during a
15 violent crime?

16 A Yes, sir.

17 Q And armed robbery. Not armed robbery, I'm
18 sorry, kidnapping.

19 A Yes, sir.

20 Q And that as a result, you ended up
21 pleading guilty to those charges?

22 A Yes, sir, I did.

23 Q A negotiated 40-year sentence.

24 A Yes.

25 Q And now I think after talking with you,

Antonio Boykin-direct by Robinson

1 the basis of your or the main crux of your
2 argument was that you were basically forced into
3 the guilty plea. It was not voluntarily given; is
4 that correct?

5 A Yes, sir.

6 Q Tell the court if you would briefly, about
7 the circumstances that lead up to you entering
8 that guilty plea?

9 A Well led up to me pleading guilty---

10 Q Yeah.

11 A ---was as we was going through the trial,
12 I wanted my counselor to be able to fight for me
13 to defend to the best ability. And it was a point
14 to where I was even going to relieve her, because
15 I thought she wasn't fighting for me as I would
16 have liked her to. And as, and she asked the
17 judge if we could take a break so we could
18 reconsider and talk about the things. She
19 convinced me that she would fight for me. So as
20 the trial continued to go on, I guess the
21 circumstances called for her to come to the
22 conclusion to back me into a corner to plead.

23 And out of fear I was told that I either
24 take the 40 or I could get life. And there was --
25 the number and the life was really nothing to

Antonio Boykin-direct by Robinson

1 think about it. I would have rather gotten the
2 40 than the life. And that was out of fear,
3 because I felt I was backed into a corner.

4 Q Now let me back you up just a little bit.
5 You said during the trial. So you were actually
6 started a trial. This was not a guilty plea from
7 the word go. You all started a trial on one of
8 these. And there were two separate indictments;
9 is that correct?

10 A Yes, sir.

11 Q Two different victims?

12 A Yes.

13 Q So you had started the trial on one of
14 these victims.

15 A Right.

16 Q How many times had you and Ms. Butcher
17 talked about this before the trial started?

18 A All the time that I was incarcerated?

19 Q Yeah, from the time that she became your
20 lawyer until the trial started?

21 A It wasn't no more than 10. But I believe
22 it wasn't even 10. It was 5 or more.

23 Q Okay. And did you review your Rule 5 that
24 she had received the discovery information from
25 the state?

Antonio Boykin-direct by Robinson

1 A I didn't. Well we reviewed it together.

2 Q Right.

3 A Not knowing anything, I trusted her. Yes,
4 we went over it.

5 Q Did she indicate to you prior to trial
6 that she felt you needed to enter into a guilty
7 plea?

8 A Well to be honest with you, from the first
9 time that I met her, she asked me did I consider
10 pleading in front of the judge. And me again not,
11 being young, and didn't know anything about the
12 law; the first time I have been in trouble. I
13 didn't know what even to do.

14 Q Okay, well did you all talk about that?
15 Did she advise you the potential sentences that
16 you could receive on these crimes.

17 A Right.

18 Q And the consequences of a guilty plea
19 versus going to a trial? Did you all talk about
20 those things?

21 A We didn't, the life and the extent of it,
22 not until during the trial did we really get into
23 the max and stuff that. She did tell me the time.

24 Q Okay. Did you ever indicate to her at any
25 time, that you wanted to plead guilty?

Antonio Boykin-direct by Robinson

1 A No.

2 Q Tell me about at what point in the trial
3 that you all had this discussion about pleading
4 guilty and how specifically that took place.

5 A Even before the trial started, I was
6 advised to plead, because again it was said that
7 if I don't I could get life. I believed that I
8 could, I was innocent of one. But in order to
9 plead in the negotiations, I had to plead to both
10 of them. You know, that's all.

11 Q And the one that you were on trial for is
12 that the one that you were innocent of?

13 A No, the other one.

14 Q Okay.

15 A Now the one that I was on trial for, I
16 believe in that one also. But again, I was
17 trusting in her counsel.

18 Q And that's what I am asking you. At what
19 point during the trial did it go from, we're
20 having a trial, to, did she some discussion with
21 you?

22 A Right.

23 Q Your claim is that she more or less forced
24 you or coerced you into pleading guilty. And I
25 need you tell the court about that, specifically.

Antonio Boykin-direct by Robinson

1 How that happened and what she did.

2 A Well it got to the point, I guess, because
3 of the amount of evidence, I guess, presented, she
4 had, as we got in a break, I believe, she had
5 talked to me again, you need to go ahead and do
6 this because I mean, you have these options. I
7 need you to take them, or they could possibly give
8 you life.

9 Q Okay. Did you -- and tell me what you
10 told her. I mean, tell me about the conversation,
11 not a summary. The judge needs to know what
12 happened, so he can make a determination on your
13 evidence. You are the evidence, tell me what it
14 is.

15 A As she brought that to my attention that I
16 should do so, she also spoke to me and told me to
17 make it believable, convincing that I was going
18 through with this. And by her counsel, I did so.
19 And again not knowing what to do, I trusted that I
20 was supposed to make it believable. I was
21 supposed to make it convincing before the judge
22 that I was guilty.

23 Q I mean, did you object and say
24 Ms. Butcher, I am not guilty, I don't want to
25 plead guilty. I want to go forward with the

Antonio Boykin-direct by Robinson

1 trial. Why are you making me do this. Did
2 anything like that transpire?

3 A Not at that moment. Like I say, before
4 then, before that particular moment, I always had
5 thought about it going to trial. You know, just
6 go all the way through. Just go all the way
7 through. And it got to the point, to the point, I
8 felt backed in a corner. I was fearing, okay, It
9 may turn out I get life.

10 Q Okay. Why did you have that fear?

11 A Based on her contending, I mean putting it
12 in my mind that it could happen.

13 Q Okay. So that was based on what
14 Ms. Butcher told you.

15 A Right.

16 Q Now when you pled guilty, the judge asked
17 you some questions: were you pleading freely and
18 voluntarily. Were you satisfied with your lawyer.
19 You answered yes to those questions.

20 A Right.

21 Q Why did you tell him that if that wasn't
22 true, if you weren't really satisfied, and if you
23 didn't really want to plead guilty?

24 A Because again based on her counsel, I felt
25 that this was the direction I was supposed to go.

Antonio Boykin-direct by Robinson

1 She said make it believable, convincing. And if
2 he told me to say, if he asked me if I was
3 satisfied, he felt that I was going to say yes.

4 Q Okay.

5 A I was supposed to say yes to every
6 question.

7 Q Okay. Anything else relating to the
8 voluntariness of your guilty plea that you need to
9 make the court aware of at this point? Have you
10 covered everything that you think is relevant to
11 that issue; why you think your guilty plea was not
12 entered voluntarily?

13 A I believe so.

14 Q Okay. You also allege some ineffective --
15 grounds for ineffective assistance of counsel. Is
16 there anything specific that we need to talk
17 about, or that you need to make the court aware of
18 on that? Or is that mainly related to the same
19 thing that you have already talked about with the
20 guilty plea?

21 A Well concerning that, with that, again as
22 we prepared, I felt that some of the things that I
23 asked her to do, like more investigation on the
24 alleged crime, she -- like a private investigator,
25 she told me what do we need, what for. Some of

Antonio Boykin-direct by Robinson

1 the things I asked her to do, like more
2 investigation on the alleged crimes. She -- like
3 a private investigator, she told me that we didn't
4 need it, what for. And I didn't understand. I
5 took her word that it may not be needed.

6 Q Okay, well let's be specific. No. 1 is,
7 you asked her to get an investigator to
8 investigate the case on your behalf, and she
9 refused to do that?

10 A Right.

11 Q Okay. Anything else specifically, that
12 you asked her to do that she didn't do or you
13 asked her not to do that she did do? Any
14 witnesses that you wanted her to talk to that she
15 didn't, any evidence that you said go get this
16 piece of evidence or I have this piece of evidence
17 and she didn't do that? Anything of that nature?

18 A There was things that out of the Rule 5
19 that I felt that was missing that I needed, and
20 that didn't never come up.

21 Q Okay. Do you recall specifically what was
22 missing out of the Rule 5?

23 A I actually saw it in her file on the day
24 of the trial. It was a page or two pages missing
25 out of the medical examination. And I felt that

Antonio Boykin-direct by Robinson

1 it was to my advantage.

2 Q But she had it.

3 A Yes.

4 Q Okay.

5 A But in my own person Rule 5, I didn't, it
6 was missing. And I knew it, but she didn't.

7 Q Anything else as far as ineffective
8 assistance of counsel goes? Okay. Because I just
9 want to make sure I cover the grounds that you
10 have set forth on your PCR application. You also
11 allege some 6th and 14th amendment violations.
12 Anything that you want to add to that, or be
13 specific about other than what you told the court?

14 A No, sir.

15 Q Anything else that I haven't covered with
16 you? I want to make sure this is your day and
17 this is your trial. Anything else that you need
18 to make the court aware of, that bears on your
19 request for a new trial?

20 A Well one like the transcript, I don't
21 even, there was some things that I had found out
22 after the trial, after the guilty plea, that was
23 to my advantage and is in the trial. And that
24 part of the transcript you told me you don't even
25 have. But I believe was to my advantage.

Antonio Boykin-direct by Robinson

1 Q And the judge has asked about that and
2 ruled on that. And that's been preserved for the
3 record. Is there anything else?

4 A No, sir.

5 MR. ROBINSON: I don't have any further
6 questions.

7 THE COURT: Thank you. Mr. Robinson.
8 Ms. Williams.

9 Cross Examination by Ms. Williams:

10 Q Mr. Boykin, your contention that you
11 weren't entirely truthful with Judge King when you
12 pled guilty; is that correct?

13 A Can you repeat the question?

14 Q You weren't truthful with Judge King when
15 you pled guilty?

16 A I wasn't truthful?

17 Q Uh-huh. (affirmative.)

18 A Based on counsel I believe that I was.
19 Because this is how she told me I should do it.
20 Now how I felt was definitely; yes.

21 Q Okay. So when you told Judge King that
22 she had done everything and there wasn't any more
23 investigation needed that wasn't really true?

24 A Not necessarily so. But again, it was
25 based on her counsel.

Antonio Boykin-cross by Williams.

1 Q And you told him that all your answers had
2 been truthful; is that correct?

3 A Yes, I did.

4 Q And so why did you lie to Judge King on
5 this date? Did you do it to get what you wanted
6 and you wanted to get a plea? You wanted him to
7 accept your plea?

8 A Not that plea, no.

9 Q Well then why did you lie to him? Why did
10 you follow along with that?

11 A Because by the counsel. I didn't know
12 anything about what was going on. I've never been
13 in trouble. I didn't have no idea what to do. So
14 by her counsel, I went that direction too.

15 Q You understood you were pleading guilty;
16 right?

17 A Yes.

18 Q You understood you were going to be
19 sentenced?

20 A Yes.

21 Q Okay. So what did you not understand
22 about that process?

23 A What did I not understand about that
24 process?

25 Q Uh-huh. (affirmative.)

Antonio Boykin-cross by Williams.

1 A Like I said, I felt like this is what I
2 was supposed to do. That's about all. But that's
3 what I understood about this is what I was
4 supposed to do.

5 Q So you wanted this plea to be accepted and
6 you wanted a 40-year sentence instead of
7 proceeding to trial; is that correct?

8 A No, I didn't want a 40-year sentence. But
9 because of the other option of being forced into
10 considering I would get life, I mean, I would
11 choose 40 than life. Even though I didn't want
12 to; coerced into it.

13 Q But that was because you felt like it was
14 a better option.

15 A Not necessarily because it was a better
16 option; no.

17 Q So why in the world did you do it?

18 A Like I said, it was by her counsel.

19 Q She just told you, you have got to plead
20 guilty. She put a gun to your back. Made you
21 walk up there and do it.

22 A Not necessarily that; no.

23 Q So how did she coerce you? She gave you
24 the option and you choose one; is that correct?

25 A Yeah, this is my counsel. To even knowing

Antonio Boykin-cross by Williams.

1 that she is the one who is supposed to be
2 defending me to her best ability. I felt that
3 what she said was basically what was right.

4 MS. WILLIAMS: I don't have any more
5 questions.

6 THE COURT: Mr. Robinson, do you have any
7 other questions of the witness?

8 MR. ROBINSON: No, sir, Your Honor.

9 THE COURT: Thank you. Step down. You
10 may call your next witness.

11 MR. ROBINSON: We would call Debbie
12 Butcher.

13 Debbie Butcher, being
14 first duly sworn, testified as follows:

15 THE CLERK: State your full name and spell
16 your last name for the record.

17 Direct Examination by Mr. Robinson:

18 Q Ms. Butcher, tell me if you will what you
19 remember, I know that's a loaded question, what
20 you remember, about the trial of this case; as far
21 as the evidence that the state had. What sort of
22 evidence did they have against Mr. Boykin?

23 A Their evidence and I told Mr. Boykin this,
24 was overwhelming. They had a videotape from
25 Wal-Mart showing what appeared very clearly to be

Deborah Butcher-direct by Robinson

1 his vehicle. And when I say clearly, of course,
2 they didn't have a license tag. But his vehicle I
3 believe had a sun roof and something. But it was
4 obviously the same make and type of vehicle that
5 belonged to Mr. Boykin. In the parking lot, you
6 saw the victim come out, get the newspaper, get in
7 her car, leave. Mr. Boykin followed her. The
8 victim knew Mr. Boykin personally.

9 I believe there were fingerprints found on
10 the victim's vehicle that belonged to Mr. Boykin.
11 In his car they found a gun; not a real gun, but a
12 gun, none the same. And they also found condoms
13 which matched the kind used in the incident. And
14 I remembered that the serial number matched, that
15 I went to the extent to go to grocery store,
16 Wal-Mart, and pull out numerous condoms with the
17 the same serial number. To say you know, that's
18 really not showing anything. That's all I can
19 recall.

20 Q Okay. Was there anything physical
21 evidence at the, and I say DNA, semen, anything
22 like that?

23 A I believe only the fingerprints.

24 Q But they were on the vehicle, not in the
25 victim's house or anything like that.

Deborah Butcher-direct by Robinson

1 A Well this never occurred at the house.

2 Q Okay.

3 A What happened was, the victim was
4 followed kind of, I can't recall, run off the
5 road. At some point, they were on a dirt road.
6 He approached her with what appeared to be a gun.
7 She knew him. She, you know, could identify him.
8 The incident occurred. She struggled. And I
9 can't remember if he after the incident, he left
10 or what. She ran to her home half naked. And,
11 you know, that's how she got to her home.

12 Q Let me ask you this. What was the
13 defense? Because he said that you all obviously
14 had started a trial, and talked about a trial and
15 things of that nature. What defense did he talk
16 with you about in light of the evidence that you
17 just described?

18 A I had difficulty actually talking to him.
19 As a matter of fact, here is a letter I wrote to
20 him talking about the offer of 40 years. And
21 actually it's concurrent. So to my understanding,
22 he would be serving 20 years. There were this 40,
23 but being concurrent on the both charges. I
24 explained that to him that he could possibly face
25 a life sentence; that the evidence was

Deborah Butcher-direct by Robinson

1 overwhelming.

2 I talked to him, saying that I did see him
3 numerous times. And he was very reluctant to
4 discuss the case with me. And he kept saying, I
5 put it in God's hands. I had no solid defense
6 with his case. It was more or less, let's see
7 where the evidence. He was picked out of a photo
8 lineup. You know, going to trial, it was, you
9 know, my hope that their testimony wouldn't be
10 that good, and I could find something that way to
11 defend him.

12 Q Would so in reality, you would agree with
13 his characterization that you came to the
14 realization and said, listen you really probably
15 better consider the 40 years based on what the
16 evidence is.

17 A Yeah, definitely. Definitely. And I
18 remember that I went over the Brady with him
19 several times. And, you know, of course it's his
20 decision, and I let him know that; whether we go
21 to trial or not. You know, I don't try to force
22 my clients to plead. But if I feel that it's
23 overwhelming, I am going to let them know that.

24 Q And you feel that's part of your duty to
25 do that?

Deborah Butcher-direct by Robinson

1 A Very much so---

2 Q Obviously.

3 A Yes. And I have been wrong on occasion.

4 I thought -- didn't think should have gone to

5 trial but...

6 MR. ROBINSON: I understand. Court's

7 indulgence, Your Honor.

8 Q Ms. Butcher, did he, do you recall him

9 asking about retaining an investigator or asking

10 for funds for an investigator?

11 A That's what I was just trying to find in

12 here through this case file. I don't have a

13 recollection of that. His was a case that I don't

14 know what I would have told him to go there, to be

15 honest with you just looking back on it. He had

16 no alibi that he had given me of where he was, or

17 anything like that. And under those

18 circumstances, I typically don't hire an

19 investigator unless I truly have things for them

20 to investigate.

21 MR. ROBINSON: I don't have any further

22 questions. Thank you.

23 MR. WILLIAMS: I don't have any questions.

24 THE COURT: Thank you, Ms. Butcher. You

25 may step down.

1 MR. ROBINSON: That's the Plaintiff's
2 case, Your Honor.

3 THE COURT: I will take the matter under
4 advisement. I will notify the attorneys when I
5 make my ruling. Thank you.

6 --End of Requested Transcript of Record--

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the
Third 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 evidence introduced in the Court of Common
Pleas/nonjury PCR on April 28, 2011, in Sumter County,
Sumter, South Carolina.

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

10/19/12
DATE



COURT REPORTER
My Commission expires: 9/7/2021

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

2009-CP-14-0337

Antonio Lamont Boykin, # 332153,

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 9/26/11

Beulah B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed June 22, 2009. The Respondent made its Return on September 24, 2009. An evidentiary hearing into the matter was convened on Thursday, April 28, 2011, at the Sumter County Courthouse. The Applicant was present at the hearing and was represented by Scott L. Robinson, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Applicant's trial counsel, Deborah Butcher, Esquire ("counsel"). This Court also had before it a copy of the transcript of the proceedings against the Applicant, the records of the Clarendon County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections.

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clarendon County Clerk of Court. The Applicant was indicted at the March 2008 term of the Clarendon County Grand Jury for (1) Criminal Sexual Conduct First Degree, (2) Kidnapping, (3)

Possession of a Weapon During Violent Crime, and (4) Burglary 1st Degree (2008-GS-14-0059). Applicant was also indicted at the March 2008 term of court for (1) Criminal Sexual Conduct First, (2) Kidnapping, and (3) Possession of Weapon During Violent Crime (2008-GS-14-0060).¹ He was represented by Deborah Butcher, Esquire. On December 3, 2008, the Applicant pled guilty to before the Honorable Howard P. King. He was sentenced as follows:

- For Criminal Sexual Conduct First Degree (2008-GS-14-0059), Applicant was sentenced to twenty (20) years imprisonment.
- For Kidnapping (2008-GS-14-0059), Applicant was sentenced to twenty (20) years imprisonment.
- For Possession of a Weapon During Violent Crime (2008-GS-14-0059), Applicant was sentenced to five (5) years imprisonment.
- For Criminal Sexual Conduct First (2008-GS-14-0060) , Applicant was sentenced to twenty (20) years imprisonment.
- For Kidnapping (2008-GS-14-0060), Applicant was sentenced to twenty (20) years imprisonment.²
- For Possession of a Weapon During Violent Crime (2008-GS-14-0060), Applicant was sentenced to five (5) years imprisonment.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
 - a. "Counsel failed to do pretrial investigation."
2. Involuntary guilty plea.
 - a. "Counsel's erroneous advice."

¹ Indictment 2008-GS-14-0060 bears a notation by the Honorable Howard P. King that the indictment was amended on the record to reflect the correct date of May 6, 2007, in counts 2 and 3.

² From the sentencing sheet, it appears that this sentence is to be served consecutively.

3. "Denial of 6, 14th Amendment."
 - a. "Counsel failed to protect my rights."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Ineffective Assistance of Counsel

The Applicant has alleged ineffective assistance of counsel as a grounds for relief in his application. In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the 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 guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Ineffective Assistance of Counsel

The allegations made in the application and at the hearing all boil down to a claim of ineffective assistance of counsel. Applicant has alleged that his plea was not entered voluntarily and knowingly as counsel gave him erroneous advice concerning his plea. As stated above, an Applicant in PCR that pleads guilty on counsel's advice may only collaterally attack the voluntary and knowing nature of his guilty plea by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe, *supra*. Therefore, this allegation is essentially a claim of ineffective assistance of counsel that rendered a guilty plea involuntary. Applicant has also alleged counsel failed to properly investigate his case and all evidence associated with it.

At the PCR hearing, Applicant testified that he had concerns about counsel's willingness to "fight for him" to the best of her abilities at trial and felt "backed into a corner" because counsel advised him that he could take a forty year plea or go to trial and get a life sentence. Applicant went on to state that he met with counsel between five (5) and ten (10) times, during which counsel advised Applicant to consider taking a plea for forty years to avoid getting a life sentence. Applicant said that because of this fear instilled by counsel over receiving a life sentence, he decided to enter the plea. Applicant then said that during the plea hearing, he answered the questions only as counsel had advised him to in order to make his guilt seem "convincing" so the plea judge would accept the plea. Applicant said there were some things he asked counsel to do as part of her investigation into his case which she failed to do, including failing to review the discovery file with him despite her having it during their meetings.

Counsel started her testimony by stating that her representation of Applicant was based on the fact that there was overwhelming evidence of Applicant's guilt in this case. In addition to surveillance video from Wal-Mart showing Applicant following the victim, there was evidence found in Applicant's car linking him to the crime and victim positively identified Applicant as the perpetrator in this crime. Counsel testified Applicant was very reluctant to discuss his case with her to begin to develop defenses, but that she did review the entirety of the discovery file with Applicant several times during the course of her representation. Counsel finished by stating that it was ultimately Applicant's decision whether to enter the plea, but that in this case he chose to do so as it was his best option considering the overwhelming evidence of Applicant's guilt.

This Court finds Counsel's testimony to be credible. Conversely, I find Applicant's testimony to not be credible. Counsel advised Applicant of all relevant issues regarding the charges he was facing, including the facts giving rise to the charges, the indictments, the elements of the offenses, potential sentences he was facing and the state's evidence against Applicant. Additionally, counsel gave Applicant all the information and advice to make an intelligent and voluntary decision on whether to enter this plea. Applicant's fear of the potential sentences he was facing at trial as communicated by counsel is not tantamount to counsel threatening or coercing Applicant to enter a guilty plea. Based on the facts above, I find that Applicant did not prove by a preponderance of the evidence that counsel was ineffective in his representation. Further, I find that Applicant's guilty plea was entered knowingly and voluntarily after being fully and adequately advised by competent counsel acting within the range of competence demanded of attorneys in criminal cases.

As discussed above, the Applicant has failed to carry his burden in this action. Therefore, this Court finds that the application must be denied and dismissed in its entirety.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the 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.

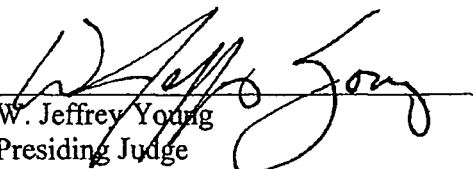
Except as discussed above, this Court finds that the Applicant failed to raise any other allegations cognizable in PCR at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issue at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court advises 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 (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.

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 Respondent.

AND IT IS SO ORDERED this 18 day of Sept, 2011.


W. Jeffrey Young
Presiding Judge
Third Judicial Circuit

Sumter, South Carolina.

WITNESSES

Holmes Smith-MPD

ARREST WARRANT NUMBER

J100673

J100674

J100675

ACTION OF GRAND JURY

True Bill

Constance L. Hill

Foreperson of Grand Jury

Date: *03/06/08*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-14- 0059

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

MARCH TERM 2008

THE STATE

vs.

ANTONIO LAMONT BOYKIN

Indictment for

CRIMINAL SEXUAL CONDUCT FIRST DEGREE
KIDNAPPING
POSSESSION OF WEAPON DURING VIOLENT
CRIME
BURGLARY 1ST DEGREE

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)

INDICTMENT FOR
 CRIMINAL SEXUAL CONDUCT FIRST DEGREE
 KIDNAPPING
 POSSESSION OF WEAPON DURING VIOLENT CRIME
 BURGLARY 1ST DEGREE

At a Court of General Sessions, convened on March 6, 2008, the Grand Jurors of
 CLARENDON COUNTY present upon their oath:

COUNT ONE - CRIMINAL SEXUAL CONDUCT FIRST DEGREE

That ANTONIO LAMONT BOYKIN did in Clarendon County on or about April 22, 2007, violate Section 16-3-652 of the Code of Laws of South Carolina (1976), as amended, in that the said Antonio Lamont Boykin did engage in, or attempt to engage in, a sexual battery upon Edith Johnson by using aggravated force and aggravated coercion upon Edith Johnson and assaulting her with the intent to engage sexual battery and while Edith Johnson was the victim of kidnapping and burglary.

COUNT TWO - KIDNAPPING

That ANTONIO LAMONT BOYKIN did in Clarendon County on or about April 22, 2007, violate Section 16-3-910 of the Code of Laws of South Carolina (1976), as amended, in that he did unlawfully seize, confine, abduct, and carry away, without the authority of law, and by the use of force Edith Johnson.

COUNT THREE - POSSESSION OF WEAPON DURING VIOLENT CRIME

That ANTONIO LAMONT BOYKIN in Clarendon County on or about April 22, 2007, was in possession of and did visibly display a weapon during the commission of a violent crime as defined in Section 16-1-60, to-wit: a razor blade, in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

COUNT FOUR - BURGLARY 1ST DEGREE

That ANTONIO LAMONT BOYKIN did in Clarendon County on or about April 22, 2007, enter the dwelling of Edith Johnson without consent and with the intent to commit a crime therein and said defendant entered or remained in said dwelling in the nighttime, in violation of Section 16-11-311, South Carolina Code of Laws (1976), as amended.

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

C. Kelly Jackson

SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

STATE VS.

ANTONIO LAMONT BOYKIN

AKA:

Race: Black

Sex: Male

Age: 21

DOB: September 24, 1987

SS#: [REDACTED]

Address: [REDACTED]

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-14-0059

AW#: J100673

Date of Offense: April 22, 2007

S.C. Code §: 16-03-0652

CDR Code #: 0160

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

DATE 12/3/08

B. Roberts
CLERK OF COURT

CLARENDON COUNTY, SC

SENTENCE SHEET

In disposition of the said Indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: CSC-19

in violation of § 16-3-652 of the S.C. Code of Laws, bearing CDR Code # 011610

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

ATTES:

Solicitor

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 20 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: self detention on 08-65-19-060☒ 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.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred, ☐ Defendant 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	\$
§35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$3.90
§90.11 TP (SCCJA Surcharge)	\$5	\$5.00
TOTAL		\$133.90

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:

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.B. Roberts
Clerk of Court/Deputy Clerk

Court Reporter: M. Sullivan

SCCA/217 (10/2007)

PRESIDING JUDGE

Judge Code: 211 10 97

Sentence Date: 12/3/08

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

STATE VS.

ANTONIO LAMONT BOYKIN

AKA:

Race: Black

Sex: Male

Age: 21

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-14-0059

AW#: J100674

Date of Offense: April 22, 2008

S.C. Code §: 16-03-0910

CDR Code #: 0095

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

12/3/08

SENTENCE SHEET

OF COURT

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Kidnappingin violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code # 0101915☐ 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 initial)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

[Signature]
Solicitor[Signature]
Defendant[Signature]
Attorney for Defendant SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 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: count one and all counts on 08-060☒ 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.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred, ☐ Defendant 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 \$ _____

\$35.13 (Public Def/Prob) \$500 \$ _____

\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00

\$33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____

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

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

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

\$90.11 TP (SCCJA Surcharge) \$5 \$ 5.00TOTAL \$ 133.90

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: _____

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.B. Roberts
Clerk of Court/Deputy ClerkCourt Reporter: M. Sullivan

SCCA/217 (10/2007)

PRESIDING JUDGE [Signature]Judge Code: 211Sentence Date: 12/3/09

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

STATE VS.

ANTONIO LAMONT BOYKIN

AKA:

Race: Black

Sex: Male

Age: 21

DOB: September 24, 1987

SS#: [REDACTED]

Address: [REDACTED]

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-14-0059

AW#: J100675

Date of Offense: April 22, 2008

S.C. Code §: 16-23-490

CDR Code #: 0549

CERTIFIED TRUE COPY
ORIGINAL FILED IN THIS OFFICE

12/3/08

SENTENCE SHEET
CLARENDON COUNTY, SCIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: pos. of a weapon during a violent crimein violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0, 5, 4, 9☒ 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 Initial)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
SolicitorAntonio Boykin
Defendant[Signature]
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: execute one + two and all counts 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. 060☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred, ☐ Defendant 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)

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

\$56-5-2995 (DUI Assessment)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

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

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$90.11 TP (SCCJA Surcharge)

TOTAL

\$	
\$	
\$100	\$100.00
\$100	
\$12	
\$500	
\$25	\$25.00
\$100	
\$50	
\$40/ea	
\$	\$3.90
\$5	\$5.00
	\$133.90

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:

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

B. Roberts
Clerk of Court/ Deputy Clerk

Court Reporter: M. Sullivan

PRESIDING JUDGE

Judge Code:

Sentence Date:

[Signature]
211 10
12/3/08

WITNESSES

T. O. Ham-CCSO

ARREST WARRANT NUMBER

J123326

J123329

J123328

ACTION OF GRAND JURY

True Bill

Constance L. Hill

Foreperson of Grand Jury

Date: *03/06/08*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2008-GS-14- *0060*

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

MARCH TERM 2008

THE STATE

vs.

ANTONIO LAMONT BOYKIN

Indictment for

CRIMINAL SEXUAL CONDUCT FIRST
KIDNAPPING
POSSESSION OF WEAPON DURING VIOLENT
CRIME

C. KELLY JACKSON, SOLICITOR

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CLARENDON)

INDICTMENT FOR
 CRIMINAL SEXUAL CONDUCT FIRST
 KIDNAPPING
 POSSESSION OF WEAPON DURING VIOLENT CRIME

At a Court of General Sessions, convened on March 6, 2008, the Grand Jurors of CLARENDON COUNTY present upon their oath:

COUNT ONE - CRIMINAL SEXUAL CONDUCT FIRST

That ANTONIO LAMONT BOYKIN did in Clarendon County on or about May 6, 2007, violate Section 16-3-652 of the Code of Laws of South Carolina (1976), as amended, in that the said Antonio Lamont Boykin did engage in, or attempt to engage in, a sexual battery upon Lynsey Racquael Barnard by using aggravated force to accomplish the sexual battery while Lynsey Racquael Barnard was a victim of kidnapping.

COUNT TWO - KIDNAPPING

That ANTONIO LAMONT BOYKIN did in Clarendon County on or about ^{MAY 6,} ~~April 22,~~ 2007, violate Section 16-3-910 of the Code of Laws of South Carolina (1976), as amended, in that he did unlawfully seize, confine, abduct, and carry away, without the authority of law, and by the use of force Lynsey Racquael Barnard.

COUNT THREE - POSSESSION OF WEAPON DURING VIOLENT CRIME

That ANTONIO LAMONT BOYKIN in Clarendon County on or about ^{MAY 6, 2007} ~~April 22,~~ 2007, was in possession of and did visibly display a weapon during the commission of a violent crime as defined in Section 16-1-60, to-wit: a gun, in violation of Section 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.

Dec 1, 2008

C. Kelly Jackson
 SOLICITOR

*Indictment amended on the record with
 consent to reflect the correct date
 of the offense in Counts Two and Three.*

*Howard P. King
 Presiding Judge*

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

STATE VS.

ANTONIO LAMONT BOYKIN

AKA:

Race: Black

Sex: Male

Age: 21

DOB: [REDACTED]

SS#: [REDACTED]

Address: [REDACTED]

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-14-0060

AW#: J123326

Date of Offense: May 06, 2007

S.C. Code §: 16-03-0652

CDR Code #: 0160

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

12/3/08

B. Roberts

CLERK OF COURT

CLARENDON COUNTY, SC

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Criminal Sexual Conduct - 1st Degreein violation of § 16-3-652 of the S.C. Code of Laws, bearing CDR Code # 0111610☐ 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 initial)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Solicitor

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred, ☐ Defendant 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	\$
§35.13 (Public Def/Prob)	\$500	\$
§73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 3.90
§90.11 TP (SCCJA Surcharge)	\$5	\$ 5.00
TOTAL		\$ 133.90

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: _____

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

B. Roberts

Clerk of Court/Deputy Clerk

Court Reporter: Mr. Sullivan

SCCA/217 (10/2007)

PRESIDING JUDGE Howard P. KingJudge Code: 2110Sentence Date: 12/3/08

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

STATE VS.

ANTONIO LAMONT BOYKIN

AKA:

Race: Black

Sex: Male

Age: 20

DOB: September 24, 1987

SS#: [REDACTED]

Address: [REDACTED]

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-14-0060

AW#: J123329

Date of Offense: May 06, 2007

S.C. Code §: 16-03-0910

CDR Code #: 0095

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE

12/3/08

[Signature]

CLERK OF COURT
CLARENDON COUNTY, SC

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO:

Kidnapping

in violation of § 16-3-910 of the S.C. Code of Laws, bearing CDR Code #

0101915

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS (CSC☐ §17-25-45w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

[Signature]

Clerk

[Signature]

Defendant

[Signature]

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 20 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:

Count One

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred, ☐ Defendant 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)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§35.13 (Public Def/Prob)

§73.3, 1B TP (Law Enforce. Funding)

§33.7, 1B TP (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

§90.11 TP (SCCJA Surcharge)

TOTAL

\$	
\$	
\$100	\$100.00
\$100	
\$12	
\$500	
\$25	\$25.00
\$100	
\$50	
\$40/ea	
\$	\$3.90
\$5	\$5.00
\$	\$133.90

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: _____

☐ Appointed PD or appointed other counsel, §35.13 TP
Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

[Signature]

12/3/08

Court Reporter: [Signature]

[Signature]

STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

STATE VS.

ANTONIO LAMONT BOYKIN

AKA:

Race: Black

Sex: Male

Age: 21

DOB: September 24, 1987

SS#: [REDACTED]

Address: [REDACTED]

DL#

SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2008-GS-14-0060

AW#: J123328

Date of Offense: May 06, 2007

S.C. Code §: 16-23-0490

CDR Code #: 0549

CERTIFIED TRUE COPY

ORIGINAL FILED IN THIS OFFICE

12/3/08

B. Roberts

CLERK OF COURT

CLARENDON COUNTY, SC

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Possession of A Weapon During a Violent Crimein violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0151419
☒ 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 Initial)The plea is: ☐ Without Negotiations or Recommendation; ☒ Negotiated Sentence; ☒ Recommendation by the State.

ATTES:

Solicitor

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: Counts one & two.☒ 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.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred, ☐ Defendant 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)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§35.13 (Public Def/Prob)

§73.3, 1B TP (Law Enforce. Funding)

§33.7, 1B TP (Drug Court Surcharge)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

§90.11 TP (SCCJA Surcharge)

TOTAL

	\$	
	\$	
\$100	\$	100.00
\$100	\$	
\$12	\$	
\$500	\$	
\$25	\$	25.00
\$100	\$	
\$50	\$	
\$40/ea	\$	
	\$	3.90
	\$	5.00
	\$	133.90

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: _____

☐ Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date:

B. Roberts

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (10/2007)

Howard P. King

211

12/3/08

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

I, Antonio Lamont Boykin, 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.

Antonio Boykin
Applicant

SWORN or affirmed to and subscribed before me this

17th day of June, 2009.
[Signature]
Notary Public

My Commission Expires: 4/4/2011

