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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Cherokee County

Honorable Robin B. Stilwell, Circuit Court Judge

ALONZO COLUMBUS JETER, III,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001777

APPENDIX

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

3
 4 THE STATE)
 5 -vs-) TRANSCRIPT OF RECORD
 6 ALONZO JETER, III,,) 2014-GS-11-00591
 7 DEFENDANT.) 2015-GS-11-00461
 8) 2015-GS-11-00462
 9) 2015-GS-11-00463
 10) 2015-GS-11-00464
 11) 2015-GS-11-00465
 12) JULY 16, 2015
 13) GAFFNEY, SOUTH CAROLINA

14 B E F O R E:

15 THE HONORABLE LEE S. ALFORD, JUDGE.

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

17 CLIFF SAMS, ASSISTANT SOLICITOR
 18 ATTORNEY FOR THE STATE

19 CHRIS KENNEDY, ESQUIRE
 20 ATTORNEY FOR THE DEFENDANT

21
 22
 23
 24 MICHAEL R. WATTS
 25 CIRCUIT COURT REPORTER

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WITNESSES

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(NO WITNESSES CALLED)

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NO. DESCRIPTION

ID. EV.

(NO EXHIBITS MARKED)

1 (PROCEEDINGS, JULY 16, 2015)

2 THE COURT: Solicitor?

3 MR. SAMS: Thank you, Your Honor.

4 Before you is Alonzo Columbus Jeter, III. He is
5 pleading guilty to six indictments.

6 Indictment Number 2015-GS-11-461, which is
7 possession of methamphetamine, second offense. He's
8 pleading that down from a third offense. That is --

9 And all of these are negotiated, Your Honor, by
10 the way.

11 That is with a negotiated recommendation of
12 fifteen years.

13 Indictment Number 2015-GS-11-463, distribution of
14 methamphetamine, second offense. Again, down from a third
15 offense with a negotiated recommendation of fifteen years.

16 Indictment Number 2015-GS-11-462, which is
17 distribution of methamphetamine within proximity to a
18 playground or school. That is a negotiated recommendation
19 of concurrent with other charges.

20 Indictment Number 2015-GS-11-464. That is again
21 distribution within proximity to a school or playground with
22 a negotiated recommendation of concurrent sentencing with
23 other charges.

24 Indictment Number 2015-GS-11-465, that's
25 trafficking in methamphetamine between ten grams and

1 twenty-eight grams, second offense, down from a third
2 offense, with a negotiated sentence of fifteen years.

3 And, finally, Indictment Number 2014-GS-11-591,
4 which is possession of an ounce or less of marijuana, second
5 offense -- second or subsequent offense, with a negotiated
6 recommendation of concurrent sentence with other charges.

7 Your Honor, he's represented by Mr. Chris Kennedy.

8 Also, Your Honor, on the record, on Indictment
9 Number 2014-GS-11-591, which is the possession of marijuana
10 indictment, the State would move to amend the defendant's
11 name on the indictment to add the III designation, Alonzo
12 Columbus Jeter, III, which we have left off of that
13 indictment.

14 THE COURT: You can make that change. I'll
15 initial it, get him to initial it.

16 MR. SAMS: Yes.

17 THE COURT: No objection?

18 MR. KENNEDY: No, Your Honor.

19 THE CLERK: Please raise your right hand.

20 ALONZO COLUMBUS JETER, III, having been first duly
21 sworn, testified as follows:

22 THE COURT: Sir, you are Alonzo Columbus Jeter,
23 III, is that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: How old are you, sir?

1 THE DEFENDANT: I'm thirty-eight.

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

3 THE DEFENDANT: Some college.

4 THE COURT: What do you do for a job or
5 occupation?

6 THE DEFENDANT: I was a pianist, a church pianist,
7 and I was -- in fact, been looking for a job in the past and
8 I couldn't never find one.

9 THE COURT: Are you married, sir?

10 THE DEFENDANT: No, sir.

11 THE COURT: Do you have children?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: What are their ages?

14 THE DEFENDANT: I have one that's eighteen, one
15 that's sixteen, and one that's fourteen.

16 THE COURT: How much have you served in jail on
17 these charges?

18 THE DEFENDANT: I have been here this time since
19 March the 31st, and I was out on house arrest, on home
20 detention, for approximately like ten months on that.

21 THE COURT: If y'all try to figure it out.

22 Counsel, if you can give me the exact numbers of
23 days, I can put that on the sentencing sheet. Otherwise,
24 I'll just give him credit for time served.

25 MR. KENNEDY: Yes, sir.

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MR. SAMS: Yes, sir.

THE COURT: But sometimes they don't just -- they don't agree down in Columbia, but, you know, they don't usually quarrel with the judges.

MR. KENNEDY: Yes, sir.

MR. SAMS: Yes, sir.

THE COURT: If you will try to figure that out and let me know in the morning.

MR. KENNEDY: Yes, sir.

THE COURT: Now, Mr. Jeter, you are charged with several charges today. One of those charges --

Well, let me take it back. All but one of these charges have not been presented to the grand jury for indictment.

You have a Constitutional Right to have these charges presented to the grand jury and have the grand jury act on them before this court acts on them. The grand jury would either enter a No Bill, which means they would dismiss them, or they would enter a True Bill. A True Bill is the action by the grand jury which gives this court the right, authority and jurisdiction to hear and resolve your cases, regardless of the outcome.

Do you understand that you have a Constitutional Right to have these charges presented to the grand jury and have the grand jury act on them before this court acts on

1 them?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that?

4 Do you wish to give up or waive your right to have
5 the charges presented to the grand jury and proceed on today
6 with guilty pleas?

7 THE DEFENDANT: Yes.

8 THE COURT: Counsel, how about getting him to
9 initial the waivers on the sentencing sheet?

10 MR. KENNEDY: Yes, sir.

11 (Off the record).

12 (Back on the record).

13 THE COURT: Mr. Jeter, are these your initials on
14 each of these sentencing sheets waiving presentment to the
15 grand jury?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I find the defendant's decision to
18 waive his right to have these charges presented to the grand
19 jury being made freely, voluntarily and intelligently.

20 Now, again, you are charged with possession of
21 marijuana, second offense, which carries a maximum
22 punishment of one year and \$1,000 fine. Do you understand
23 that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You are also charged with two counts

1 of distribution or possession with intent to distribute
2 controlled substances within proximity of a school, park or
3 playground, each of which carries a maximum punishment of
4 ten years and a \$10,000 fine. Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You are also charged with distribution
7 of methamphetamine, second offense, two counts, each of
8 which carries a minimum sentence of five years, a maximum
9 sentence of thirty years and \$50,000 fine. Do you
10 understand that those charges, the maximum punishment you
11 could receive on each of them?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You are also charged with trafficking
14 ice, crank, or crack in an amount between ten and
15 twenty-eight grams, second offense, which also carries a
16 minimum sentence of five years and a maximum sentence of
17 thirty years and a \$50,000 fine. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now, understanding all of that, how do
20 you wish to plead to these five charges today, guilty or not
21 guilty?

22 THE DEFENDANT: I plead guilty.

23 THE COURT: Do you understand that by pleading
24 guilty you give up your right to remain silent?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand that by pleading
2 guilty you give up your right to a trial by jury?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Let me back up. There are six
5 charges, not five.

6 Do you understand if you give up your right to a
7 trial by jury, you also give up your right to assert any
8 legal defenses that you might have in a jury trial?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: I know that your attorney has gone
11 over that right with you, and I'm going to do so as well.

12 If you requested a matter of a trial by jury, the
13 State would give you a trial. At trial you would have the
14 right to confront and cross-examine all witnesses against
15 you.

16 You would have the right to present any witnesses
17 and/or evidence in your own defense.

18 You would have the right to testify in your own
19 defense, if you wished to do so, but no one could make you
20 testify in your own trial.

21 If you decided to go to trial and not testify, the
22 judge would tell the jury they could not hold your failure
23 to testify against you. In fact, the jury couldn't even
24 consider your failure to testify in their deliberations on
25 your guilt or innocence.

1 You would be presumed innocent throughout your
2 trial. The State would have to prove you guilty beyond a
3 reasonable doubt to a jury of twelve people.

4 All twelve people would have to unanimously agree
5 that you were guilty in order for you to be convicted. And
6 even if you were convicted, you would still have the right
7 to appeal that conviction.

8 Do you understand your rights with regard to a
9 trial by jury?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Understanding that right, do you still
12 want to plead guilty or do you want me to set your cases for
13 trial?

14 THE DEFENDANT: Guilty, Your Honor.

15 THE COURT: Let me further explain to you that
16 each of these drug charges, other than the marijuana charge,
17 which is a misdemeanor, each of them is classified as a
18 felony.

19 Are these second offenses serious offenses? Is
20 possession with intent to distribute, or distribute, second
21 offense, are they --

22 MR. SAMS: Yes, sir.

23 THE COURT: -- serious offenses?

24 MR. SAMS: It's considered a serious. Let me
25 double check that for you, Your Honor.

1 THE COURT: That's what I have got. I don't know
2 if that had been changed or not.

3 MR. SAMS: It was at the time of the -- it was at
4 the time of the incident dates, yes, sir.

5 MR. KENDALL: I believe that it falls under that
6 provision, Your Honor, that it carries thirty years, and
7 that's how -- I believe that's correct.

8 THE COURT: All right. I just wanted to be sure.
9 I know they changed a couple of these.

10 All right. All right. Each of them is classified
11 as a serious offense.

12 And the possession with intent to distribute
13 within proximity of a school, park or playground, or
14 distribution with intent to distribute within proximity of a
15 school, park, or playground is also classified as a serious
16 offense.

17 And the -- at any rate, each of them is classified
18 as a serious offense.

19 The importance of that classification is should
20 you get three separate serious offenses on your record, or a
21 combination of three serious and most-serious offenses on
22 your record, upon receiving the third such offense you could
23 get a sentence of life without parole, the so-called
24 Three-Strikes Rule. Do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Now, the distribution of
2 methamphetamine, or possession with intent to distribute
3 methamphetamine, second offense, they are classified as
4 violent offenses, as is the trafficking in ten grams to
5 twenty-eight grams, second offense, trafficking, they are
6 classified as violent offenses, which could affect, of
7 course, your eligibility for parole and also your ability to
8 participate in certain programs at the South Carolina
9 Department of Corrections. Do you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And understanding all of that, how do
12 you wish to plead to these charges?

13 Well, I have already asked you that, but let me
14 ask you again. How do you wish to plead to these charges,
15 guilty or not guilty?

16 THE DEFENDANT: Guilty.

17 THE COURT: All right. Now, the State is
18 recommending to the court --

19 Now, you said -- solicitor, to be sure I
20 understand your negotiations, it was on the possession with
21 intent to distribute methamphetamine, second offense,
22 fifteen years, correct?

23 MR. SAMS: Yes, sir.

24 THE COURT: And then the distribution of
25 methamphetamine, second offense, fifteen years?

1 MR. SAMS: Yes, sir.

2 THE COURT: Are you talking about -- you didn't
3 say anything about concurrently.

4 MR. SAMS: Concurrent sentences. I apologize,
5 Your Honor, I meant to recommend concurrent sentencing on
6 everything.

7 THE COURT: Okay.

8 And then on the proximity charge, that there was
9 no specific negotiated sentence, but whatever sentence would
10 run concurrently?

11 MR. SAMS: Yes, sir, since it doesn't carry above
12 ten, just whatever the court would give concurrent with the
13 fifteen.

14 THE COURT: There's two of those.

15 And then in the trafficking, ten to twenty-eight
16 grams, fifteen years to run concurrent?

17 MR. SAMS: Yes, sir.

18 THE COURT: And possession of marijuana, second
19 offense, that would run concurrent?

20 MR. SAMS: That's correct.

21 THE COURT: Now, is that your understanding of the
22 agreement that you had with the solicitor's office in order
23 to plead guilty to these charges, Mr. Jeter?

24 THE DEFENDANT: Yes, sir?

25 THE COURT: In other words, the total sentence

1 would be fifteen years.

2 Has anybody promised you anything other than that
3 in order to get you to plead guilty?

4 THE DEFENDANT: No, sir.

5 THE COURT: All right. Are you pleading guilty
6 today of your own free will?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Are you, in fact, guilty of these six
9 charges?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Please give me the facts, solicitor.

12 MR. SAMS: Thank you, Your Honor.

13 I'll start with the marijuana offense. It
14 occurred on April the 10th, 2014.

15 Officers from the Cherokee County Sheriff's Office
16 were patrolling a location in Cherokee County. They
17 observed a vehicle driven by Ms. Kimberly McSwain, who did
18 not have a seat belt on, pass by their vehicle. They
19 conducted a traffic stop. Subsequent to that Ms. McSwain
20 didn't have a valid driver's license.

21 They then spoke with Ms. McSwain to obtain consent
22 to search that vehicle. There was a bag of what they
23 believed to be methamphetamine in plain view in this
24 vehicle.

25 And subsequently the occupants, one of whom was

1 Mr. Jeter were taken into detention. Pursuant to search
2 incident to arrest a bag of marijuana was found in, I
3 believe, it was his -- I believe it was his sock.

4 As to the other counts, these all were essentially
5 a series of undercover controlled purchases by the sheriff's
6 office through undercover operatives. They were captured on
7 audio and video, the first occurring on January the 12th,
8 2015. The undercover operative was captured on audio and
9 video purchasing methamphetamine from Mr. Jeter in Cherokee
10 County.

11 Based upon that purchase, on January the 14th the
12 undercover operative coordinated with the sheriff's office
13 and engaged in a series of phone calls with Mr. Jeter to
14 coordinate a purchase of a larger amount of methamphetamine
15 from him.

16 On January the 14th that undercover operative then
17 traveled to a location in Cherokee County and met with Mr.
18 Jeter and exchanged what I believe they call it an eight
19 ball of methamphetamine -- or bought an eight ball of
20 methamphetamine, which is approximately 3.4 grams from Mr.
21 Jeter. That was also captured on audio and video.

22 There was a discussion during the phone
23 conversations of a purchase of a larger amount of
24 methamphetamine from Mr. Jeter. The undercover and Mr.
25 Jeter at that time made arrangements to meet back up so that

1 the operative could then purchase the larger amount from Mr.
2 Jeter. That occurred on January the 15th. That operative
3 again met up with Mr. Jeter. It was captured on audio and
4 video in Cherokee County purchasing a quantity of
5 methamphetamine from Mr. Jeter. It was originally believed
6 to be more than eleven grams, but it turned out, I believe,
7 pursuant to the SLED weight to be 10.4 grams, purchased on
8 January the 15th from Mr. Jeter. Again, it was captured on
9 audio and video in Cherokee County.

10 THE COURT: Mr. Jeter, you have heard the facts
11 recited to the court by the solicitor's office with regard
12 to these charges. Do you disagree in any way with what they
13 say happened?

14 THE DEFENDANT: No, sir.

15 THE COURT: I find the decision of the defendant,
16 Alonzo Columbus Jeter, III, to plead guilty to these six
17 charges being made freely, voluntarily and intelligently.

18 He's had the representation of a competent
19 attorney with whom he says he is satisfied.

20 I find the facts presented to the court by the
21 solicitor's office, concurred in by the defendant, fully
22 support the guilty pleas in this case.

23 I'll accept the pleas as freely and voluntarily
24 made.

25 Mr. Jeter, if you disagree with the proceeding

1 which we are currently involved, you have ten days from
2 today's date within which to file a notice of intent to
3 appeal.

4 Do you understand your right to appeal today's
5 proceedings?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Counsel?

8 MR. KENNEDY: Your Honor, just briefly, because I
9 know this is primarily a negotiated sentence.

10 Your Honor, I would ask the court obviously to
11 except the negotiated sentence that we have had. It's been
12 ongoing for several weeks.

13 Mr. Jeter -- I have reviewed all the discovery
14 thoroughly. I have gone over the discovery with him, as
15 well as I viewed the videos and discussed the videos with
16 Mr. Jeter. There is little question and he's already
17 admitted it, obviously, but there's little question that
18 it's him in the videos and you can actually see the
19 transactions take place in the videos.

20 Your Honor, I'm happy to get you the amount of
21 time that he has served in the detention center here at the
22 beginning of these cases and more recently when he was
23 arrested on these other charges.

24 The only other thing I would ask the court to
25 consider is under South Carolina law, the court can award

1 him time spent on home detention. I don't have that
2 specific figure, but I would ask the court to consider to do
3 that as well.

4 THE COURT: Any comment on that, solicitor?

5 MR. SAMS: As far as home detention? No, the
6 State would not -- would not agree with the home detention
7 as part of the negotiation.

8 MR. KENNEDY: Well, I didn't -- I don't want him
9 to be on home detention. It's just that pursuant to the
10 law, if he's --

11 THE COURT: No, he's wanting me to give him credit
12 for his time served.

13 MR. SAMS: Oh, I'm sorry, I was not listening
14 properly, Your Honor. The State doesn't take a position on
15 that.

16 THE COURT: Okay. Well, I will give him credit
17 for that, just --

18 MR. KENNEDY: I'll get you the time.

19 THE COURT: -- get me the time.

20 MR. KENNEDY: Yes, sir.

21 THE COURT: I'll need the actual amount, if you
22 want me to put it on here. Otherwise, all I'm doing is just
23 checking off the block for the credit for time served.

24 MR. KENNEDY: Yes, sir.

25 THE COURT: Put the time in here and they'll

1 accept it. If not, you may be in a dispute with them down
2 there.

3 MR. KENNEDY: That sounds good, judge.

4 THE COURT: All right.

5 MR. SAMS: Your Honor, may I place on the
6 record --

7 THE COURT: Yes, sir.

8 MR. SAMS: -- also just for appellate purposes
9 that Mr. Jeter does have prior convictions for controlled
10 substances that could have given rise to a third, an
11 enhanced third offense, and these have been knocked down to
12 second.

13 THE COURT: Well, I think -- I'm glad you brought
14 that up. I think you should go ahead and put it on the
15 record what his priors are --

16 MR. SAMS: Yes, sir.

17 THE COURT: -- since we are -- these are being
18 handled.

19 MR. KENNEDY: Yes, sir.

20 MR. SAMS: Would you like the whole record, or
21 just the enhancing drugs?

22 THE COURT: I want all the enhancement stuff.

23 MR. SAMS: Yes, sir.

24 THE COURT: It's a negotiated sentence. I'm not
25 worried about what his other charges are, but we need to put

1 the offenses to which it would enhance these on him.

2 MR. SAMS: Yes, sir.

3 Marijuana, of course, wouldn't enhance it.

4 However, starting in '05, there was a possession
5 of -- it was either methamphetamine or crack cocaine. There
6 were -- there was one of those in '05.

7 And '06 -- no, I'm sorry. That's another
8 marijuana itself.

9 So that was an '05 possession of either meth or
10 crack.

11 And then a '13 possession of a controlled
12 substance. That was a second offense at that time.

13 THE COURT: So he's got two either crack or meth?

14 MR. SAMS: Yes, sir.

15 THE COURT: Okay.

16 MR. SAMS: Well, one of them was a controlled
17 substance and one of them was crack or meth. That would run
18 under the statute. Either one would --

19 THE COURT: I understand, but actually I
20 understood you to say there were two possession of crack or
21 two of those.

22 MR. SAMS: No, I misspoke. I believe it was one.
23 I had looked at a marijuana charge and thought it was two of
24 the crack or meth.

25 THE COURT: Okay.

1 Well, let me ask you this. This is kind of
2 unusual to have these kind of quantities of meth. Most of
3 these little cults, people around doing their little
4 cooking, and other people getting it and bringing them the
5 stuff to them, him cooking it and then everybody getting a
6 little bit here and there. We are talking about a
7 substantial amount here. Is Mr. Jeter manufacturing all
8 that stuff, or is he getting it from somebody else? It's
9 got to be a pretty good operation, manufacturing this much
10 meth.

11 MR. KENNEDY: You have to answer the question.

12 THE DEFENDANT: I was getting it from someone
13 else, sir.

14 THE COURT: All right. It must be more than a
15 usual little meth labs that they have out here in the gallon
16 bottles, or whatever, to cook this kind of meth. Most of it
17 won't produce that kind of meth, so I don't know. I'm sure
18 that the authorities are looking at those to try to figure
19 that out.

20 All right. In case number 2015-GS-11-463, Alonzo
21 Columbus Jeter, III, having pled guilty to distribution of
22 methamphetamine, second offense, the sentence of the court
23 is you be committed to the State Department of Corrections
24 for a determinate term of fifteen years.

25 This sentence is concurrent with all other

1 sentences this date.

2 He's to be given credit for time served in the
3 amount to be plugged in, if you get that to me.

4 Case number 2015-GS-11-461, Alonzo Columbus Jeter,
5 III, having pled guilty to distribution of methamphetamine,
6 second offense, the sentence of the court is the same as the
7 previous sentence, to run concurrent.

8 Case number 2015-GS-11-465, Alonzo Columbus Jeter,
9 III, having pled guilty to trafficking in methamphetamine,
10 the sentence of the court is the same as the previous
11 sentence; that is, fifteen years concurrent.

12 Case number 2015-GS-11-464, Alonzo Columbus Jeter,
13 III, having pled guilty to distribution or possession with
14 intent to distribute a controlled substance near a school,
15 the sentence of the court is to be committed to the State
16 Department of Corrections for a determinate term of ten
17 years, to run concurrent. Credit for time served.

18 Case number 2015-GS-11-962, Alonzo Columbus Jeter,
19 III, having pled guilty to distribution of a controlled
20 substance within proximity of a school, the sentence of the
21 court is the same as the previous sentence, to run
22 concurrent with credit for time served.

23 And in the marijuana charge, case number
24 2014-GS-11-591, Alonzo Columbus Jeter, III, having pled
25 guilty to possession of marijuana, second offense, the

1 sentence of the court is to be committed to the county
2 detention center for a determinate term or time served.
3 That's concurrent and time served. No use -- it's just a
4 lot of extra paperwork. It's nothing compared to the major
5 charges.

6 MR. SAMS: Yes, sir.

7 MR. KENNEDY: Yes, sir.

8 THE COURT: So this would be one less bit of
9 paperwork to deal with, but he will be getting a time served
10 sentence that's on his record.

11 MR. KENNEDY: Yes, sir.

12 THE COURT: Now, of course, you need to sign all
13 these indictments, do you understand?

14 MR. SAMS: I apologize, Your Honor.

15 MR. KENNEDY: Thank you, judge.

16 THE COURT: Yes, sir.

17 (END OF REQUESTED TRANSCRIPT OF RECORD)

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CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for CHEROKEE County, South Carolina, on the 16th day of July, 2015.

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

June 3, 2016

Michael R. Watts

Michael R. Watts
Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Cherokee)

016CP-110293

Alonzo Columbus Jeter #282902)

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

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

INSTRUCTIONS - 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 Perry Correctional Institution
2. Name and location of Court which imposed sentence Cherokee County Courthouse - Gaffney, SC - General Sessions Court
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: See Attached Page 1 of 4:
 - (a) _____
 - (b) _____

APR 28 A 11:39

(c) ~~SEE ATTACHED PAGE 1 OF 4~~ *OC*

5. The date upon which sentence was imposed and the terms of the sentence:
(a) SEE ATTACHED PAGE 1 OF 4

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

ii. N/A

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) Did not know how to

(b) My attorney did not consult with me regarding an Appeal

2016 APR 28 11:36

(c) Was unable to take any proper steps of appealing

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: See Attached Page 2 of 4

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

11. State concisely and in the same order the facts which support each of the grounds set out in (10): SEE Attached Pages 2 of 4 and 3 of 4.

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

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

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

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

- (a) the specific nature thereof:
 - i. MMA
 - ii. _____
 - iii. _____
 - iv. _____

- (b) the name and location of the Court in which each was filed:
 - i. MMA
 - ii. _____
 - iii. _____
 - iv. _____

FILED
 2/16/08
 A 11:30
 COURT

(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. _____

2016 APR 28 A 11:36
 DEAN V. WILSON
 COURT CLERK

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

NO

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

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

19. State clearly the relief you seek in filing this application: *See Attached Page 4 of 4*

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

NO

STATE OF SOUTH CAROLINA)
)
County of Cherokee)

VERIFICATION

2016 APR 28 AM 11:36
NOTARY PUBLIC
STATE OF SOUTH CAROLINA

I, Alonzo Columbus Jeter III #282902, 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.

Alonzo Columbus Jeter III

SWORN to and subscribed before me this 21st day of April, 2016.

Steven L. Milonley (L.S.)
Notary Public

My Commission Expires: December 7, 2016

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

I, Alonzo Columbus Jeter III SCDC#202902, 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.

Alonzo Columbus Jeter III
Applicant

SWORN or affirmed to and subscribed before me this

21st day of April, 2016.

James T. Whitely
Notary Public

My Commission Expires: November 7, 2016

2016 APR 28 A 11:36
S.C. JUDICIAL BRANCH
COLUMBIA, S.C.

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

- (a) 2015-GS-11-00461 - Distribution, etc. of methamphetamine, 2nd
Offense
- (b) 2015-GS-11-00462 - Distribute, sell, manuf. or pwid, of cent. sub.,
near school
- (c) 2015-GS-11-00463 - Distribution, etc. of methamphetamine, 2nd
Offense
- (d) 2015-GS-11-00464 - Distribute, sell, manuf. or pwid, of cent. sub.,
near school
- (e) 2015-GS-11-00465 - Trafficking in ice, crank or crack - 10g or more,
but less than 28g - 2nd Offense

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

- (a) July 16, 2015 - 15 Years State Department of Corrections (concurrent)
- (b) July 16, 2015 - 10 Years State Department of Corrections (concurrent)
- (c) July 16, 2015 - 15 Years State Department of Corrections (concurrent)
- (d) July 16, 2015 - 10 Years State Department of Corrections (concurrent)
- (e) July 16, 2015 - 15 Years State Department of Corrections (concurrent)

2015 APR 28 A 11:36
STATE DEPARTMENT OF CORRECTIONS

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: **01st CP-110293**

- (a) My constitutional rights to the effective assistance of counsel under the Sixth Amendment, and applicable case law, was violated in the following manner:
- 1) Counsel failed to investigate and request continuence.
 - 2) Counsel failed to challenge insufficient indictment(s).
 - 3) Counsel failed to present mitigating evidence and factors.
 - 4) Counsel failed to obtain the original plea offer of seven (7) years.
 - 5) Counsel failed to inform me of my right to appeal and make sure I understood what it was and how to do it.
- (b) My constitutional rights of due process under the Fourteenth Amendment, and applicable case law, was violated as Counsel failed to request a competency hearing.
- (c) Lack of Subject Matter Jurisdiction. The Court lacked Subject Matter Jurisdiction to accept my guilty pleas.
- (d) I Reserve the Right to Amend my Post-Conviction Relief Application.

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

- (a) I was denied my Constitutional rights to the effective assistance of counsel under the Sixth Amendment, and applicable case law, during the court proceedings as follows:
- 1) Failure to Investigate and Request Continuence - Counsel could have discovered that the indictment(s) were not sufficient, among other things, if counsel would have not failed to investigate. A continuence would have given counsel more time to investigate, prepare for mitigation and bargaining, as well as time to discover the applicant's state of mind and needs.
 - 2) Insufficient Indictment(s) - Counsel failed to move to quash the insufficient indictment(s).
 - 3) Mitigating Evidence - Counsel failed to present nor allow me to present mitigating factors at opportunity.
 - 4) Original Plea Offer - Counsel failed to obtain the original plea offer of Seven (7) years.
 - 5) Right To Appeal - Counsel failed to Consult with me regarding my right to appeal; making sure I understood and how to assert the right; being sure that the opportunity was given to me to do so.

11 cont...

016CP-10293³⁵

(b) Competency Hearing - My Constitutional Rights of Due Process under the Fourteenth Amendment, and applicable case law, was violated as counsel failed to address my mental and emotional well-being. Absent counsel's errors there is a reasonable probability that the evidence would have been reweighed and thus it would have been concluded that the balance of aggravating and mitigating circumstances did not warrant such harsh sentencing and punishment. The Applicant also had the right to be competent when entering a guilty plea and a complete picture of the Applicant's mental condition would have established that the Applicant was suffering from a mental or emotional disturbance both at the time the crime(s) were committed and at the time of entering a plea of guilty. Due process prohibits this conviction therefore the conviction is illegal.

(c) Subject Matter Jurisdiction - The Court lacked Subject Matter Jurisdiction to accept the Applicant's guilty plea(s). Lack of Subject Matter Jurisdiction may not be waived, even by consent of the parties. The acts of a Court with respect to a matter as to which the Court has no Jurisdiction are void.

(d) I Reserve the Right to Amend my Past-Conviction Relief Application.

BRANDY W. TORRES

2016 APR 28 A 11:36 AM

CLERK OF COURT

016010293

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) Sixth Amendment - Ineffective Assistance of Plea Counsel - This is my first opportunity.
- (b) Fourteenth Amendment - Due Process - Failure to request a competency hearing - This is my first opportunity.
- (c) Lack of Subject Matter Jurisdiction - This is my first opportunity.

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

I am respectfully requesting that my plea be withdrawn and my sentence be reconsidered; giving me the opportunity to accept the original seven 7 year plea agreement or less; such as an opportunity of Drug Court or Mental Health Court. I Pray that this court will grant this request, a hearing on the grounds stated, and a swift relief and release of my burdens.

Date: 4/21/2016

S/ Alonzo C. Jeter III
 Alonzo C. Jeter III #282902
 Perry Correctional Institution
 430 OAKLAWN ROAD
 Pelzer, SC 29669

Pg. 4 of 4

BRADLEY W. HOGEE

2016 APR 28 AM 11:36

STATE OF SOUTH CAROLINA

County of Cherokee

Alonzo C Jeter III
APPLICANT

V.

State of South Carolina
RESPONDANT

IN the Court of Common Pleas

C/A. NO **16CP-10293**

Proof of Service

RECEIVED

APR 25 2016

PC.I. MAILROOM

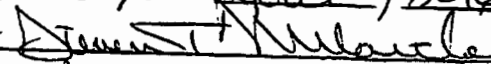
I, Alonzo Columbus Jeter III hereby certify that I have this 21st day of April, 2016 served applicant's Post-Conviction Relief Application; upon the Cherokee County Clerk of Court; by depositing one(1) original and one(1) copy of the same in the U.S. Mail (by ~~and~~ through the Perry Correctional Institution's Legal Mail System).

The following parties have been served at the below addresses:

Cherokee County Clerk of Court
Post Office Drawer 2289
125 E. Floyd Baker Boulevard
Gaffney, SC 29342

Alan Wilson
South Carolina Attorney General
PO Box 11549
Columbia, SC 29211

S/  III

SWORN to and Subscribed before me
~~this 21st~~ day of April, 2016
Notary: 
Expires: ~~November 7~~, 2016

Alonzo C. Jeter III #282902
Perry Correctional Institution
Q1-B-215
430 OAKLAWN ROAD
Pelzer, SC 29669

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF CHEROKEE)	
Alonzo Columbus Jeter III, #282902	)	Case No.: 2016-CP-11-0293
)	
Applicant,	)	RETURN
)	
v.)	
)	
State of South Carolina,)	
)	
Respondent.)	
)	

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed on April 28, 2016, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Cherokee County. Applicant was charged with two counts of distribution of methamphetamine, third or subsequent offense (2015-GS-11-0461 and -0463), two counts of distribution of methamphetamine within one-half mile of a park or school (2015-GS-11-0462 and -0464), and one count of trafficking in methamphetamine 10–28 grams, third offense (2015-GS-11-0465). Applicant was represented by Christopher Kennedy, Esquire. On July 16, 2015, Applicant waived presentment to the grand jury on all charges and pleaded guilty to the lesser included offenses of two counts of distribution of methamphetamine, second offense, and trafficking in methamphetamine 10–28 grams, second offense. Pursuant to a negotiated recommendation of 15 years and concurrent sentencing, the Honorable Lee S. Alford sentenced Applicant to imprisonment for concurrent terms of 15 years for each count of distribution of methamphetamine and trafficking in methamphetamine, and 10 years for each

count of distribution of methamphetamine within one-half mile of school.¹ Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein by reference are the records of the Cherokee County Clerk of Court regarding the subject convictions, the transcript from Applicant's plea, and Applicant's records for the Department of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

II.

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

1. Ineffective Assistance of Counsel, in that:
 - a. "Counsel failed to investigate and request continuance. . . . A continuance would have given counsel more time to investigate, prepare for mitigation and bargaining, as well as time to discover the applicant's state of mind and needs."
 - b. "Counsel failed to challenge insufficient indictments."
 - c. "Counsel failed to present nor allow me to present mitigating evidence and factors at opportunity"
 - d. "Counsel failed to obtain the original plea offer of seven (7) years."
 - e. "Counsel failed to inform me of my right to appeal and make sure I understood what it was and how to do it."
 - f. "Failure to withdraw guilty plea where indictment charging 'possession with intent to distribute marijuana' did not sufficiently state level of offense."
2. Due Process Violation
 - a. "My constitutional rights of due process under the Fourteenth Amendment, and applicable case

¹ Applicant was also charged with possession of an ounce or less of marijuana (2014-GS-11-591), second offense, and pleaded guilty to that charge in the same proceeding. Judge Alford sentenced him to time-served. Applicant does not challenge that conviction in his application.

law, was violated as counsel failed to request a competency hearing.”

- i. Absent counsel's errors there is a reasonable probability that the evidence would have been reweighed and thus it would have been concluded that the balance of aggravating and mitigating circumstances did not warrant such harsh sentencing and punishment.
 - ii. Applicant also had the right to be competent when entering a guilty plea and a complete picture of the Applicant's mental condition would have established that the Applicant was suffering from a mental or emotional disturbance both at the time the crimes were committed and at the time of entering a plea of guilty.
 - iii. Due process prohibits this conviction therefore the conviction is illegal.
3. Lack of Subject Matter Jurisdiction
- a. “The court lacked subject matter jurisdiction to accept my guilty pleas.”

III.

Applicant alleges he received ineffective assistance of counsel. Respondent also interprets Applicant's due process allegations as additional allegations of ineffective assistance of counsel. Respondent submits these allegations are without merit.

In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668; Cherry v. State, 300 S.C. 115, 117,

386 S.E.2d 624, 625 (1989). 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 prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, with respect to guilty plea counsel, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, he would not have [pleaded] guilty, but would have insisted on going to trial." Thompson v. State, 340 S.C. 112, 116, 531 S.E.2d 294, 297 (2000).

Applicant can satisfy neither 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, 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.

Applicant alleges counsel failed to inform of him of his right to appeal. Counsel has a constitutionally-imposed duty to consult with defendant about appeal when there is reason to think either (1) that rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470 (2000). Although not determinative, a highly relevant factor in this inquiry will be

whether the conviction follows a trial or a guilty plea, both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings. Id. 528 U.S. at 480. To show prejudice in these circumstances, a defendant must demonstrate that there is a reasonable probability that, but for counsel's deficient failure to consult with him about an appeal, he would have timely appealed. Id. 528 U.S. at 484.

In White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974), the South Carolina Supreme Court held that even if the post-conviction relief court finds that the Applicant never voluntarily and intelligently abandoned his appeal, the court has no jurisdiction to grant a belated appeal. Therefore, where an accused establishes in a post-conviction relief hearing that he was unconstitutionally deprived of his statutory right to a direct appeal, the South Carolina Supreme Court, upon an appeal of the post-conviction relief decision, will review the trial record and pass upon all issues properly raised and argued as if the direct appeal has been perfected.

Respondent submits that this allegation is without merit and demands strict proof thereof. Nevertheless, the allegation raises a question of fact which cannot be conclusively refuted by the record and, therefore, requires that an evidentiary hearing be held. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983); Delaney v. State, 269 S.C. 555, 238 S.E.2d 679 (1977).

V.

Applicant claims infringement of his rights under certain amendments to the United States Constitution. However, the Applicant fails to set forth with specificity the grounds upon which these constitutional violations are based. The Uniform Post-Conviction Procedure Act requires that the Applicant must "specifically set forth the grounds upon which the application is based." S.C. Code § 17-27-50 (2003). In an application for post-conviction relief, it is

incumbent upon the Applicant to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). Since the Applicant has failed to make even a *prima facie* showing that his due process and other constitutional rights were violated, the Respondent would submit that this allegation should be summarily dismissed for failing to specifically set forth the grounds upon which the application is based.

VI.

Applicant alleges the court lacked subject matter jurisdiction to accept his plea. Respondent submits this allegation is without merit. A circuit court has subject matter jurisdiction to convict a defendant of an offense if there is an indictment that sufficiently states the offense, the defendant waives presentment, or the offense is a lesser-included offense of the crime charged in the indictment. State v. Wilkes, 353 S.C. 462, 464-465, 578 S.E.2d 717, 719 (2003) (citing Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001)). In this case, Applicant waived presentment to the Cherokee County grand jury. A presumption of regularity attaches to all proceedings in the courts of this State, and it is incumbent upon one who challenges a proceeding to prove his claims. See, e.g., Tate v. State, 345 S.C. 577, 549 S.E.2d 601 (2001); Pringle v. State, 287 S.C. 409, 339 S.E.2d 127 (1986). Applicant here cannot show any irregularity because he waived presentment on these charges. Therefore, this Court should summarily dismiss this allegation.

VII.

Respondent interprets Applicant's claims regarding his competency at his guilty plea as an allegation that his guilty plea was involuntary. Respondent submits this allegation is without

merit. In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citing Drayton v. Evatt, 312 S.C. 4, 430 S.E.2d 517 (1993); Hyman v. State, 278 S.C. 501, 299 S.E.2d 330 (1983); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993)). An applicant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pleaded guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citing Lockhart, 474 U.S. 52; Jackson v. State, 342 S.C. 95, 535 S.E.2d 926 (2000); Thompson v. State, 340 S.C. 112, 531 S.E.2d 294 (2000); Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994)). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Lockhart, 474 U.S. at 56. Furthermore, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. at 137-38, 654 S.E.2d at 874 (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)).

Respondent submits the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding the voluntariness of the plea may raise questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper, 279 S.C. 264, 305 S.E.2d 247.

VIII.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel and involuntary guilty plea. As to all other allegations, Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

IX.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not *specifically* laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing. S.C. Code Ann. § 17-27-10 to -160; Rule 71.1, SCRPC. All claims should be made well in advance of the PCR hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. Filings by Applicant will not be considered at the PCR hearing.

X.

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

XI.

WHEREFORE, having made its Return, Respondent requests that a hearing be held on the claims of ineffective assistance of counsel and involuntary guilty plea.

[Signature on following page]

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

JOHANNA C. VALENZUELA
Senior Assistant Deputy Attorney General

ALICIA A. OLIVE
Assistant Attorney General

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

By: 
ATTORNEYS FOR RESPONDENT

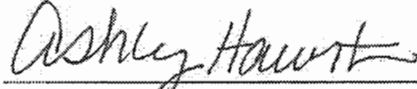
November 15, 2016

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHEROKEE)	
)	
	)	2016-CP-11-0293
ALONZO C. JETER, III, #282902,)	
)	
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** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. Steven D. Epps, Esquire
104-A Franklin Ave., #281
Spartanburg, SC 29301

DATED this 15TH day of November, 2016.



 Ashley Haworth, Legal Assistant
 For Respondent

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STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG)	
 The State,)	
	)	TRANSCRIPT OF RECORD
Applicant,	)	2016-CP-11-00293
-vs-)	
)	
Alonzo Columbus Jeter,)	
III,)	
	)	March 20, 2017
Respondent.	)	Spartanburg, South Carolina

B E F O R E:

HONORABLE ROBIN B. STILWELL, JUDGE

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

STEVEN D. EPPS, ESQUIRE
Attorney for the Applicant

JULIE A. COLEMAN, ESQUIRE
Attorney for the Respondent

Margaret A. Woods
Circuit Court Reporter

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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MOTIONS AND MATTERS

1 THE COURT: Alright, we'll let's go ahead and call to bar
2 the case of Alonzo Columbus Jeter the third vs. the State a
3 South Carolina, Case Number 2016-CP-11-293.

4 MR. EPPS: And and, Your Honor, I'll go ahead and tell
5 you just to kinda get the Court up to speed ---

6 THE COURT: Yes, sir.

7 MR. EPPS: --- I did file a motion for discovery in this
8 case, ---

9 THE COURT: Yes, sir.

10 MR. EPPS: --- uh, because my client desires that, uh, we
11 may need to have a a brief discussion about those items, Your
12 Honor, ---

13 THE COURT: That's fine.

14 MR. EPPS: --- but then beyond that, Your Honor, we are
15 ready to proceed however the Court may rule, obviously if the
16 Court grants the motion we'd ask for a continuance simply
17 because I don't have the documents, ---

18 THE COURT: Yes, sir.

19 MR. EPPS: --- uh, and Ms. Coleman's been provided a copy
20 of the motion, Your Honor.

21 MS. COLEMAN: Yes, uh-huh.

22 THE COURT: Okay.

23 (Whereupon, a discussion was held off the record.)

24 EXAMINATION BY THE COURT:

25 Q. Alright, you are Mr. Jeter, is that correct?

MOTIONS AND MATTERS

1 A. Yes, sir.

2 Q. Good mornin', sir, hope you're doin' well today.

3 A. Yes, sir.

4 Q. Very well. Um, I've called the case to bar,
5 Mr. Jeter, and I believe that Mr. Epps has a preliminary, uh,
6 motion to take up with the Court 'fore we get started this
7 mornin'.

8 MR. EPPS: Yes, Your Honor, I do and may it please the
9 Court.

10 THE COURT: Yes, sir.

11 MR. EPPS: Uh, I will tell ya there is a motion it's
12 already been filed in the Cherokee County, uh, Clerk of
13 Court's office, it's my notice of motion for discovery,
14 copy of that has been provided to the Attorney General,
15 Ms. Coleman, um, it lists four particular items, I have just,
16 uh, uh, that there are, there are two other items or one I may
17 need to expand a little more and one other specific item, uh,
18 to ask the Court for. As you know on a PCR discovery is, uh,
19 extremely limited, may be the most, uh, a a liberal way of
20 saying it. Your Honor, my client, the underlying plea for
21 which we're here about today involves, uh, drug transactions
22 or alleged drug transactions that took place January 2nd, 14
23 and 15th of July or of 2015, uh, he is requesting the SLED
24 drug analysis and as, uh, as he terms it, I I use the drug
25 analysis records as in my request, the BEST bags what he's

MOTIONS AND MATTERS

1 asked for, uh, literally to contest the actual drudge tra --
2 drug transaction of January 12th and, uh, there's a
3 trafficking charge on the date of January 15th to, uh, to show
4 that that charge would not lie because of the weight, we
5 dispute or he disputes the weight of the, uh, the sale a as
6 it's related in the indictment, he's also asking for medical
7 records and disciplinary records with the Cherokee County
8 Sheriff's Detention Center from January to July of 2015 to
9 corroborate his mental condition at the time of the underlying
10 guilty plea, uh, related to this PCR, he's asking for his, uh,
11 medical records from the Cherokee County Department of Mental
12 Health, uh, to corroborate his mental condition at the time of
13 the underlying guilty plea, he is also asking since we're
14 talking about the mental, um, records he's requesting, he's
15 asking for his medal or his mental health or or mental
16 treatment records from the SCDC, uh, since he's been in, uh,
17 related to this plea, he is asking for the transcript from
18 his, we'll say his August 2013 plea because that during that
19 plea he had asked the Court for some assistance regarding his
20 mental condition and; lastly, he is asking for family court
21 transcripts in the case of Jeter vs. Jeter, that's Mr. Jeter
22 who's before you and, uh, and his, uh, wife?

23 THE APPLICANT: Yes, uh, the child's mother.

24 MR. EPPS: Child's mother, ---

25 THE COURT: Um-hum.

MOTIONS AND MATTERS

1 MR. EPPS: --- um, he's wanting those t -- for mitigation
2 material as to his employment, uh, again, Your Honor, in a PCR
3 action we have to specifically ask for a, an order granting
4 discovery. Uh, to give the Court a little bit more background
5 without getting into the PCR matter, uh, at hand, what we're
6 here today about, uh, is a a series of drug transactions or at
7 least alleged drug transactions. There was a guilty plea, uh,
8 that came about regarding those, Mr. Jeter has informed me,
9 uh, in the past of his, uh, mental health treatment, he is
10 treating now with SCDC as well. Uh, there is, uh, obviously a
11 and potential issue as to his, uh, voluntariness, uh, and his
12 his knowledge and intelligence during the time of his guilty
13 plea, uh, even though he did have the, know, counsel at the
14 time, uh, and then also, Your Honor, we're going into into
15 this PCR, there are some issues regarding the indictments and
16 the drug material, uh, would be relative to that.

17 THE COURT: Okay. Alright, position a the State.

18 MS. COLEMAN: Uh, Your Honor, the State opposes this
19 motion, uh, and there's several different things asked for
20 here. As far as the materials that coulda been presented as
21 mitigation, this was a, he pled pursuant to a negotiated
22 sentence so the mitigation I don't think is relevant, um, the
23 the analysis of the drugs that he was alleged to have sold we
24 don't think that's relevant to the action because this was a
25 guilty plea and he waived his right to challenge the evidence

MOTIONS AND MATTERS

1 that woulda been presented at trial, um, and medical records
2 and everything else we we are opposed to, we think we would,
3 uh, we're, and we're prepared to go forward today if you deny
4 this motion but a course it's in your discretion.

5 THE COURT: Alright.

6 MS. COLEMAN: Thank you.

7 THE COURT: Okay. Um, here's -- here -- here's the
8 question and I, that all a those medical, uh, those medical
9 records and those med, that medical information isn't the
10 subject of the discovery, that's just the subject of him
11 requesting the same, am I correct, 'cause we're not talkin'
12 about the underlying mental health evaluation at the time of
13 the proceeding, we're talking about his continuous mental
14 health records, correct?

15 MR. EPPS: Correct, Your Honor. I do have a HIPAA
16 authorization from Mr. Jeter but then the other issue comes
17 into play. Your Honor, I'm an appointed attorney, ---

18 THE COURT: Right.

19 MR. EPPS: --- um, those things are not cheap and so I
20 would either need, uh, and it it may not be discovery, I put
21 that in discovery simply because some people view and there's
22 a recent case in the event I had to send any sort, sort of
23 subpoena out there because some people don't take those
24 HIPAAs, uh, on their face value, uh, that if I had to send a
25 subpoena out some people view tho -- that as discovery and I'm

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1 not putting anything, uh, on Ms. Coleman to say that she would
2 object to it or anything like that but I lumped it in just to
3 dot my I's and cross my T's, there's also though, Your Honor,
4 I would have to have an order from the Court to have, uh, a
5 repayment because, Your Honor, I cannot, ---

6 THE COURT: I understand.

7 MR. EPPS: --- uh, on an appointed case take that on and
8 the financial burden of that as well, um, so . . .

9 THE COURT: I understand, that, and that makes sense.
10 Okay, this what I'm gonna do: I I'm gonna take the discovery
11 matters under advisement. With regard to, um, uh,
12 discovery of underlying, a a drug or chemical analysis, I'm
13 not certain that that's relevant for a post-conviction relief
14 application, um, but, and and in mental health evaluations it
15 may be relevant but I don't know right now so let's do this:
16 let let's go ahead and proceed with the, uh, with the
17 proceeding today, I'll, um, once I've heard the testimony if I
18 feel like there is a sufficient basis to request the mental
19 health records, uh, or, and/or to provide additional discovery
20 then, uh, I'll continue it, uh, in anticipation of receiving
21 all those documents or I'll leave the record open, okay, so
22 let's go ahead and ---

23 MR. EPPS: Thank Your Honor.

24 THE COURT: --- and, uh, let's go ahead and proceed on
25 this one.

MOTIONS AND MATTERS

1 MS. COLEMAN: Sure. May it please the Court.

2 THE COURT: Yes, ma'am.

3 MS. COLEMAN: Applicant is presently confined in the
4 South Carolina Department of Corrections pursuant to orders of
5 commitment of the clerk of court for Cherokee County.
6 Applicant waived presentment to the grand jury and pled guilty
7 on July 16th 2015 to two counts of distribution of
8 methamphetamine second offense, two counts of distribution
9 methamphetamine within one-half mile of a park or school and
10 one trafficking in ice, crank, or crack, 10 grams or more but
11 less than 28 grams second offense. Applicant was represented
12 by Christopher Kennedy, Esquire. Applicant was sentenced on
13 July 16, 2015 by the Honorable Lee S. Alford to a negotiated
14 sentence of 15 years imprisonment for each charge, um, and
15 10 years imprisonment for each charge of distribution of meth
16 within one-half mile of a park or school all to be served
17 concurrently, applicant did not appeal his plea or his
18 sentence. Applicant filed a timely application for
19 post-conviction relief on April 28th 2016 alleging that he was
20 being held in custody unlawfully based on the following
21 allegations: ineffective assistance of counsel, Fourth
22 Amendment violation, lack of subject matter jurisdiction and
23 involuntary guilty plea. The State filed its return on
24 November 15th 2016 and he's present today and represented in
25 this matter by Mr. Steven Epps.

MOTIONS AND MATTERS

1 THE COURT: Okay. Mr. Epps, you're prepared to proceed,
2 sir?

3 MR. EPPS: Yes, Your Honor. May it please the Court, ---

4 THE COURT: Yes,

5 MR. EPPS: --- I call Alonzo Jeter to the stand.

6 THE COURT: Alright, Mr. Jeter, if you'd come up please,
7 sir, take the stand.

8 THE APPLICANT: If I could.

9 (Whereupon, the Applicant came forward.)

10 THE COURT: It's right over here (indicating). There it
11 is (indicating). Is there a Bible over there?

12 THE APPLICANT: Yes, Your Honor.

13 THE COURT: Okay. Place your left hand on the Bible,
14 Mr. Jeter, uh, you put that right there (indicating) in that
15 seat for right now and then raise your right hand to the
16 extent that you're capable.

17 ALONZO COLUMBUS JETER, III, having
18 been first duly sworn, testified as follows:

19 THE COURT: Okay, good enough. You just have a seat
20 please, sir, and state your full name for the record.

21 THE APPLICANT: My name's Alonzo Jeter, ---

22 THE COURT: Okay.

23 THE APPLICANT: --- uh, Alonzo Columbus Jeter, third.

24 THE COURT: Okay.

25 DIRECT EXAMINATION BY MR. EPPS:

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 Q. Mr. Jeter, and thank you for speaking up, we do have a
2 court reporter here who's gonna make a verbatim transcription
3 so appreciate you talkin' clearly in the microphone. Um,
4 let's kinda get down to the the meat of things and help the
5 Court, uh, to, that the transcript's already been provided
6 but, uh, there's some discrepancies in that transcript that we
7 need to try and clear up I believe. Uh, you will admit that
8 and you pled guilty to, uh, a cocaine base charge in October
9 of 2004, correct?

10 A. Yes.

11 Q. And, uh, while not disputing that you pled guilty to that
12 charge, the 10 years for an enhancement purpose, uh, for that
13 charge was over in October of 2014 by the operation of math,
14 correct?

15 A. Yes.

16 Q. Alright, uh, so in your guilty plea when the solicitor,
17 uh, Mr. Sams said that you had a prior charge of cocaine base,
18 uh, that showed up around June or July of 2005, that was
19 incorrect, right?

20 A. Yes, that was ---

21 Q. Alright.

22 A. --- incorrect.

23 Q. Could not be used for an enhancement to your knowledge.

24 A. Yes, no, sir.

25 Q. And then in the guilty plea there was also discussion

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 about an August of 2013 charge of a controlled substance, do
2 you remember that?

3 A. Yes, sir.

4 (Whereupon, a discussion was held off the record.)

5 Q. And you pled guilty of marijuana on that, uh, that
6 charge, the August of 2013 charge, correct?

7 A. Yes.

8 Q. May I approach, Your Honor?

9 THE COURT: Yes, sir, go ahead.

10 (Whereupon, counsel approached the witness.)

11 Q. Gonna hand you a photocopy of a sentencin' sheet, sir, do
12 you see the sentencing sheet I handed you?

13 A. Yes, sir.

14 Q. Alright, and if you look here (indicating), there's a
15 date on the bottom right hand corner that says 8/15/2013,
16 correct?

17 A. Yes, sir.

18 Q. And the charge if you look up here (indicating) in the
19 upper left third corner it says, "Possession of greater than
20 1 ounce MJ second offense," is that right?

21 A. Yes.

22 Q. And MJ to your knowledge is marijuana.

23 A. Yes.

24 Q. And your signature is on this sentencing sheet right here
25 (indicating) where it says "Defendant"?

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 A. Yes.

2 Q. That, is that where you pled guilty to the marijuana
3 charge in August of 2013?

4 A. Yes, sir, it is.

5 Q. Alright. I'd ask this would be marked as an exhibit to
6 today's proceeding.

7 THE COURT: Any objection?

8 MS. COLEMAN: No objection.

9 THE COURT: Okay. Alright.

10 (Copy of Indictment Number 13-11-00130 marked Applicant's
11 Exhibit Number 1 for identification.)

12 MR. EPPS: Thank you, ma'am.

13 COURT REPORTER: Welcome.

14 BY MR. EPPS:

15 Q. So just to recap in terms of a prior, uh, that would
16 would benefit enhancement on a any meth charges you were
17 facing from 2015, you had, uh, a a 2004 charge but was
18 essentially time-barred ---

19 A. Yes.

20 Q. --- for cocaine base, correct?

21 A. Yes, sir.

22 Q. And then you had a marijuana charge in 2013 but that
23 marijuana did not enhance your, uh, any methamphetamine
24 charge.

25 A. Yes, they used, they they just, they used, that they used

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 that to enhance.

2 Q. Potentially incorrectly.

3 A. Yes.

4 Q. Now you also at the time of your, uh, the the time you
5 were alleged to have committed these, uh, methamphetamine, uh,
6 drug transactions in January of 2015 you had two other meth
7 charges pending, correct?

8 A. Yes.

9 Q. Okay.

10 A. Yes.

11 Q. And those were from April of 2014 and May of 2014,
12 correct?

13 A. Yes.

14 Q. Alright. Now of those one involved a friend?

15 A. Yes.

16 Q. And he had, to use very strong legal words, he had "taken
17 the rap" for that charge?

18 A. Yes, it was his.

19 Q. Alright, while while that charge was still pending you
20 had knowledge that the drugs were actually his and felt
21 confident that charge would go away?

22 A. Yes, sir.

23 Q. And then on the other charge there was some some question
24 as to whether you actually, you might've been convicted of
25 that, you may not a been convicted a that, the May charge, ---

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 A. Yes, ---

2 Q. --- correct?

3 A. --- sir.

4 Q. Alright, but those were not yet, they were still pending
5 at the time you did the guilty plea which led to today's PCR.

6 A. Yes, sir.

7 Q. Alright. Um, Mr. Kennedy represented you on all of these
8 January 2015 charges, correct, ---

9 A. Yes, sir.

10 Q. --- and he represented you on a marijuana charge ---

11 A. Yes, sir.

12 Q. --- and these two, the April and May 2014 meth charges.

13 A. Yes.

14 Q. Now the, after the plea to these January 2015 charges,
15 the April and the May 2014 meth charges were nolle prossed,
16 correct?

17 A. Yes, ---

18 Q. Correct?

19 A. --- I I didn't ---

20 Q. Okay, and so they're not convictions on your record.

21 A. No, sir.

22 Q. Alright. So within the past, say going back to 2005, ---

23 A. Yes.

24 Q. --- the only convictions you have on your record for meth
25 or cocaine, uh, or something harder than marijuana, uh, would

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 be the convictions that relate to January 12th, 14th an 15th
2 2015, ---

3 A. Yes.

4 Q. --- correct? And you pled to those in July of 2015 ---

5 A. Yes.

6 Q. --- in in front of Judge Alford, correct?

7 A. Yes.

8 Q. Alright. Um, you were originally charged with
9 distribution third, PWID near a park or a school I believe
10 third, distribution third again, PWID near a park or school
11 third again and trafficking third, correct?

12 A. Well yes, sir.

13 Q. Uh, let's talk about the PWID charge real quickly.
14 You've had a chance to review the indictments related to the
15 PWID charges?

16 A. Yes, sir.

17 Q. And those indictments state that the charges are based
18 on, uh, the possession with intent to distribute near
19 Macedonia Baptist Church ---

20 A. Yes.

21 Q. --- and, sir, that church has a playground, right?

22 A. It has a basketball goal.

23 Q. Okay, it doesn't have a school, there's no, there's no
24 school inside Macedonia Baptist Church ---

25 A. No, sir.

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 Q. --- and there's no playground ---

2 A. No, sir.

3 Q. --- there. Alright, so the PWID charge, uh, wasn't near
4 a public park ---

5 A. No, sir.

6 Q. --- and it wasn't near a school.

7 A. No, sir.

8 Q. Um, did you ever mention that issue to Mr. Kennedy when
9 he represented you?

10 A. No, sir, I I trusted that, uh, uh, Mr. Kennedy knew the
11 law on everything and I just trusted, ---

12 Q. Okay.

13 A. --- uh, ---

14 Q. Uh, regarding the -- so you're you're, you were charged
15 with third offenses on these drug charges, ---

16 A. Yes, sir.

17 Q. --- correct? And they were, as part of the negotiations
18 Mr. Kennedy had worked out with the solicitor's office, they
19 were reduced down to second offenses, ---

20 A. Yes, ---

21 Q. --- correct?

22 A. --- sir, but it ---

23 Q. Uh, were were you, uh, di -- did you plead guilty to that
24 because you believed that those charges were, uh, were going
25 to stick?

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 A. No, it, um, they said it was my third offense and I asked
2 Mr. Kennedy and he said yes, it's gonna be my third offense
3 and said that, um, have have a plea deal for ya for second
4 offense and I I took the plea because I thought it was gonna
5 be third offense and, uh, you know, it's gonna be automatic
6 t -- uh, 25 years.

7 Q. And, uh, m -- and let's talk the 25 years would have been
8 on the trafficking, ---

9 A. Yes.

10 Q. --- had a mandatory minimum on the third offense of a
11 25-year sentence, correct?

12 A. Yes, sir.

13 Q. Now let's let's talk about that since we talked about
14 your, um, your motion just a minute ago. Uh, you dispute that
15 that you sold over 10 grams of methamphetamine on the July
16 15th drug sale, correct?

17 A. Yes, sir.

18 Q. Alright, you believe it was less than 10 grams so it
19 would not support a trafficking charge.

20 A. Yes, sir.

21 Q. Alright. And you also dispute that you sold any drugs on
22 January 12th, the first date of alleged drug activity.

23 A. Yes, sir, whatever day it was that I first met, uh, the
24 informant I, there was no sale, there was nothin' ---

25 Q. Okay.

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 A. --- but, um, I I, when I pled guilty I wasn't in my, uh,
2 right state a thinkin', I just, I couldn't ge -- I couldn't
3 get myself together.

4 Q. Okay, explain explain how you couldn't get yourself
5 together.

6 A. I just, I I I, that I just couldn't. I co -- I couldn't
7 think, I couldn't think enough to help my attorney out with
8 with my case, I I couldn't even tell him that that was, uh,
9 that the, uh, the charge from 8/15/13 was a marijuana charge
10 and I knew I didn't have any any prior, uh, drug charges since
11 2004 and ---

12 Q. Any hard drug charges?

13 A. Yes, sir.

14 Q. Alright, or convictions I should say.

15 A. Yes, sir.

16 Q. Alright. Mr. Jeter, uh, knowing what you know today on
17 the PWID charges and the, uh, the underlying charges that
18 would have enhanced your, uh, your sentences, would you have
19 elected to move to trial, to go to trial instead of taking a
20 guilty plea?

21 A. Yes, sir, ---

22 Q. Alright.

23 A. --- and that's because, um, I -- I've -- I I I knew
24 sumtin', I knew what it wasn't right and I told Mr. Kennedy
25 that it wasn't right and, um, uh, he just basically told me

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 that I I sold the drugs and, um, I didn't get a chance to give
2 him the, uh, everything of happened, like again, I say I
3 couldn't get get get myself together ---

4 Q. And you ---

5 A. --- and, uh, ---

6 Q. I'm sorry, ---

7 A. --- I ---

8 Q. --- didn't mean to cut you off.

9 A. --- and, uh, I told him, I told him that I had been
10 havin' problems in the jail well and they had jumped on me, I
11 showed him, uh, on my face where they had, uh, beat me at and,
12 um, I just couldn't get it together.

13 Q. Okay. If you knew that the the issues were ---

14 A. I'm sorry.

15 Q. --- not quite right, why did you agree to plead guilty?

16 A. Because had had, he said it was gonna be third offense
17 and I, basically he didn't show me that I had already had a
18 way out of it. Um, he didn't discuss the entrapment defense
19 because that's what it was, it was entrapment, he didn't
20 discuss that with me and, um, I I asked him about my record,
21 um, and he he just, he just said that it's gonna be third
22 offense and I knew I didn't have any, I just had the, um,
23 offense in 2004.

24 Q. And, sir, knowing that part of the the deal that was
25 worked out was that the April and May meth charges were nolle

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 crossed in exchange for your guilty plea for the January 2015
2 charges ---

3 A. Yes.

4 Q. --- and knowing that, uh, if you are successful at your
5 PCR, the Court all it can do is restore you back to facing
6 your original charges as they were presented, it it's your
7 intention to, uh, you are asking this court to grant your PCR
8 to put you back in that position so you can move forward to
9 trial.

10 A. Yes.

11 Q. A and you realize there is the possibility that if you
12 forward in that manner that you could have more, uh, time
13 exposure and that you could you get a a heavier sentence.

14 A. Yes, but I knew -- I know it's, it was entrapments, uh,
15 sir, ---

16 Q. Alright.

17 A. --- and I knew it was entrapment and I, that's why I
18 asked for my, um, my medical mental health records ---

19 Q. Now ---

20 A. --- to show ---

21 Q. --- the mental health records wouldn't show ---

22 A. That, no, ---

23 Q. --- entrapment ---

24 A. --- it it would, it would show, it would show that I
25 wasn't, um, I I I wasn't receivin' my medication that, um,

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 well when I, when I got ready to plea ---

2 Q. Um-hum.

3 A. --- and, uh, my disciplinary records would show how they
4 was beatin' me and and put me in the lockup and I forget what
5 else I asked for for, uh, that, uh, asked for you to get but
6 everything has its reasons, I, and I do need that because for
7 the Court to see that.

8 Q. Right. Well and you had asked for, uh, just so we have
9 it on the record, you'd asked for the SLED drug analysis and
10 that's because you wanna show, uh, to con -- to contest the
11 evidence on your drug, alleged drug sales, ---

12 A. Yes, ---

13 Q. --- correct?

14 A. --- that that that the the SLED results which, um, they
15 sayin' it's three s -- that it was three buys but it was only
16 two and so that I know the SLED results wouldn't show it was,
17 it was, um, three.

18 Q. So you you content -- now my understanding is that
19 Mr. Kennedy showed you some still shots of yourself, uh,
20 making, uh, drug, uh, transactions with a a gentleman in a car
21 that had a grenade thing hangin' from the rearview mirror.

22 A. I re -- I remember him showin' me somethin' but I am -- I
23 can't, I can't ---

24 Q. Okay.

25 A. That he he showed me them right before I went, um, before

ALONZO C. JETER, III - DIRECT EXAMINATION BY MR. EPPS

1 the judge and it was, I I think they were black and white and
2 I couldn't really see. I knew it was me but I, as far as
3 drugs, I I I I just knew it was me on on the, um, picture.

4 Q. Okay. And you also asked, just so we have it on the
5 record, you asked for family court transcripts 'cause you
6 wanted some mitigation material, correct?

7 A. Yes, that, um, okay, that that that woulda showed how I
8 ha -- how I've been lookin' for a job for years ---

9 Q. Right.

10 A. --- and even, uh, Mr. Kennedy, Mr. Kennedy did put some a
11 my, um, my paperwork in discovery where it would shown where I
12 kept gettin' turned down for jobs and for some reason I have
13 one sh -- one sheet here where I know it was at least thirty
14 sheets, oh, yeah, I'm gonna s -- I'm gonna say sh -- fifteen
15 to twenty sheets where I had, uh, where I was, where I was
16 seekin' for jobs every day and, uh, and, uh, it had the the
17 sheets hold between I think five or seven jobs on every sheet
18 and I I just wanted the courts to see that I've been loo --
19 lookin' for a job every every day or, uh, every other day.

20 Q. Right, but you realize that your plea that you pled
21 guilty to was a recommended sentence plea that had been
22 negotiated so that there was really not a point in time where
23 as we talked about with mitigation it was either was the plea
24 going to be accepted or not.

25 A. Yes, but durin' the, durin' the mitigation, uh, he was

ALONZO C. JETER, III - CROSS-EXAMINATION BY MS. COLEMAN

1 mitigatin' off for a third offense ---

2 Q. Okay.

3 A. --- and, uh, ---

4 Q. You mean off the negotiation with the solicitor's office?

5 A. Yeah, they're sayin' that that, uh, basically they're
6 sayin' that I got a deal, um, because it was supposed to been
7 a third offense and I pled to a second, uh, less included but
8 that's not true, it was supposed to have been my second with
9 and with no deal at which woulda been my second.

10 Q. Gotcha, alright. Mr. Jeter, I don't have anything
11 further for you at this time, the attorney general may be
12 asking you some questions.

13 A. I'm sorry, it woulda been my first, uh, if I'd pled that
14 day to them, it woulda been my first because I didn't have a
15 prior since 2004.

16 CROSS-EXAMINATION BY MS. COLEMAN:

17 Q. Good morning, Mr. Jeter, how are you?

18 A. I'm okay okay.

19 Q. Good. How many times did you meet with your attorney
20 before your guilty plea?

21 A. Um, either two or three.

22 Q. Two or three? Do you recall reviewing the discovery with
23 your attorney?

24 A. He he -- I asked him for the discovery and he brought
25 that on the last visit and, uh, when he gave it to me he told

ALONZO C. JETER, III - CROSS-EXAMINATION BY MS. COLEMAN

1 me to, um, to not be lettin' people see it so I didn't get to
2 look through it because I was in in dorms fulla people, I
3 didn't get to look and and, uh, um, I just found that that
4 that the SLED results that I asked about wasn't in there.

5 Q. Alright, okay. Do you recall discussing any possible
6 defenses with your attorney?

7 A. I told you -- I told him that it wasn't right ---

8 Q. Alright.

9 A. --- and he said, he said but it was me, I sold the drugs
10 and ---

11 Q. Um ---

12 A. --- that was the end of it, he he didn't ask me, uh, what
13 happened or nothin', I didn't get to discuss or tell him the
14 story or what happened.

15 Q. Okay. And you mentioned a moment, uh, you were
16 testifying about the entrapment defense, did you talk to him
17 about that at all?

18 A. No, he didn't care to discuss it.

19 Q. Okay. Did you give your attorney any leads or witnesses
20 to investigate?

21 A. I couldn't, I . . .

22 Q. And you stated earlier that, um, you you did not tell him
23 that the church playground was not a public park or anything,
24 is that correct?

25 A. They, that's what they, they had it on the, uh, on the

ALONZO C. JETER, III - CROSS-EXAMINATION BY MS. COLEMAN

1 warrant that it's it's, um, um, distribution near a playground
2 at Macedonia Church ---

3 Q. Um-hum.

4 A. --- and I I figured that they was callin' the pla -- the
5 the basketball goal that was there a playground ---

6 Q. Um-hum.

7 A. --- and I didn't know the law so I had to just trust in
8 my lawyer.

9 Q. Um-hum, and did you, did you tell him the facts? You
10 said he didn't ask for the facts but did you just tell him
11 what you did and how it happened?

12 A. Of the drug buys?

13 Q. Yes.

14 A. No, I I couldn't. I couldn't, like I say, I couldn't get
15 myself together, the only thing I was able to tell him was,
16 uh, that they had jumped on me in in jail.

17 Q. Um-hum. Okay, so you did not tell him about the church
18 playground about what it looked like or how it was just one
19 basketball goal?

20 A. No, because that the way it was on the warrant it was
21 right, ---

22 Q. Okay.

23 A. --- it it was, it was at, well it it it wasn't, I was
24 close to a church.

25 Q. Okay, and you testified that you did not tell your

ALONZO C. JETER, III - CROSS-EXAMINATION BY MS. COLEMAN

1 attorney about how you did not have any prior offenses, prior
2 convictions for hard drugs, is that right?

3 A. Ma'am, I, again, I couldn't think, I couldn't.

4 Q. Okay. Do you remember at the guilty plea waiving your
5 constitutional rights like your right to a jury trial and your
6 right to remain silent?

7 A. I just signed for somethin'. I signed a waiver but
8 yes ---

9 Q. Yes, ---

10 A. --- I guess.

11 Q. --- okay. And the transcript shows, would you agree with
12 me that the transcript shows that you waived all these rights
13 at the time?

14 A. Yes.

15 Q. Okay. And you had no complaints against your attorney at
16 the time a the guilty plea, correct?

17 A. Um, I did not. Only thing that I I I felt was that my
18 attorney didn't listen to me, um, when I said it wasn't right,
19 when I say the the the buys it wasn't right ---

20 Q. Um-hum.

21 A. --- and, uh, when I told him that it it wasn't my third
22 offense ---

23 Q. Um-hum.

24 A. --- and ---

25 Q. Did you tell the judge that at the guilty plea?

ALONZO C. JETER, III - CROSS-EXAMINATION BY MS. COLEMAN

1 A. No, because my attorney said it was ---

2 Q. Okay.

3 A. --- and, um, I didn't wanna do anything to mess up the
4 plea because they said it was gonna be my third offense.

5 Q. Um-hum, so you wanted to plead guilty at the time, right?

6 A. Yes, because they say it was gonna be my third offense
7 and they was givin' me a, uh, um, plea bargain to second.

8 Q. That's right, you got a negotiated sentence, um, of 15
9 years, right, ---

10 A. Yes.

11 Q. --- and 10 years for the other charge, uh, and if you had
12 gone to trial you would be facing up to 30 years in prison for
13 each a those charges, correct?

14 A. Yes.

15 Q. So you didn't wanna go to trial at the time.

16 A. I would've went to trial if I woulda knew of the en --
17 entrapment defense and if I woulda, and if I knew that, um, it
18 wasn't really my third offense ---

19 Q. Okay.

20 A. --- but I knew it wasn't my third offense but I didn't,
21 the charges that he showed me I didn't know that they could
22 use them at the time, the marijuana charge.

23 Q. Okay. Do you recall telling the judge that no one was
24 promising or threatening you to plead guilty?

25 A. Yes, I think he, I think he did ask.

ALONZO C. JETER, III - CROSS-EXAMINATION BY MS. COLEMAN

1 Q. And do you re -- you recall telling the plea judge that
2 you were indeed guilty of this crime?

3 A. Yes.

4 Q. Do you acall -- do you recall agreeing with the facts
5 that were presented by the solicitor of the drug buys at the,
6 at the guilty plea?

7 A. I'm sorry?

8 Q. You remember when the solicitor at the guilty plea told
9 the facts of the case and how the drug buys happened and you
10 agreed with those?

11 A. Yes.

12 Q. Do you still agree with those?

13 A. No.

14 Q. No, okay. Let's see, do you recall the plea judge
15 advising you that you had ten days to file an appeal from the
16 date of the guilty plea?

17 A. Yes, but I I thought I was gonna see my my attorney again
18 after, um, after my plea.

19 Q. Okay, so you did not ask your attorney to file an appeal?

20 A. I didn't have a chance. When I got s -- when I got
21 sentenced, the the, um, we shook hands and the police pulled
22 me back.

23 Q. Okay. Did you write him any letters or or try to call
24 him afterwards within that ten days to ask ---

25 A. I I ---

ALONZO C. JETER, III - REDIRECT EXAMINATION BY MR. EPPS

1 Q. --- for appeal?

2 A. --- I couldn't, they put me in, uh, lockup, they put me
3 back in lockup soon as, um, a -- after I left the courtroom
4 they put me right back in lockup, I couldn't get to no counsel
5 or nothin' ---

6 Q. Okay.

7 A. --- and they took my stuff, all my, all my belongings
8 they they took them and took 'em up front, I I didn't have no
9 an address or no nothin', his phone number or nothin'.

10 Q. Okay. Why are you claiming that the Court lacked subject
11 matter jurisdiction?

12 A. Gosh, well I I would have to, that's what I, I've been
13 taught, I, that's that's what it was far as the, um, far as
14 the basketball goal, ---

15 Q. Okay.

16 A. --- yes, it was at a school ---

17 Q. Okay.

18 A. --- and I had two a those charges that wasn't supposed to
19 be.

20 Q. Okay. Thank you, no further questions.

21 THE COURT: Any redirect, sir?

22 REDIRECT EXAMINATION BY MR. EPPS:

23 Q. Uh, just real quick so we get it cleared up. The
24 entrapment defense, you did not present that to Mr. Kennedy?
25 You didn't mention any a that to him?

ALONZO C. JETER, III - REDIRECT EXAMINATION BY MR. EPPS

1 A. No, sir, I didn't know anything about entrapment but I I
2 told him that it wasn't right, I told him that, uh, that, uh,
3 that wasn't right ---

4 Q. Did he ---

5 A. --- and ---

6 Q. --- mention anything about it to you?

7 A. No, sir.

8 Q. That earlier, um, and I just wanna make sure it's clear
9 for the record, uh, Ms. Coleman had asked you if you could
10 give Mr. Kennedy any leads and you said you couldn't, let's
11 talk about that a little bit more. What did you mean when you
12 said you couldn't, you didn't know any or ---

13 A. I couldn't get myself together, I'm -- I I just c -- I
14 wasn't thinkin' right, I I just couldn't.

15 MR. EPPS: That's all I have, Your Honor.

16 THE COURT: Alright any recross?

17 MS. COLEMAN: No recross.

18 THE COURT: Okay. Alright, thank you, sir, I ---

19 THE APPLICANT: And will I be ---

20 THE COURT: --- appreciate ---

21 THE APPLICANT: --- able able to get my, that discovery?

22 THE COURT: Yeah, take a seat back at counsel table,
23 we're gonna talk about the discovery in a minute, okay?

24 THE APPLICANT: Yes.

25 THE COURT: Alright, thank you very much.

CHRISTOPHER D. KENNEDY - DIRECT EXAMINATION BY MS. COLEMAN

1 THE APPLICANT: Yes, sir.

2 (Whereupon, the Applicant left the stand.)

3 THE COURT: Mr. Epps, do you have an addit -- any
4 additional witnesses you'd like to call, sir?

5 MR. EPPS: Nothin' nothin' further, Your Honor, at this
6 time.

7 THE COURT: Alright. Ms. Coleman, the State have any
8 witnesses you'd like to call to the stand?

9 MS. COLEMAN: Yes, Your Honor, the State calls
10 Christopher Kennedy.

11 (Whereupon, the witness came forward.)

12 THE COURT: Alright, Mr. Kennedy, can you raise your
13 right hand, place your left hand on the Bible.

14 CHRISTOPHER DAVID KENNEDY,
15 having been first duly sworn, testified as follows:

16 THE COURT: You may have a seat, sir, if you'd just state
17 your full name for the record, please, ---

18 THE WITNESS: Uh, ---

19 THE COURT: --- sir.

20 THE WITNESS: --- Christopher David Kennedy.

21 DIRECT EXAMINATION BY MS. COLEMAN:

22 Q. Good morning, Mr. Kennedy, how ---

23 A. Good, ---

24 Q. --- are you?

25 A. --- I'm good, how are you?

CHRISTOPHER D. KENNEDY - DIRECT EXAMINATION BY MS. COLEMAN

1 Q. Fine, thank you. How long have you been practicing
2 law?

3 A. Um, I graduated law school school in 2009 and I clerked
4 for a year here in the Seventh Circuit for Judge Cole before
5 going into, uh, I was at the PD's office for about six months
6 and then private practice since then.

7 Q. Okay. Do you recall whether you were appointed or
8 retained in this case?

9 A. Um, actually Mr. Jeter called my office, um, and got a
10 ride down from Cherokee County, he didn't have a vehicle, um,
11 he came in and met with me, uh, he had a lot of information,
12 um, and he was pretty upset when he came in and I actually
13 agreed to take the cases pro bono so I wasn't appointed but I
14 did agree to do all of his, at least initially all of those
15 charges pro bono.

16 Q. Okay. How many times did you meet with Mr. Jeter before
17 the guilty plea?

18 A. Um, from his original charges for numerous times. I know
19 he came to the office several times, it was hard for him to
20 get there like I said because he didn't have a car. He came
21 to my office I would say at least three times ---

22 Q. Um-hum.

23 A. --- from the the time I initially, uh, initially filed my
24 notice, um, and then once he was arrested again, uh, I believe
25 the State moved to revoke his bond which we consented to, uh,

CHRISTOPHER D. KENNEDY - DIRECT EXAMINATION BY MS. COLEMAN

1 I met with him I think two or, probably two, maybe three times
2 in the detention center and then actually the day of the,
3 there were two different times he was going to enter into a
4 plea, the first time ended up getting pulled back which I'm
5 sure ya'll ask me about later and then I met with him again
6 the day of the actual plea.

7 Q. Okay. Did you file any Rule 5 or Brady motions?

8 A. I did.

9 Q. And did you review the discovery with the Applicant?

10 A. I did and and and as he stated I I did give him a copy
11 when he requested it I did and it is my practice to tell
12 defendants if they want a hard copy of it, obviously I'll give
13 it to 'em whenever they want it, but if they want a hard copy
14 of it not to review it out where other inmates can see it
15 where you end up having somebody else that could be a witness
16 against you.

17 Q. Um-hum, but did you have a chance to sit down and look
18 through all that with him?

19 A. Yes.

20 Q. And that was at the prison?

21 A. Yes, it was at the South Carolina Dete -- uh, excuse me,
22 the Cherokee County Detention Center, ---

23 Q. Okay.

24 A. --- that was for the January charges, the charges from I
25 believe April and May prior to that those were reviewed in my

CHRISTOPHER D. KENNEDY - DIRECT EXAMINATION BY MS. COLEMAN

1 office.

2 Q. Okay. Um, and can you briefly describe the State's
3 evidence against the Applicant.

4 A. Uh, well, um, initially the charge where he was charged
5 with, um, the methamphetamine and the marijuana, um, he was in
6 kinda of like a garage behind his home, his mother who is
7 schizophrenic did not know who was in there, uh, or she did
8 and forgot, um, and she called the police on them, when the
9 police came they opened it up, they smelled marijuana, found
10 marijuana and then I believe inside a speaker, I I d -- I'm
11 not a hundred perc -- I don't remember a hundred percent, I
12 believe inside a speaker is where they found some
13 methamphetamine, uh, they charged both of the individuals that
14 were there under the hand of one, hand of all. Um, he did
15 have a good defense for that case because the co-defendant
16 initially wrote a statement saying that the methamphetamine
17 was his and that my client knew nothing about it, there was
18 some discussion later that he may try to retract that
19 statement. Um, for the January charges, um, it looked to me,
20 um, as if the State had employed a CI, um, they did two
21 controlled buys I believe. Uh, the way that the Seventh
22 Circuit Solicitor's Office does their videotaping and their
23 disclosure of CIs is if, I think it's their general practice,
24 generally they're not going to tell you who the CI is or s --
25 give you the video, um, without withdrawing any potential

1 offers, I did tell Mr. Jeter that, ---

2 Q. Hum.

3 A. --- um, so I did review the video and I did get two
4 screenshots that showed Mr. Jeter and his face. The grenade
5 that was actually there, um, I didn't know what it was at
6 first so I, it was described to me that it was, uh, um, an air
7 freshener that was inside the vehicle, he indicated to me that
8 he, that that was him in the, in the picture, uh, the buys
9 looked like they were somethin' that are commonplace in drug
10 transactions with the police, uh, and I didn't see anything
11 wrong with the way they had done it so, um, you know, we went
12 over all of that stuff, we discussed it, um, you know, I I
13 think that then to me they had valid, you know, I I ca -- I
14 don't know about the weight because, you know, we waived
15 presentment but, um, it seems to, it seemed to me that they
16 had accurate charges against him. Now I will say that in
17 terms of the warrants even the first warrant was, um, a third
18 or subsequent offense which was not accurate but and I can
19 explain why I think that, you know, the second was valid later
20 but ---

21 Q. Um-hum.

22 A. --- I think that they had enough if they went to trial,
23 perhaps not on the first charge, uh, on the other charges to
24 convict him.

25 Q. Okay. Um, alright, let's see. What kind of test, what

CHRISTOPHER D. KENNEDY - DIRECT EXAMINATION BY MS. COLEMAN

1 kind of investigation did you do?

2 A. Um, well initially before the the second set of charges,
3 um, you know, we -- it was, we were in discussions about
4 either having that case dismissed and when I say "we," the
5 solicitor and I, either having that case dismissed or, you
6 know, having some motion hearings to to try to deal with
7 that, ---

8 Q. Um-hum.

9 A. --- he marijuana I think that they could have convicted
10 him on the possession a marijuana charge.

11 Q. Um-hum.

12 A. Um, in terms of investigation I didn't know anything
13 about the church but a church under the statute complies with
14 the half mile, um, you know, that that other than that, I
15 mean, I reviewed all of the discovery, I looked at the, uh,
16 his SLED report in terms of his past history of convictions.
17 Uh, initially, uh, initially there was an offer that he could
18 plea to a 7-year negotiated sentence, ----

19 Q. Um-hum.

20 A. --- that was contingent upon Cliff Sams who is a
21 solicitor speaking with the police, um, that were
22 investigating him. When we went to the first, uh, day that we
23 were going to enter that plea, um, he, Mr. Sams had spoken
24 with several the detectives and the narcotics agents and they
25 would not sign off on that, um, so we met in chambers with

1 Judge Kelly, uh, I told the Court and so did Mr. Sa -- Mr.
2 Sams said that he was pulling his offer which under the law I
3 believe he's allowed to do until the Court accepts the plea,
4 um, and that it was going to have to get renegotiated, ---

5 Q. Um-hum.

6 A. --- um, so we left that day unable to to finish the case,
7 ultimately the offer ended up it, they wanted actually more
8 than 15 years and and, uh, a recommendation rather than a
9 negotiation so, um, you know, we we kinda went from there the
10 second time around.

11 Q. Um-hum, and actually let's go back to that 7-year offer,
12 one of his allegation, the Applicant's allegations is that you
13 failed to get this 7-year deal for him, uh, did you have
14 anything in writing promising this this offer from the
15 solicitor?

16 A. No, uh, well, there may a be -- there were some emails
17 about it but there was no promise, uh, it was always
18 contingent on him speaking with his detectives, um, and
19 narcotics agents and we were there to plea that day on the day
20 that we could do it in front of Judge Kelly, uh, and it was at
21 that point we never started the plea, the Court had never
22 accepted that plea, ---

23 Q. Um-hum.

24 A. --- um, the Court wasn't going to take the plea according
25 to what Judge Kelly told us, um, because of the the solicitor

CHRISTOPHER D. KENNEDY - DIRECT EXAMINATION BY MS. COLEMAN

1 was no longer offering that as a, as a plea.

2 Q. Okay, so he was ready to plead that day?

3 A. He was, ---

4 Q. Okay.

5 A. --- uh, to the 7 years, yes.

6 Q. Okay. Was there any reason for you to request a
7 continuance, uh, 'fore the Applicant pled guilty i -- on the
8 July date when he pled?

9 A. For the second time ---

10 Q. Correct.

11 A. --- with for the 15th, um, I didn't believe so, no. He
12 he is right, he did tell me that he was having issues in the
13 detention center, um, there was nothing with my discussions
14 with him that led me to think that he didn't know what was
15 going on, ---

16 Q. Um-hum.

17 A. --- um, but I didn't think I needed a continuance. He
18 did say he wanted to get out of the detention center and go
19 ahead and go down to the DOC, I I mean, there's obviously
20 different privileges at different locations, uh, but there
21 was, I didn't feel the need to ask for a continuance and he
22 didn't seem to want me to ask for a continuance, I never got a
23 request from him for a continuance.

24 Q. Um-hum. Um, so you testified that you saw no reason at
25 the time to maybe investigate his mental health?

1 A. No, he did have some records -- so when he first came in
2 with me and I had these, I actually gave them back to his
3 girlfriend after the plea, he had two folders full of
4 information, uh, about some mental health background that he
5 had applying for jobs, um, he'd actually been in school, um,
6 but there was never a time that I met with him where I felt
7 like he didn't know what was going on or anything like that.
8 He did tell me that he was stressed out about being at at the
9 detention center, uh, and that he wanted to get out of the
10 detention center, he's having issues with people there, ---

11 Q. Um-hum.

12 A. --- he did he say that he wasn't able to get, um, all of
13 the medication that he, uh, needed to take but there -- I I
14 was never given a prescription medication that would have, um,
15 uh, he never gave me a name of any prescriptions, um, but as I
16 said he never appeared to me to not well know what was going
17 on while went over his rights with him prior to the plea, he
18 seemed to understand those too.

19 Q. Um-hum. And, uh, what what judge was it that accepted
20 the guilty plea?

21 A. I think it was Judge Alford.

22 Q. Yes. Had you appeared in fronta Judge Alford before?

23 A. Yes.

24 Q. Were you familiar with Judge Alford's practices, uh, that
25 had you done a guilty plea?

CHRISTOPHER D. KENNEDY - DIRECT EXAMINATION BY MS. COLEMAN

1 A. I I don't recall if I'd done a guilty plea in front of
2 him, I know I'd been in front of him in, uh, Union County
3 several times but I I don't recall if I'd done an actual
4 guilty plea in front of him.

5 Q. Okay. Uh, in your opinion, based on your experiences
6 with Judge Alford and with other judges, do you believe that
7 he would have accepted the guilty plea if he had thought that
8 the Applicant was not mentally capable of pleaing guilty?

9 A. No.

10 Q. Okay. Let's see, did the Applicant tell you that he was
11 guilty?

12 A. I believe he did, um, I I specifically asked. I was
13 rather frustrated with him because of the strength of the
14 first cases. When he got arrested for the new charges, I was
15 rather frustrated, um, and I went to go see him once I found
16 out that he was incarcerated, um, so I I did ask about those
17 and he asked about the evidence, at that time I didn't have
18 it ---

19 Q. Um-hum.

20 A. --- the initial time but he never denied that he was in
21 the car and they actually I believe found methamphetamine on
22 him at one point, uh, in his sock.

23 Q. Okay.

24 A. He never denied that it was him and he never denied that
25 it was drugs in his sock.

1 Q. Okay. Did you ever discuss any possible defenses with
2 him?

3 A. I'm sure I did, that that's a regular practice. I do not
4 remember discussing entrapment, I can tell you though for, and
5 he never asked about that, I don't recall or I, after watching
6 the videos, I never saw anything that would lead me to
7 believe that there was an entrapment issue at all.

8 Q. Okay. Did you discuss the elements of the charge with
9 the Applicant ---

10 A. Yes.

11 Q. --- and what the State was required to prove?

12 A. Yes.

13 Q. Okay. Did you ever discuss with the Applicant his prior
14 convictions?

15 A. We had discussed the prior convictions, um, and I think
16 that there's, you know, when you look on, uh, the central
17 index, there's some confusion with dates, um, I understand
18 that the the cocaine base charges from 2004. The the way that
19 I approached the case once he had and from talking with the
20 solicitor, the way that I approached the case was he had a, a
21 and this is just about the meth charges, but he had a
22 methamphetamine case that was fairly strong in his favor then
23 he had two more distributions I believe and a trafficking, my
24 understanding from the State was that they were going to try
25 the cases individually which subjected him to a significant

CHRISTOPHER D. KENNEDY - DIRECT EXAMINATION BY MS. COLEMAN

1 amount more time potentially if he were convicted
2 consecutively and probably I think coulda probly been subject
3 to a, an LWOP charge ---

4 Q. Um-hum.

5 A. --- if that were the case which obviously LWOP's life
6 without parole so, you know, he had the potential if he were
7 found guilty individually on all the charges to to be
8 subjected to basically never getting outta prison again ---

9 Q. Um-hum.

10 A. --- potentially, ---

11 Q. Um-hum.

12 A. --- uh, so when the warrants as I said, even though they
13 were all thirds, it it didn't really matter to me if they were
14 thirds or seconds or not because if they were gonna try him
15 consecutively for those cases and end up potentially being a
16 third on two of the charges later on, that that was a a a huge
17 risk for him, ---

18 Q. Um-hum.

19 A. --- um, so the reason for the second didn't really have
20 anything to do with when the prior charges were or what the
21 warrant said, it had to do with basically limiting the risk of
22 the potential amount of time he could receive, um, which it
23 ultimately did, um, so, you know, it, and and it was
24 negotiated again so the judge couldn't give him more time and
25 run them consecutively if he chose to accept the plea which he

1 did, ---

2 Q. Um-hum.

3 A. --- so, you know, it was a mitig -- when you talk about
4 mitigation, that's really kind of what it was, it was limiting
5 his exposure from being in the DOC for a significant period of
6 time.

7 Q. Um-hum, okay. Who's decision was it to plead guilty?

8 A. It was Mr. Jeter's, I I recommended and I think I even
9 stated during the plea that I agreed with his decision.

10 Q. Um-hum. Do you still agree with his decision?

11 A. I do, uh, because I think if if if he is successful,
12 which is obviously up to this court, ---

13 Q. Um-hum.

14 A. --- if he's successful then he runs the same risk that
15 he ran before of hypothetically getting multiple guilty
16 either pleas or being found guilty by a jury on separate
17 occasions and thus subjecting himself to potentially way more
18 than 15 years.

19 Q. Okay. Did the Applicant ever indicate that he wanted to
20 go to trial on these charges?

21 A. For the first case yes, uh, and we, well well as I
22 discussed with him well once I had that statement from his
23 co-defendant, you know, I I thought that that case was strong,
24 I think that case probably would have worked out with probably
25 in my opinion it probably would have been dismissed upon plea

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1 to the marijuana on just a possession charge but he definitely
2 wanted to go to trial on the first one, for the subsequent
3 charges there was not a indication to me that he wanted to go
4 to trial.

5 A. Okay. Is it your practice to discuss the right to appeal
6 with your clients?

7 A. Yes.

8 Q. Okay. Uh, at what point do you usually discuss this?

9 A. Prior to the actual plea, um, but but usually I try to
10 tell my clients what the judge is going to ask them, ---

11 Q. Um-hum.

12 A. --- um, and I go over those rights before and ask if they
13 understand those rights, um, the reason I do the appeal before
14 is 'cause the judge says it during his actual plea ---

15 Q. Um-hum.

16 A. --- too so you get, you get it twice. There was never an
17 indication to me that he wanted to to appeal, he did, I do
18 think I talked to him 'mmediately after the the plea because
19 he wanted me to give, those folders of documents that he'd
20 given to me previously with like work history, school history,
21 uh, he wanted me to give those to his girlfriend which I
22 actually did at the courthouse. Um, he didn't contact me
23 after that, ---

24 Q. Um-hum.

25 A. --- I think he sent a letter to the solicitor's office,

1 his girlfriend did call and speak to me one time, uh, I
2 couldn't tell you what it was that ---

3 Q. Um-hum.

4 A. --- she talked to me about, ---

5 Q. Um-hum.

6 A. --- uh, but she did call me once at my office.

7 Q. Did she say anything about an appeal?

8 A. Not that I recall but I don't remember the conversation.

9 Q. Okay. If the Applicant had indicated to you that he
10 wanted an appeal, would would you have filed one?

11 A. I woulda filed the Notice of Appeal, yes.

12 Q. Okay. Did you think that there was any factual or a
13 legal basis to appeal this guilty plea?

14 A. No, especially not being with the circumstances of it
15 being a negotiated sentence, ---

16 Q. Um-hum.

17 A. --- no.

18 Q. Were there any objections made during the proceeding?

19 A. No.

20 Q. No. Nothing. As far as the subject matter jurisdiction
21 issue, do you recall what the Applicant was originally charged
22 with?

23 A. Um, that the first charge was a, uh, it's the same CDR
24 code, it's, I think it's 0188, but it's the manufacturing,
25 distribution, possession with intent to distribute charge, he

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1 was charged with a third, that was not a third, uh, and then
2 he was charged with possession a marijuana and then
3 subsequently he was charged I believe it was two two
4 possessions with intent to distribute or two distributions and
5 a trafficking.

6 Q. Um-hum. And did the indictments have any indication of
7 the number of offense it was?

8 A. Not that I recall.

9 Q. Okay. Did the trial court have proper subject matter
10 jurisdiction over these charges?

11 A. Yes.

12 Q. Okay. Was the Applicant properly indicted?

13 A. I believe so, well and he waived presentment ---

14 Q. That's right.

15 A. --- later.

16 Q. And which -- did he waive to all of them ---

17 A. Um, I thin ---

18 Q. --- or just one charge?

19 A. I, that I honestly can't tell you off the top a my head,
20 I know, I think the first two charges or he was indicted I
21 believe on the first charge but I don't remember for the the
22 ones that ---

23 Q. Okay.

24 A. --- 'cause by the time I got involved in that case ---

25 Q. Um ---

1 A. --- he was wantin' to resolve the cases in full ---

2 Q. Um-hum.

3 A. --- and in order to do that had to waive presentment.

4 Q. Okay. Did you see any basis for challenging the
5 indictments on the grounds that the facts didn't support the
6 charge ---

7 A. No.

8 Q. --- that he was indicted with?

9 A. No, ---

10 Q. Okay.

11 A. --- and again, we were trying to get to a global
12 resolution. Originally it was going to be the 7 years which I
13 think I've explained and ultimately we ended up with 15. He
14 never indicated he wasn't going to take the 7 and I never
15 heard an objection, I mean, obviously he wanted less time than
16 15 ---

17 Q. Um-hum.

18 A. --- and and I think that's fair for anybody that pleads,
19 they want the least amount time possible but ---

20 Q. Um-hum. And was the Applicant ever evaluated for mental
21 competency?

22 A. No. Um, again, I I saw some mental health records that
23 he had before but I never was under the impression that he
24 didn't know what I was talking about and he wasn't having an a
25 difficulty communicating with me ---

CHRISTOPHER D. KENNEDY - CROSS-EXAMINATION BY MR. EPPS

1 Q. Okay.

2 A. --- so I didn't have a basis in my opinion to seek an
3 evaluation and he didn't ask me for one.

4 Q. Okay. No further questions, thank you.

5 A. Thank you.

6 THE COURT: Alright, yes, sir.

7 MR. EPPS: Thank Your Honor.

8 CROSS-EXAMINATION BY MR. EPPS:

9 Q. So relative to the potential for appeal no one contacted
10 you about appealing the, uh, the background issues Mr. Sams
11 mentioned about the 2005 conviction and the 2013 conviction?

12 A. I don't recall anybody ever asking me to appeal his case.

13 Q. Um, did did you ever discuss entrapment to Mr. Jeter?

14 Let let me, uh, did did ya'll ever discuss entrapment? him?
15 you? back either way?

16 A. I don't believe so, no. Uh, it was when I reviewed the
17 videos, it doesn't seem to me that that that was an issue I
18 woulda brought up to him and he didn't ask me about it.

19 Q. And and I wanna make sure that were there two, I heard
20 two controlled buys, I'm, so I got a little confused, are you
21 saying that there were -- are there -- were there two buys
22 shown or three buys shown 'cause I, and I'll tell, the reason
23 I ask is there there are indictments of, uh, distribution PWID
24 on January 12th, distribution PWID on January 14th and then
25 trafficking on the 15th, did you get a view of all three days

1 with a buy going on?

2 A. I don't remember. I know that I saw two of 'em, it was
3 the same truck with the same -- you -- the guy's voice was the
4 same, um, in at least the two, the two that I can remember,
5 that the gentleman's voice was for the same and the grenade
6 which was, it -- that that air freshener, that was the thing
7 that stood out the most to me 'cause I had to ask what it was
8 'cause I thought they were tryin' to hide somethin' with some
9 kinda thing on their computer and everybody agreed it was the,
10 um, the grenade and I asked Mr. Jeter if if he knew whose car
11 it was and he he knew whose car it was so I didn't really ever
12 need the name of the CI.

13 Q. And and the basis for not getting the entire copy of the
14 video was that if you pushed the solicitor's office to get an
15 actual copy of the video released the name of the CI that they
16 would have re -- um, completely taken all deals off the table
17 and they said they would have to, they would try all charges
18 separately?

19 A. The -- well it's their practice to if -- they'll give you
20 the CI's name and they'll ultimately give you the video as
21 part of your Rule 5 discovery request but if they do that
22 and I assume it's to protect their CIs, um, if they do that
23 they with, it's common practice for this solicitor's office to
24 withdraw any offer and I was told that the offer would be
25 withdrawn if I wanted it.

CHRISTOPHER D. KENNEDY - CROSS-EXAMINATION BY MR. EPPS

1 Q. And so if that were the case are you saying he would have
2 faced the two, uh, April and May 2014 meth charges as well as
3 the three January 2015 meth charges?

4 A. It's my understanding they were gonna go forward on all
5 the charges, ---

6 Q. Okay.

7 A. --- I don't know if they woulda tried some together or
8 not, I I don't know.

9 Q. In terms of trying some together, was there ever any
10 discussion about there being a, uh, common activity defense or
11 something where these three very in close proximity charges
12 were -- would be viewed as one actual activity instead of
13 separate?

14 A. Um, I I had thought about that but being as that they
15 were days apart rather than it's like a crime spree type
16 theory, um, they weren't all occurring in the same day, there
17 was time in between each one, I think they had a reasonable
18 basis to try the cases separately if they wanted to do so. I
19 think it's common practice for the sheriff's office to kinda
20 do do those cases with a -- they try to get a distribution,
21 they try to get a distribution and they try to get a
22 trafficking, um, it's 'cause the potential is they can try all
23 of them separately, um, you know, the, from my understanding
24 from Mr. Sams was that they really wanted to to get Mr. Jeter,
25 um, and that's why they didn't agree to the 7 to begin with.

1 Q. Uh, relative to the two buy -- buys versus three buys and
2 the PWID, uh, issue that we, that's been talked about in this
3 case, if Mr. Jeter waived presentment of the indictment that
4 would effectively end his ability to contest any of the issues
5 with the indictment.

6 A. I would agree with that.

7 Q. And what issues did Mr. Kennedy tell you about in the
8 detention center?

9 A. Uh, Mr. Jeter you mean?

10 Q. Oh sorry, yes.

11 A. Um, I met with him a couple times, that that detention
12 center is overcrowded I think would be a ---

13 (Indiscernible cross-talk.)

14 Q. Understatement?

15 A. Yeah, I mean, it's it's packed, um, and he he did tell me
16 that he couldn't get all of his medication that he thought he
17 needed, um, he said he was having some issues with some other
18 people that were in there. I do seem to recall the day of the
19 plea that he had a welt or somethin' from where he had been in
20 a fight or gotten jumped or somethin' like that but again
21 there was never any indication from him that he didn't know
22 what he was doing, that, uh, other than he wanted to get out
23 of the detention center, he ---

24 Q. He ---

25 A. --- told ---

CHRISTOPHER D. KENNEDY - CROSS-EXAMINATION BY MR. EPPS

1 Q. --- he ---

2 A. --- me that specifically.

3 Q. --- he wanted to get outta the detention center and
4 do ---

5 A. Resolve ---

6 Q. --- or he ---

7 A. --- the case, go down to whatever correctional
8 institution they were gonna send him to 'cause he thought he
9 could get them, the medications that he thought he needed and
10 he could get out of the environment he was in with these
11 people threatening him and and being violent towards him.

12 Q. I wrote down that you said the solicitor's off -- after
13 the 7 year plea offer was off the table that the solicitor's
14 office wanted more than a a 15-year cap on all these charges,
15 how was it that it went from whatever that respect was to a
16 15-year sentence?

17 A. I don't think, I don't think the solicitor's office
18 necessarily wanted it, I think it -- they -- he was getting
19 some pressure from the investigators. Um, I, to be honest
20 with you I was rather frustrated about the the whole 7-year
21 thing anyway 'cause I had already gone to Mr. Jeter and said,
22 you know, Look, they're offering you 7, after discussing
23 everything involved we were ready to go, we showed up the day
24 to do it, uh, I was, uh, again, I was told that he was gonna
25 confer with the, um, the sheriff's office, I didn't expect it

CHRISTOPHER D. KENNEDY - CROSS-EXAMINATION BY MR. EPPS

1 to turn into such a big issue, um, you know, and a I felt bad
2 for him because, I mean, he ended up with 8 more years, do I
3 think we could have won those cases at trial, no, but it it
4 bothered me because he was ready and able to plea to a 7-year
5 sentence, a negotiated 7 and we couldn't do it, um, so and
6 that bothered me because I had to go back and say, Look,
7 they're not gonna do it now, what do you wanna do, um, we got
8 a continuance at that time but and that that part frustrated
9 me, still frustrates me about the case in general.

10 Q. Nothing further.

11 MS. COLEMAN: No further questions, Your Honor.

12 THE COURT: Alright, thank you, sir.

13 THE WITNESS: Thank you, Judge.

14 (Whereupon, the witness left the stand.)

15 THE COURT: Alright, anything further from the State?

16 MS. COLEMAN: No further witnesses, Your Honor.

17 THE COURT: Okay. Alright, I'll be happy to hear any
18 argument that either of you may have. Let me a -- let me ask
19 a question before you argue. I -- what what was the, uh, what
20 was the prior record, have we determined that, the dates
21 in the record?

22 MR. EPPS: Sure, a and, Your Honor, I I will say this
23 with all, um, due candor to the Court, uh, there there's a
24 blip as I like to call it on his rap sheet, it shows, uh, and
25 I think Cliff Sams whom I know well made a mistake and not

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1 intentionally, it shows that he has a court conviction of June
2 of 2005, now I will say he also pled guilty in July of 2015 so
3 even that date would be problematic but for, um, possession I
4 I think it's cocaine base, uh, that that date though is the
5 date he reported to the Department of Corrections from his
6 October of 2004 guilty plea to possession of cocaine base.
7 The possession of cocaine base under the en, uh, uh,
8 enhancement statute just it doesn't work, it's time-barred,
9 so, uh, when Mr. Kennedy got the cases writ large, there was
10 an April 2014 possession of meth, uh, charge and I'm just
11 gonna talk about meth because the marijuana issues I think are
12 largely irrelevant.

13 THE COURT: Right.

14 MR. EPPS: There was an April 2014 charge of possession
15 of meth, there was a May 2014 charge of possession of meth and
16 then there was January 12th, 14th and 15th 2015 charges for
17 distribution of PWID on January 2nd, distribution and PWID on
18 January 14th and trafficking ---

19 THE COURT: Um-hum.

20 MR. EPPS: --- on January 15th, the underlying charges
21 that were pled guilty to by Mr. Jeter in his July 2015
22 guilty plea all relate to the January block time, January
23 twif -- 2015 block time, the two prior currently pending at
24 that time meth charges were nolle prossed as a result of the
25 negotiations and that resolves all of what I like to call the

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1 "hard" drugs, there was also ---

2 THE COURT: Right.

3 MR. EPPS: --- a guilty plea during the July 2015 plea
4 marijuana but that's just, again, and and somewhat irrelevant
5 to today's proceedings. He does not have, uh, that, well he
6 he does not and at the time of plea did not have an underlying
7 conviction for a hard drug to enhance his charges. Now I say
8 that in all candor to the Court that he did have two pending
9 possessions, it wasn't a possession first and possession
10 second, they ---

11 THE COURT: Right.

12 MR. EPPS: --- were just listed as possessions, um, that
13 were not even a year prior to his other charges, uh, had not
14 been convicted and then again those did nolle pross as a
15 result a this plea. Part a the issues that I have, I've
16 wrestled with Mr. Jeter on explained to him and things you've
17 got a situation where you've got, I call it a "stew." Um, the
18 PWID in my opinion is is problematic: basketball goals at a
19 church they don't fit in that statute and and there's actually
20 a case I'll cite it just for the record's purposes, uh, it is
21 *Cutner, C-U-T-N-E-R, vs. State*, it's PCR case 354 S.C. 151, it
22 involves an indictment, it's a PWID but marijuana but still
23 PWID, um, near a park or school, uses ---

24 THE COURT: Uh, ---

25 MR. EPPS: --- the same statute, the indictment, uh,

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1 read, uh, Ridgewood Missionary Baptist Church. The State
2 contended, uh, after trial that that shoulda been Eau Claire,
3 think I'm sayin' that right, High School ---

4 THE COURT: Um-hum.

5 MR. EPPS: --- which obviously would fit within the
6 statute, the Court said, you, that indictment's faulty on its
7 face, we're already in the proceedings you can't amend the
8 indictment to, that's not a scrivener's error type a
9 correction, that is a material change to the indictment, that
10 will not lie, that that charge will be dismissed 'cause
11 there's no evidence, uh, to support, uh, that charge because
12 Ridgewood Missionary Baptist Church is not a public park and
13 it is not a school, we're very similar to that even as to the
14 denomination of the church, Your Honor, so I think the PWIDs
15 are are problematic, uh, but then you look at the stew, Your
16 Honor, um, he was facing two charges when he, uh, was
17 allegedly in these Jul -- or January 2015, uh, drug
18 transactions, were there two or three that's another issue,
19 Your Honor, were there two buys or three 'cause we've got two
20 days of distribution of PWID and then a third day which is the
21 trafficking. Uh, Your Honor, it somewhat ---

22 THE APPLICANT: There wasn't but two.

23 MR. EPPS: --- and he again contends it was two sales.
24 Irre -- regardless of the mental health issues, the the
25 transcripts and things a that nature, Your Honor, my client,

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1 uh, with all due respect to Mr. Kennedy and he was faced with
2 a number of issues, we will give him that, uh, but my client
3 believes that there was an ineffectiveness there and he was
4 prejudiced, uh, because the charges that he ultimately pled
5 guilty to he did that based on the advice of his counsel, um,
6 a and he believes he should have instead, uh, gone to trial
7 because the facts just simply weren't there to make those
8 charge second or third level offenses and since they weren't
9 that drops the the time exposure dramatically, it drops LWOP
10 potential dramatically. Um, I've explained to him the
11 potential of what this court can do in a PCR and if the Court
12 does, uh, grant his PCR obviously it takes him back to the
13 beginning and exposure will be what it is but at the same time
14 he has the facts to be able to argue on those charges, um, a
15 as they're able to be argued, negotiations may take place that
16 could put him in a better spot, in the same spot, if he goes
17 to trial could be in a worse spot, could be in a better spot
18 at trial, uh, but, Your Honor, all this to say I I do believe
19 he relied on Mr. Kennedy as his attorney, um, he believes he
20 was ineffectively assisted and he was prejudiced in that, uh,
21 he relied on Mr. Kennedy's representations to plead guilty,
22 um, uh, to charges that just they weren't there.

23 THE COURT: Okay. Uh, let me ask this: If he, uh, had he
24 pled guilty or had he been convicted guilty of a distribution
25 of crack cocaine or methamphetamine, whatever the underlying

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1 drug was, that the maximum possibility penalty for that is
2 15 years, am I correct?

3 MR. EPPS: Well, uh, yes, Your Honor, even on the, uh,
4 so ---

5 THE COURT: That right.

6 MR. EPPS: Well, lookin' at my notes, Your Honor, PWID
7 PWID meth and of course the problem with PWID ---

8 THE COURT: But he had two counts of ---

9 MR. EPPS: He's got ---

10 THE COURT: --- distribution and then you got the two
11 counts of proximity and then you've ---

12 MR. EPPS: Right.

13 THE COURT: --- got the trafficking so I, ya'll correct
14 me if I'm wrong 'cause I'm I'm not, I I'm I'm not tellin' you
15 that I have an encyclopedic memory of all of this stuff, I
16 think that the proximity charges, um, second are up to
17 10 years, uh, the trafficking charge if it were a first, if
18 it's between 10 and 28 grams and I think the factual
19 recitation indicated that it was 10.4 grams would be, what,
20 between 3 and 10 years?

21 MR. EPPS: Three and ten, Your Honor.

22 THE COURT: Okay, and then a possession with intent to
23 distribution or a distribution which I believe that this was
24 is up to 15 years on first offenses, right, so there were two
25 a those, am I correct?

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1 MR. EPPS: You're right, Your Honor, I, and that how I
2 got confused when I looked at my notes, I look at PWID and I
3 associate it immediately with that PWID near a school. He is
4 charged with PWID and PWID proximity. The PWIDs, uh, first
5 are 0 to 15 charges, you were right.

6 THE COURT: Okay. Alright, and and you you understand
7 the reason I ask that I'm I'm wondering about prejudice, um,
8 and, you know, if he got sentenced to 15 years, uh, and he's
9 askin' to go back and have that revisited but then he's still
10 facin' 15 years so the question is is there prejudice if he
11 got sentenced essentially in accordance with a first, I know
12 that that's not right, uh, that doesn't necessarily square
13 when you're talking about trafficking because that's 5 to 30
14 as opposed to 3 to 10 but if you decide that there's prejudice
15 on a trafficking and you decide that there is prejudice on a
16 possession with intent to distribute in proximity but you
17 decide there's no prejudice on the others, it really doesn't
18 gain him anything substantially.

19 MR. EPPS: And and, Your Honor, a again, I've discussed
20 that with Mr. Jeter, uh, if the PWID proximities go away
21 there's still potentially two PWIDs, uh, his contention would
22 be there should only be one because there were only two sales.
23 Uh, you've got potentially the PWID first with a 0 to 15 and
24 then a trafficking that could either be a first or a second
25 depending on that conviction which would be a 5 to 30, ---

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1 THE COURT: Um-hum.

2 MR. EPPS: --- uh, yes, Your Honor, and and then and I'll
3 even, my encyclopedic knowledge I don't know exactly how this
4 works with a nolle pross as a part of the negotiations of the
5 plea because there were two other charges there that were
6 nolle prossed, ---

7 THE COURT: Uh, ---

8 MR. EPPS: --- so if those come back that's potentially a
9 first conviction, a second conviction and then a third if the
10 trafficking were to lie and if the trafficking does not then
11 it be a third PWID ---

12 THE COURT: Yeah, ---

13 MR. EPPS: --- so ---

14 THE COURT: --- and that the stew becomes significantly
15 more difficult to digest. I I'm not so certain and I know,
16 uh, I'm certain that you had these conversations with him,
17 Mr. Epps, I'm not, I'm not so certain he understands what he's
18 askin' for fully, okay. Alright, yes, ma'am.

19 MS. COLEMAN: Yes, ---

20 THE COURT: Alright, Ms. Coleman.

21 MS. COLEMAN: --- and can I beg the Court's indulgence
22 one moment, I need to check ---

23 MR. EPPS: Yeah, sure.

24 MS. COLEMAN: --- on this with him.

25 (Whereupon, a discussion was held off the record.)

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1 MS. COLEMAN: Um, and, Your Honor, I I agree with you on
2 your thoughts you were expressing on prejudice, we don't
3 believe there's any prejudice in this case, I -- and, uh,
4 because the sentencing woulda been the same regardless on
5 those charges and also, I I don't think that the Applicant has
6 proven that that he would've gone to trial rather than plead
7 guilty, of course he says he would today but I don't know that
8 at least considering the weight of the State's evidence
9 against him: they have the buys on tape, you can see his face
10 on the tape, uh, he admitted his guilt to the Court at the
11 guilty plea, he was facing a significant amount of time if
12 he'd gone trial, 30 years for each a these charges, uh, I I
13 just don't believe that he can overcome his burden of proving
14 that he would have gone to trial rather than plead guilty;
15 furthermore, um, I would argue that trial counsel was not
16 ineffective on this, even if the charges were not correct or
17 the in -- the prior convictions are not correct, I think that
18 trial counsel indicated a valid strategy, trial strategy, um,
19 for taking whatever offer was given to him by the solicitor's
20 office in order to avoid getting s -- first, second, third
21 offenses, uh, convictions at trial and getting a significant
22 amounta time including potentially life without parole, um, I
23 think he acted in his best interest in that manner and that's
24 a a valid strategy in his representation so we would ask that
25 you deny the application. Thank you, Your Honor.

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1 THE COURT: Alright, Mr. Epps, did you care to respond,
2 sir, I'll give you the last word if you like.

3 MR. EPPS: Uh, Your Honor, I, uh, my client is just, uh,
4 uh, he would rather go to trial, Your Honor, he believes that,
5 uh, the January 2015, uh, all three days were the result of an
6 entrapment, that's a defense he was not able to present
7 obviously 'cause he didn't go to, he went through a guilty
8 plea as opposed to a trial, he did that on the, uh, advice and
9 information from his attorney, um, he believes that the
10 evidence, phone records, the video, et cetera would show, uh,
11 something very different than what actually was talked about
12 during his guilty plea, ---

13 THE COURT: Okay, thank ---

14 MR. EPPS: --- based on that, Your Honor, we would ask
15 the Court grant his PCR and, uh, remand him essentially for
16 trial on these charges.

17 THE COURT: Okay. Alright, um, first and foremost with
18 respect to the discovery request, those discovery requests go
19 not to whether or not the, there was ineffective assistance of
20 counsel, they go to the weight, sufficiency of evidence, that
21 was an issue which clearly in the plea was waived, um,
22 therefore I I'm not going to continue or leave the record open
23 for purposes of additional discovery.

24 With regard to mental health records, um, the Applicant
25 had the opportunity take the stand and at a threshold give

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1 evidence regarding a a lack of capacity, uh, and a lack of his
2 ability to assist in his defense. I recognize that there may
3 be records that, uh, the Applicant, Mr. Jeter, doesn't have
4 access to because of, well because, uh, he wasn't able to
5 subpoena the same, however, there are, there clearly based on
6 the record is information, uh, and there are records which are
7 within his control, um, and which he could have presented at
8 trial to support his assertion that he was suffering from some
9 sort of mental defect and that that significantly affected the
10 underlying plea, however, the self-serving assertion that he
11 couldn't get it together is not sufficient to meet the burden
12 to demonstrate that he lacked mental capacity to, uh, to enter
13 his plea at the time, I also find as a matter of fact having
14 reviewed the testimony of the defendant he is an intelligent
15 individual, um, and ha -- after having reviewed the transcript
16 of record as well it appears to me that there were intelligent
17 questions which were, which were posed and answered and that
18 there was a dialogue during the time of the trial. Trial
19 counsel indicates that he had the opportunity to talk to him
20 and that he in fact was active in his representation durin'
21 the negotiation of the plea and, uh, up and through the time
22 of the actual entry of the plea therefore I I don't think that
23 there's sufficient evidence in the record at this point to
24 leave the record open for additional information or evidence
25 regarding mental capacity.

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1 Um, at this point in time I'm ready and prepared to deny
2 the post-conviction relief with regard to the two
3 distributions charges. I find that the, notwithstanding
4 whether they were treated as first or second offenses that he
5 was sentenced to 15 years which is within the maximum or
6 within, is the maximum allowable penalty for a distribution
7 first offense, I find that in those two instances there was
8 not, uh, ineffective assistance of counsel and even if a
9 review of the record indicated that there were, there was no
10 prejudice that visited upon him because he was sentenced in
11 accordance with a first offense. With respect to the
12 remaining charges to which he pled, I will take those under
13 advisement, um, and I will view the same, um, and, Mr. Epps,
14 it it may be that you need to have a talk with him because
15 I've denied it with respect to the substantive charges, the
16 additional charges if he goes back to trial and brings it back
17 to trial court, he may be facing again, uh, more of that stew
18 that you had referred to earlier, it's a, it's it's it's not
19 entirely up to him because I'm ultimately gonna make the
20 decision but it's entirely up to him as to whether he
21 wants to assume that risk or not, okay, and that is a sig --
22 significant and substantial risk and when he calculates it he
23 better be very very careful what he asks for because he might
24 get it.

25 MR. EPPS: And, Your Honor, let me ask you just so I'm

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1 clear, ---

2 THE COURT: Yes.

3 MR. EPPS: --- uh, the items you're taking under
4 advisement I I understand you denied as to the PWIDs, the
5 other items you'd be taking under advisement are most
6 importantly the trafficking but also PWIDs in proximity?

7 THE COURT: The proximity, I think there are two
8 proximity charges and then the, uh, the trafficking charge
9 because it was treated as a second, I don't know, I need to
10 look at, I need to look at the record and see, okay.

11 MR. EPPS: Thank, Your Honor.

12 THE COURT: Um, it changes, it changes the time
13 significantly and and it, the the problem with the, uh, with
14 those charges is he was actually sentenced as a second, he was
15 sentenced more than he would have been sentenced to for a
16 first offense on both a those charges, now again, I think it's
17 academic, you know, but I have, you know, in good faith and as
18 a matter of intellectual integrity I have to look at 'em all
19 independently, probly doesn't make a difference to him
20 ultimately unless he comes back and he gets more then it makes
21 a big difference to him but negatively, okay. Alright, thank
22 you very much, I appreciate. Good luck to you, ---

23 MS. COLEMAN: Thank ---

24 THE COURT: --- Mr. Jeter.

25 MS. COLEMAN: --- Your Honor. And would you like any

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1 kinda proposed order on that or just wait until you've made
2 your full ---

3 THE COURT: You can go ahead and do the proposed order on
4 the first two, ---

5 MS. COLEMAN: Okay.

6 THE COURT: --- um, and you can send me a, you can send
7 me a proposed order ---

8 MS. COLEMAN: Okay.

9 THE COURT: --- on the remaining three if you'd like.

10 MS. COLEMAN: Okay, could I ---

11 THE COURT: You're not ---

12 MS. COLEMAN: --- under this ---

13 THE COURT: --- worried about the mar -- there's a
14 marijuana, uh, plea at the same time, correct?

15 MR. EPPS: Correct, Your Honor.

16 THE COURT: I'm not concerned with that, I'm I'm not
17 grantin' it on marijuanas, that that's obviously not an issue.

18 MS. COLEMAN: Right, okay.

19 THE COURT: Okay.

20 MS. COLEMAN: Thank you, Your Honor.

21 THE COURT: Yes, ma'am. Thank you.

22

23

24

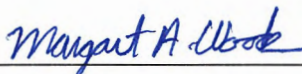
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1
2
3 CERTIFICATE OF REPORTER

4 I, Margaret A. Woods, Court Reporter in and for the State
5 of South Carolina at Large, hereby certify that I reported the
6 preceding case on March 20, 2017 at the time and place
7 heretofore set forth; and that the foregoing pages numbered
8 from 4 through 68, inclusive, constitute a true and accurate
9 transcription of my stenographic notes of the said proceeding.

10 I further certify that I am neither attorney nor counsel
11 for, nor related to or employed by any of the parties
12 connected to the action, nor am I financially interested in
13 the action.

14 November 29, 2017

15 

16 Margaret A. Woods, Court Reporter
17 in and for the State of South Carolina at Large.

13-GS-11-030

WITNESSES

Cherokee County Sheriff's Office

[Signature]

The State of South Carolina

County of Cherokee

Barry Bannette, Solicitor

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2013 JAN 31 PM 12 01

BRANDY W. MCBEE

COURT OF GENERAL SESSIONS

ARREST WARRANT(S)

2012A1110100617

TERM

ACTION OF GRAND JURY

THE STATE

vs.

[Signature]

Foreperson of Grand Jury

Date: 1-31-2013

Alonzo Columbus Jeter III

Indictment for

VERDICT

POSSESSION WITH INTENT TO DISTRIBUTE
MARIJUANA

SC Code: 44-53-370

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

INDICTMENT

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

POSSESSION WITH INTENT TO DISTRIBUTE MARIJUANA

That Alonzo Columbus Jeter III, did in Cherokee County on or about
December 20, 2012, manufacture, distribute, dispense, deliver, purchase or aid,
abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or
purchase, or possess with intent to manufacture, distribute, dispense, deliver, or
purchase a quantity of Marijuana a schedule I controlled substance defined by
§44-53-190 SC Code of Laws, done in violation of §44-53-370, (1976), as
amended, such possession not having been authorized by law.

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



ASSISTANT SOLICITOR

X STATE OF SOUTH CAROLINA
 COUNTY OF Cherokee
 STATE VS.
Alonzo Columbus Jeter III
 AKA:
 Race: B Sex: M Age: 35
 DOB: 1977 SS# [REDACTED]
Malone Rd
 City, State, Zip: Caffrey, SC 29341
 DL#: [REDACTED] BID#: [REDACTED]

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS1100130
 A/W#: 2012A1110100617
 Date of Offense: 12/20/2012
 S.C. Code § : 44-53-370
 CDR Code #: 0188

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Possession > 1oz MJ 2d offense (0-1yr +1oz 0-2K)

in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0180
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

ATTEST: [Signature] 116827 [Signature] [Signature]
 LESKANE, KIM SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 90 days/months/years or under the Youthful Offender Act not to exceed — years
 and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment
 of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP —
 Total: \$ — plus 20% fee: \$ —
 Payment Terms: —
 Set by SCDPPPS —

Recipient: —

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(1) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$ 8.40
TOTAL	\$288.40

— 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, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk [Signature]
 Court Reporter: [Signature]
 SCCA/217 (03/2011)
 Presiding Judge [Signature]
 Judge Code: 2115
 Sentence Date: 8/15/13

1 THE COURT: Good morning.

2 MS. COLEMAN: We are back on the record for
3 another hearing for Alonzo Columbus Jeter, the third,
4 vs. State of South Carolina. Docket number
5 2016-CP-23-0293. This matter comes before The Court
6 by way of Post-Conviction Relief action that was
7 filed on April 28th, 2016. Respondent submitted its
8 return November 15, 2016. And a evidentiary hearing
9 was convened on March 20th, 2016 here at the
10 Spartanburg County Courthouse before Your Honor.
11 The applicant was present at the hearing and was
12 represented was represented by Mr. Steven Eppes. I
13 was here, Julie Coleman, on behalf of the Attorney
14 General's Office.

15 After the evidentiary hearing, just by way of
16 procedural history, we did some further investigation
17 into the records that need to be before The Court.
18 And it came to our attention that there was an
19 additional prior conviction that we were not aware of
20 at the first evidentiary hearing. So, we're here
21 today on The State's motion to reopen the record.
22 And I an extra of copy of that if Your Honor would
23 like one.

24 THE COURT: Yes, ma'am.

25 MS. COLEMAN: May I approach?

1 THE COURT: Yes, ma'am. I presume that
2 Mr. Eppes has seen it?

3 MS. COLEMAN: Yes. And I have a copy for him as
4 well if he would like it. This is the filed and it
5 was sent a month or two ago.

6 THE COURT: Okay.

7 MS. COLEMAN: And, Your Honor, I move to reopen
8 the record. And I've attached to that motion, I've
9 got two prior convictions here. And they are No.
10 2004-GS-11-925 and 926. And apparently, the history
11 of these convictions is he pled guilty to open these
12 on the same day, on October 12, 2004. But by
13 reviewing the indictments, it appears that there were
14 two separate convictions, two separate events. One
15 occurring on January 30th, 2004. And the other one
16 on September 3rd of 2004. And it resulted in two
17 separate convictions with concurrent sentences.

18 And, Your Honor, our motion and our argument,
19 based on this record, is that under the statute,
20 these charges were used to properly enhance his 2015
21 charges that he is challenging now in his PCR
22 application.

23 THE COURT: Okay. All right. Good enough.

24 Okay, Mr. Epps.

25 MR. EPPS: Thank you, Your Honor. If my client

1 were allowed to testify, by way of proffer, I believe
2 his testimony would be that both the 925 and 926
3 charges were reported to him to be merged. Which is
4 why he did not plead to a first and a second on those
5 charges. If you'll note, I think the materials that
6 were handed up, if you have the indictments, as well
7 as the sentencing sheet -- and I'm asking that Your
8 Honor because I don't know.

9 THE COURT: Yeah, I do. I've got two separate
10 sentencing sheets and warrants on the case.

11 MR. EPPS: Okay. And you will see on there, and
12 as the Attorney General alluded, there are two very
13 separate dates. One in January and one in September.
14 Both of the year 2004.

15 THE COURT: Uh.

16 MR. EPPS: Both for possession of crack. So
17 temporally, I do not believe that they can be merged
18 together or viewed to be merged together as one event
19 because they happened the next day or couple days
20 after, something like that.

21 THE COURT: Yes, sir.

22 MR. EPPS: But, Your Honor, the issue that we're
23 faced here with -- and number one, Your Honor, I
24 guess I should make this argument first. We have
25 already had a hearing in this. As The Court is well

1 aware, PCR trials are a collateral attack. They do
2 have a lot of due process arguments within them. And
3 I think, number one, I have to make a due process
4 argument that this very easily could violate my
5 client's due process rights because The State has had
6 the opportunity to present evidence. The evidence
7 was that he had one prior conviction of possession of
8 cocaine or crack in 2004. The problem with that one
9 conviction as it stood on the prior hearing, is that
10 from a time standpoint, from the enhancement statute,
11 his convictions that we're here about today happened
12 in 2015. The enhancement statute provides that a
13 first violation will only serve to enhance when it is
14 faced with another conviction within a 10 year
15 period.

16 So, if we're left with just the one conviction
17 as we were at the last hearing, he never could have
18 been charged with or at least convicted of PWID
19 second. None of his charges could have been second
20 because they were all temporally connected and there
21 was no 10 year prior charge to enhance. Obviously,
22 what we're now looking at with these two -- or these
23 two charges is that there were two convictions. I
24 believe that number one it prejudices my client for
25 the record to be reopened to allow this other charge

1 to be viewed as evidence.

2 Secondarily, Your Honor, I think also, as again
3 with the proffer, I believe under the enhancements
4 statute, this still should be viewed as a first
5 violation. I believe The Court interpreted it that
6 way. If you look at the sentence, it was sentenced
7 that way. And so, I believe notwithstanding the fact
8 that temporally these charges were not alleged to
9 have happened back to back, they were sentenced in
10 that way. And as a result, they still would not fit
11 within the 10 year requisite time period of the
12 enhancement statute.

13 Which brings us somewhat back to the forefront
14 of the issue this case faces. My client was charged
15 with PWID second, PWID proximity, from a
16 January 12th, 2015 alleged crime. PWID second, PWID
17 proximity second for a January 13th. And then
18 trafficking for a January 15th. All those very
19 temporally connected. He was charged with the third
20 offenses, he pled -- I said earlier just now, that he
21 was charged with second offense, he was always
22 charged with third and they were brought down.

23 Assistant Attorney General and I have spoken,
24 but there are a lot of moving parts on this thing.
25 To show a just red flag prejudice issue, is somewhat

1 difficult in that there are a lot of just moving
2 parts of potential, I hate to say the word mistakes,
3 but mistakes happen, Your Honor.

4 THE COURT: Right.

5 MR. EPPS: In this. His record was not clean or
6 easily defined. It did show one violation which was
7 more than 10 years. The guilty plea transcript
8 references marijuana convictions to enhance
9 methamphetamine charges which does not work under the
10 enhancements statute. And I think all of that lumped
11 together, sir, is what Mr. Kennedy was relying on to
12 advise his then client and lead my now client towards
13 this negotiated sentence. Because it was negotiated
14 my client never had the that opportunity to present
15 mitigation. And as a result, he pled guilty to
16 charges, specifically as it relates PWID, proximity
17 to a school, on its face those charges should have
18 never gone forward. There was no school listed in
19 the indictment.

20 On the trafficking, Your Honor may recall, my
21 client has had his request to discovery as the amount
22 that was seized by SLED for testing, to actually
23 prove that there was over 10 grams. And Your Honor
24 did deny that motion. But his contention is that
25 there was not enough weight to support a trafficking

1 charge. There was discussion entrapment. And all of
2 that, Your Honor, was never addressed by Mr. Kennedy,
3 certainly wasn't part of the guilty plea. I believe
4 my client feels he was prejudiced because he was led
5 down a primrose path on issues that really were not
6 there.

7 So, Your Honor, we would request and if The
8 Court would allow, I would put my client up on the
9 stand to testify about the 2004 charges. As to how
10 they were, in his opinion, or his recollection, they
11 were merged as one.

12 THE COURT: Yeah, I don't think. I don't think
13 you want to do that. Because if your client gets on
14 the stand and it becomes clear under
15 cross-examination that he recognized that they were
16 two separate and distinct convictions, I might be
17 inclined to hold him in contempt of court for making
18 a misrepresentation to the court in the first
19 instance.

20 MR. EPPS: And, Your Honor, I recognize that.

21 THE COURT: So, I don't know that I necessarily
22 need to hear from him.

23 MR. EPPS: Okay.

24 THE COURT: But if knowing that, if you want to
25 put him on the stand, you can. But understand that

ALONZO JETER-DIRECT BY MR. EPPS

1 you know, for direct contempt of court, I can
2 sentence him to a consecutive period of six months in
3 jail for making a misrepresentation if I feel that
4 he's not credible in that regard.

5 MR. EPPS: Certainly, Your Honor. My client
6 informs me that he would like to take the stand.

7 THE COURT: Okay. All right. I'll give you two
8 minutes on the stand. Two minutes, okay.

9 MR. JETER: Thank you, Your Honor.

10 THE COURT: I'm not retrying what we've already
11 talked about.

12 MR. EPPS: Certainly, Your Honor.

13 THE COURT: Okay. All right.

14 Okay, Mr. Jeter, what I want you to do just
15 stand right there. Raise your right hand.

16 ALONZO JETER, after being duly sworn,
17 testified as follows:

18 THE COURT: Have a seat right there.

19 Mr. Epps, you can examine him from there.

20 MR. EPPS: And Your Honor, in the interest of
21 quick time, I'm just going to mention to him the
22 sentencing sheets.

23 DIRECT EXAMINATION

24 BY MR. EPPS:

25 Q Mr. Jeter, before you are two sentencing sheets.

ALONZO JETER-DIRECT BY MR. EPPS

1 One is on Indictment 2004-925. One is Indictment
2 2004-926. You see those sentencing sheets?

3 A Uh-huh.

4 Q Is that a yes?

5 A Yes.

6 Q And did you sign those? Is that your signature
7 right here in the middle?

8 A Yes.

9 Q Okay. And those are for possession of crack
10 first, both of those charges; correct?

11 A Yes.

12 Q And it is your understanding that both of these
13 are separate convictions?

14 A That supposed to be merged into one conviction.

15 Q And when you say they were supposed to be
16 merged, how do you come to that conclusion?

17 A Me and attorney Thompson, that's what our
18 agreement was. That's why I signed the plea. And also,
19 my criminal background record, it only shows -- it only
20 shows one -- I got one of these -- I got one of these on
21 one date and one on another. I was trying to get it
22 straightened out because they had the PWID. And she
23 changed the date.

24 Q But irrespective of that, you agree there are
25 two sentencing sheets with your name on them or two

ALONZO JETER-DIRECT BY MR. EPPS

1 charges of possession of crack first, right?

2 A Yes.

3 Q But your understanding was they were to be
4 merged into one charge from one conviction of possession
5 of crack first?

6 A Yes. Again, my -- my criminal background check
7 from the city and county both reflect that as stated as
8 only one charge there.

9 Q Can I have a copy of this to put in the record?

10 A Yes, sir. I want you to see two different ones
11 here.

12 Q Okay.

13 A Okay. 11/13 and 11/18. They got 11/13 they had
14 me for PWID crack. And I know something wasn't right.

15 Q Uh-huh.

16 A And I went and spoke with them and she says,
17 Yes, I pled to possession of cocaine. And on both of
18 these there's only one charge.

19 Q Okay.

20 A And.

21 Q So, it's your understanding after getting these
22 records, that you only had one conviction of--

23 A Yes.

24 Q Possession of--

25 A Cocaine.

ALONZO JETER-DIRECT BY MR. EPPS

1 Q -- cocaine?

2 A Uh-huh. And also on my NCIC report, it shows I
3 just had one conviction. On this date in 2004. And I was
4 incarcerated in SCDC in 2005. And it reflects the other
5 charge. Or that they were merged.

6 Q All right. All right.

7 Your Honor, I'd ask to make these two
8 Cherokee County Records checks part of the exhibit or part
9 of the record.

10 THE COURT: All right, any objection?

11 MS. COLEMAN: I object, Your Honor.

12 Could I look at them real quick?

13 MR. EPPS: Sorry. And I've never seen them
14 before either, Your Honor.

15 THE COURT: Okay.

16 MR. EPPS: So, I mean, she said, I've never seen
17 them before.

18 MS. COLEMAN: Your Honor, I would object on the
19 basis of -- there's no one here to authenticate that
20 document first of all. I don't know where it came
21 from, we don't know that it reflects the true and
22 accurate copy.

23 THE COURT: I'll allow it in.

24 MS. COLEMAN: Okay.

25 THE COURT: We've come -- and I presume that in

ALONZO JETER-DIRECT BY MR. EPPS

1 as much as The Applicant is putting evidence into the
2 record, that he has no objection to reopening the
3 record for purposes of presenting additional
4 evidence. And in as much as that is the case, I'll
5 allow that in as The Applicant's next exhibit. I'll
6 also allow in and take judicial notice of the record,
7 the warrants issued and the sentencing sheets of the
8 court. Okay. So, I'll go ahead and let you allow
9 that in -- let you put that in over objection.

10 MR. EPPS: And Your Honor, just so we have --
11 we'll need exhibits. Should I just go ahead and make
12 the sentencing sheets exhibits as well?

13 THE COURT: You're welcome to do that. Again, I
14 take judicial notice of them, they're part of the
15 public record.

16 MR. EPPS: Well, that's true, Your Honor. I
17 just didn't know if we had them in the record.

18 THE COURT: If you want to introduce those, you
19 can do that as well, sir.

20 MR. EPPS: Well, I think since we're talking
21 about them, Your Honor.

22 THE COURT: Sure.

23 MR. EPPS: Okay. So maybe one, two, three,
24 four?

25 THE COURT: That's fine with me. Or you can put

ALONZO JETER-DIRECT BY MR. EPPS

1 them all in collectively.

2 MR. EPPS: Maybe that would be better.

3 THE COURT: So, put yours collectively, that is
4 Applicant's -- it came in over objection, so they're
5 clearly identified. And I presume The State doesn't
6 have any objection to the sentencing sheets?

7 MS. COLEMAN: No, Your Honor.

8 THE COURT: Okay. So, it will be Applicant's
9 exhibit and -- well it can be a Court's Exhibit. All
10 right. Since I'm taking judicial notice of it, okay.

11 MS. COLEMAN: Thank you, Your Honor.

12 THE COURT: Hold on, let the court reporter --

13 MR. EPPS: Certainly.

14 THE COURT: -- mark and inventory all of that.
15 While she's doing that I'm going to take a very, very
16 brief break, I'll be right back.

17 THE COURT REPORTER: Judge, which one are the
18 Court's Exhibits?

19 THE COURT: The Court's Exhibits are the
20 sentence sheets. And the Applicant's Exhibits are
21 the information I believe he got from Cherokee County
22 Clerk of Court.

23 MR. EPPS: Yes, Your Honor. And, Your Honor,
24 just so the record is clear, it just says Steve
25 Mueller, Sheriff of Cherokee County. I think it came

ALONZO JETER-DIRECT BY MR. EPPS

1 from the sheriff's department.

2 THE COURT: Okay. All right, fair enough.

3 (WHEREUPON, Court's Exhibit No. 1 was marked for
4 identification and received into evidence.)

5 (WHEREUPON, Applicant's Exhibit No. 1 was marked
6 for identification and received into evidence.)

7 THE COURT: All right, you ready? Do you have
8 anything additional of this witness?

9 MR. EPPS: No, Your Honor, I do not. Thank you.

10 THE COURT: Okay.

11 Do you have any cross-examination of this
12 witness?

13 MS. COLEMAN: Just very briefly.

14 THE COURT: Do you have any cross-examination of
15 this, ma'am?

16 MS. COLEMAN: No questions for this witness.

17 THE COURT: Okay.

18 MS. COLEMAN: Just a brief argument in response.

19 THE COURT: Yes, ma'am, I'll be happy to hear
20 it.

21 MS. COLEMAN: Thank you. I was going to address
22 the due process argument, but since you've already
23 allowed those in, I don't know if there's a need to
24 do that.

25 THE COURT: Okay.

1 MS. COLEMAN: But what it all comes down to is
2 prejudice. To prove his PCR case he must prove
3 prejudice by this. And he pled guilty to second
4 offense. And it's clear from the record before The
5 Court now, these two prior convictions, even though
6 it was more than 10 years, the statute allows that
7 any time there is a second or subsequent offense,
8 conviction, then that can be used to enhance the
9 charge. He pled guilty to second offense. Yeah,
10 there were two convictions for first offense but one
11 of them -- it's our opinion that one of them counts
12 as the second or subsequent offense. Which would be
13 used to enhance his 2015 charges. So, he pled to
14 second, he can't show any prejudice based on this
15 report before the court.

16 THE COURT: Okay.

17 MS. COLEMAN: Thank you.

18 THE COURT: Thank you.

19 Okay, Mr. Epps, would you like to respond, sir?

20 MR. EPPS: Your Honor, I'm here to represent a
21 client. My client has mentioned certain things to
22 me. I would simply just ask The Court consider the
23 fact that both of the 2004 sentencing sheets
24 conviction that were just admitted into record, are
25 listed as first offenses. And they were more than 10

1 years prior to his second -- his conviction on the
2 second charges. There were -- there was never a
3 second offense. The statute's wording is a little
4 interesting and difficult because it talks about for
5 an offense. The offenses were both firsts, more than
6 10 years for the conviction before the second. I
7 believe that's what my client would prefer me to
8 argue, Your Honor.

9 THE COURT: Okay.

10 MR. EPPS: Thank you.

11 THE COURT: All right. Good enough.

12 Now, do you believe, Ms. Coleman, that this is
13 subject to a 10 year timeframe?

14 MS. COLEMAN: No, Your Honor. Because there is
15 more than one offense. Even though they're both
16 labeled first offense, there's still more than one
17 conviction, which would make a second one a second or
18 subsequent conviction. Which would apply to part
19 four of that statute. Meaning they can use it
20 outside the 10 year.

21 THE COURT: Do you believe, Mr. Epps, that
22 Subjection 4, which is basically the salient
23 subsection where it says, Convicted of a second or
24 subsequent violation of a controlled substance
25 offense provision, do you believe that that

1 technically means that it is a conviction of a
2 possession second or possession with intent to
3 distribute second? Or do you believe that that can
4 be taken to mean that it is simply a simple adjective
5 which describes the number of convictions? And the
6 question--

7 MR. EPPS: I'm not trying to make this
8 difficult, Your Honor. Are you asking me or you
9 asking me -- if you're asking me--

10 THE COURT: Yeah.

11 MR. EPPS: Your Honor, here's what I believe. A
12 I could be wrong. But looking at this from a
13 hypothetical, if someone was convicted in 2000 of
14 heroin and cocaine first. And then in 2015 was
15 convicted of meth first. The 2000 crimes,
16 convictions, would be subsequent but one would have
17 to be considered a first offense conviction. But the
18 next one, which was on the same day and right after,
19 during that same guilty plea, would have to be a
20 subsequent violation of what I term, a hard drug,
21 under this statute.

22 I believe under that hypothetical scenario, Your
23 Honor, that that individual would, under this
24 statute, for the rest of his or her natural life, be
25 forever having to face the enhancement statute

1 without the benefit of the 10 years. I hope I've
2 answered that question for you.

3 THE COURT: You have. You have. And I
4 understand exactly what you're saying. And I don't
5 necessarily know that I disagree with you. I think
6 that would be an interesting argument at the time of
7 plea.

8 MS. COLEMAN: Your Honor.

9 THE COURT: Yes, ma'am.

10 MS. COLEMAN: I'm sorry to interrupt. I
11 actually looked into this issue a little bit last
12 night, tried to find some case law. To my knowledge,
13 there is no case law on that. On the specific issue
14 that we're questioning. But it's my understanding
15 that the solicitor's office is interpreting the
16 statute loosely as second or subsequent, not as a
17 second conviction.

18 THE COURT: Right. I understand.
19 Notwithstanding how it's characterized on the
20 sentence sheet, it's a matter of numerical
21 characterization. That means simply, how many has it
22 been? And I think given the fact that it's not
23 capitalized and it's written the way it is, I think
24 that is the simple interpretation of the statute.
25 And that's the way I've seen it customarily

1 interpreted, as well. It's interesting. I really do
2 think that it's interesting. But I also do think
3 that it's an issue that should have been raised at
4 the time of trial. And my recollection of the guilty
5 plea is that all of those issues were waived at the
6 time by and through the colloquy of the court.

7 Now, I will tell you, when I took this under
8 advisement, I had a very real concern as to whether,
9 in fact, The Court had jurisdiction to accept it has
10 a third or subsequent offense. Because we couldn't
11 determine whether it really was a third or subsequent
12 offense. Because it's kind of looked like a second.
13 Well, that clearly would have been ineffective
14 assistance of counsel if trial counsel had allowed
15 him to plead to a third offense when, in fact,
16 pursuant to his prior record it was clearly a second
17 offense. And that was of significant concern to me.
18 And if I remember correctly, even if I had granted it
19 based on the additional charges that were before The
20 Court, it would have been entirely academic, in any
21 event. But out of -- because I look at each and
22 every instance independent of one another, then I
23 thought it was fair to actually take that under
24 advisement and look at the statute.

25 But now, I understand Mr. Jeter's position is

1 that he was under the impression, in looking at all
2 of the information that was available to him, that it
3 simply was merged. And I believe, Mr. Jeter, that
4 you believe that, okay. I believe that you believe
5 that. But I wasn't concerned at the time of what you
6 believed. As a matter of fact, if you believed that
7 at the time of the plea, which you indicate you did,
8 then that means you are in a position to challenge it
9 at that time. And you waived the right to challenge
10 that at the time.

11 MR. JETER: I did.

12 THE COURT: Understand the logic here, okay.
13 You tell me today you always believed that that was a
14 first and it was your understanding at the time of
15 the plea that they were merged together. Okay, I
16 accept that. Okay, I accept that. But if you
17 believed that at the time of this trial, then you
18 could have raised that as an issue to the presiding
19 Judge.

20 MR. JETER: I did.

21 THE COURT: And you could have told him it's not
22 a third, it's a second.

23 MR. JETER: I did, I told my lawyer that.

24 THE COURT: And then you went before The Court.

25 And The Judge asked you to what offense you were

1 pleading? And you indicated that you were pleading
2 and you accepted a plea to the third. And you
3 otherwise waived all of your constitutional and
4 procedural due process rights. You waived your right
5 to challenge those issues and you waived your right
6 to a jury trial. I don't know why you did that, I
7 really don't know why you did that but you did.

8 MR. JETER: No, sir. I spoke--

9 THE COURT: And you may have. You very well may
10 have. And you may have then had the opportunity to
11 have your attorney to inspect that more closely. And
12 if you didn't think that he had, if you didn't think
13 that he had, then you would have said to him, Hey
14 man, I'm not satisfied with what you're doing. You
15 really haven't investigated this enough. And you're
16 not representing me like you should. Which you very
17 well could have said. And that would have been fair
18 game.

19 But when The Judge asked you, Are you satisfied
20 with the services of your attorney?

21 You said, Yes.

22 MR. JETER: No, I didn't.

23 THE COURT: You did.

24 MR. JETER: No, sir.

25 THE COURT: Is that what the record

1 demonstrates?

2 MR. JETER: Yes.

3 THE COURT: What does it say?

4 MR. JETER: I was -- the record doesn't -- I
5 wasn't asked that question. But The Judge said, as
6 you said, that I said that I was satisfied with my
7 attorney. But I never said that. And I asked my
8 attorney about that, about those offenses. And he
9 kept telling me that yes, it would be a third, it
10 could be a third. And he was doing this basing on
11 the marijuana charge that couldn't be used. Your
12 Honor, I didn't have a law book to read the statute
13 at that time. I didn't know nothing.

14 THE COURT: Well, it appears to me from the
15 record that has been presented to me, that the
16 marijuana charge really wasn't relevant at all.

17 MR. JETER: Yes, but I--

18 THE COURT: Because there was two crack charges.

19 MR. JETER: But that's what he told me that that
20 was going to be used, the marijuana charge. And I
21 didn't have anything to refute what he was saying
22 other than to trust him. That he knew what he was
23 talking about. But I kept asking him.

24 THE COURT: Yeah. And I'm going to tell you
25 something, it looks to me from this record, like he

1 was right. That it's two prior convictions. For
2 non-marijuana charge. I mean, that's what the record
3 clearly shows. I know what you're telling me, but
4 what I'm telling you is the record clearly shows two
5 prior convictions.

6 MR. JETER: Okay. So, the two prior
7 convictions, first offense, I should have been
8 pleading to a second offense straight up. Not a
9 negotiated to a second.

10 THE COURT: You should have brought that up at
11 the time.

12 MR. JETER: Your Honor, I didn't have a law
13 book, I didn't know. That's what my attorney. . .

14 THE COURT: I understand. I understand. I
15 understand exactly what you're saying. But I also
16 understand what I have to determine is not what you
17 found out after the fact. But whether counsel's
18 representation was deficient.

19 MR. JETER: And it was.

20 THE COURT: And I was concerned about that. I
21 really was. Because I was thinking to myself, boy,
22 if there weren't two convictions to substantiate a
23 third, then yeah, it was deficient. And I was going
24 to rule that way. But now I see there were two
25 convictions to substantiate a third.

1 MR. JETER: Your Honor, the statute speaks of
2 violations, not offenses. It doesn't say -- the
3 statute reads as if I had a first offense.

4 THE COURT: Uh-huh.

5 MR. JETER: And 11 years later I caught another
6 first offense, that would be another first offense.
7 And three years later I caught another offense,
8 that's not saying that I should get charged with
9 third offense there.

10 THE COURT: Well, you're reading--

11 MR. JETER: It's speaking of violations.

12 THE COURT: Well, you're reading Paragraph 3.

13 MR. JETER: Yeah.

14 THE COURT: You need to read Paragraph 4.

15 MR. JETER: Yea, I read four.

16 THE COURT: And that's basically what we had --
17 what we've had a discussion about, okay?

18 MR. JETER: Yes.

19 THE COURT: And if you think that I -- if you
20 think that I'm wrong about that, which is fair, I'm
21 wrong everyday, ask my wife. But if you think I'm
22 wrong, then you can appeal it. You can appeal my
23 decision. But I can tell you that my experience and
24 my reading of the law suggests that if under
25 Subparagraph 4 of Section 44-53-470(a), if you have a

1 second conviction for drugs or drug offense, other
2 than marijuana, at any time, that's what it says, at
3 any time, then it can be used against you for
4 subsequent offense. Okay. That's my reading of it.
5 And again, I could be wrong. But that's my reading
6 of it.

7 MR. JETER: It's speaking of violations.

8 THE COURT: Yes, sir.

9 MR. JETER: It's speaking of -- I do admit if
10 they was to separate the charges --

11 THE COURT: Yes, sir.

12 MR. JETER: Yes, that's two violations. But
13 that's two first offense violations. The statute
14 speaks of violations. It doesn't say it goes to the
15 next offense.

16 THE COURT: Yeah and I think we probably are
17 having a semantical disagreement about violations
18 versus convictions. The way I look at it is a
19 violation is an occurrence coupled with a conviction.
20 And that is clearly demonstrated that there are two
21 by way of warrants, which signify the specific date
22 and time; and sentence sheets which were each
23 independently signed by The Judge. So I see it as
24 two violations. Again, you can disagree with me, I
25 don't fault you for that.

1 MR. JETER: What I'd like for you to see, Your
2 Honor, if -- if I was sentenced under the three in
3 that statute.

4 THE COURT: Yes, sir.

5 MR. JETER: Okay, I would have a first offense.
6 Ten years later, 11 years later, it would be another
7 first offense. So, are you telling me if I get
8 caught on the -- if I get caught the next year, that
9 that automatically goes to a third offense?

10 THE COURT: If it's a -- if you've had a second
11 violation for a drug offense at any time of your
12 life, the answer to your question is yes. That's how
13 I read that statute. Okay. All right listen, I'm
14 going to tell you something, the reason I took it
15 under advisement is because I thought you were right.
16 And I was going to find that counsel was deficient,
17 okay. Because I take this stuff seriously. I'm not
18 hand waiving any of this. But the statute for an
19 offense involving a controlled substance, which it
20 is, okay, other than marijuana, which it is, pursuant
21 to this article the offender has at any time, at any
22 time, been convicted of a second--

23 MR. JETER: Violation.

24 THE COURT: -- non-capitalized--

25 MR. JETER: Violation.

1 THE COURT: -- second or subsequent violation of
2 a controlled substance offense provision, other than
3 marijuana offense provision of this article. Or of
4 another state or federal statute related to narcotic
5 drugs, depressants, stimulants or hallucinogenic
6 drugs, it can be considered a second or subsequent
7 offense. So, under my reading of the statute, it
8 seems pretty clear. Now, the only real room for
9 disagreement is whether -- how you define a second or
10 subsequent offense. And most courts have interpreted
11 that as the numerical number and not the precise
12 charges to which one is convicted.

13 In this case, you got two. So, it wouldn't
14 matter if it was ten years or not. It would only
15 matter whether there were two and it happened in your
16 lifetime. Okay. That's my reading of it. Again, I
17 could be wrong. And you can -- you can appeal that
18 decision. But I base the decision, this decision, on
19 the relevant burden of proof. That is whether trial
20 counsel was deficient and whether you were prejudiced
21 by that deficiency. I thought that trial counsel was
22 deficient. Until I saw that there were, in fact, two
23 previous convictions. Now, how you interpret that I
24 really think is not material to my decision.

25 MR. JETER: And that's--

1 THE COURT: But how you interpret that would be
2 a question at the time of the plea.

3 MR. JETER: That causes that statute to be
4 unconstitutional, Your Honor. And it should be void
5 from--

6 THE COURT: And that would be a question for the
7 Supreme Court. Not for me but for the Supreme Court.
8 And I don't know that you have standing to challenge
9 the constitutionality. You may have to file another
10 suit or appeal and make that a portion of your
11 appeal. But it's my understanding, based on my
12 knowledge of the law, my reading of the law, my
13 experience in this job and formally as a defense
14 attorney. And someone who represented PCR applicants
15 significant and a substantial number of times, that
16 it's not unconstitutional.

17 MR. JETER: Your Honor, the rule amenity
18 [verbatim] was -- says that it's supposed to go in my
19 favor. If there's any unambiguity. And it's clear
20 and unambiguous.

21 THE COURT: Well, it's clear to you that it's
22 ambiguous. And again, you might be right. I promise
23 you, I'm not arguing with you. That's just my
24 interpretation of the law. Take it up to the Court
25 of Appeals, Supreme Court and argue with them that I

1 was wrong. That's fair. That's fair. You're not
2 going to offend me by doing that, okay. Reasonable
3 people have reasonable disagreements everyday. Okay.
4 All right.

5 And I'm going to tell you as well, Mr. Jeter, I
6 don't mind whether you do it or not, but this issue
7 that we're talking about, if I'm not mistaken, if I
8 remember correctly, is entirely academic. Because
9 this was -- what was this a 15 year offense?

10 MR. EPPS: Fifteen year sentence, Your Honor.

11 THE COURT: Fifteen year sentence.

12 MR. JETER: But I was--

13 THE COURT: And you had additional 15 year
14 sentences as well to which this one is running
15 concurrent, right?

16 MR. JETER: Yes, sir.

17 THE COURT: Okay.

18 MR. JETER: But my thing is that he -- that said
19 that I was pleading to a lesser included offense.
20 That shouldn't been only but a second offense. So,
21 it's not lesser included.

22 THE COURT: Okay. And you're an intelligent
23 man. And you make logical arguments, okay. And I
24 appreciate it. I've ruled. And I may be wrong,
25 appeal it, okay. Appeal it, okay. I don't think I'm

1 wrong, okay. If I did think I was wrong I wouldn't
2 rule that way. Okay. All right. So, I wish you
3 luck, Mr. Jeter. Have a good day and a good weekend.

4 Ms. Coleman, if you'd send me an order, I'll
5 appreciate it.

6 MS. COLEMAN: Yes, Your Honor, thank you.

7 (WHEREUPON, the proceedings were concluded.)

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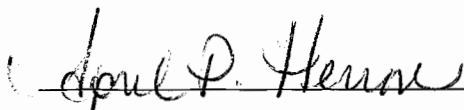
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for the Thirteenth 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 the Court of Common Pleas for Spartanburg County, South Carolina, on the 30th day of June, 2017.

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

December 30, 2017

 _____

APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA)
 COUNTY OF CHEROKEE)
)
 Alonzo Columbus Jeter III, #282902,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2016-CP-11-0293

**MOTION TO REOPEN RECORD
 AND MEMORANDUM IN SUPPORT
 OF DENYING POST-CONVICTION RELIEF**

MOTION

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on April 28, 2016. Respondent submitted its Return on November 15, 2016. An evidentiary hearing was convened on March 20, 2017, at the Spartanburg County Courthouse. Applicant was present at the hearing and was represented by Steven D. Epps, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

After the evidentiary hearing, and upon further investigation of Applicant's records, it came to Respondent's attention that Applicant had additional prior convictions that were not known about or discussed at the evidentiary hearing. In order to allow the Court to fully consider all pertinent information and make a fair ruling in the interest of justice, Respondent now moves to reopen the record to submit additional records from the Clerk of Court of Cherokee County. These supplemental records are attached.

[continued on following page]

FILED IN THE OFFICE
 CLERK OF COURT
 2017 MAY - 1 A 9:55
 STACY V. HIGBEE
 CHEROKEE COUNTY, SC

MEMORANDUM

In light of the new information provided by the additional clerk's records attached, Respondent submits the following:

1. Applicant pled guilty on October 12, 2004, to **two** counts of Possession of Crack (2004-GS-11-925 and 2004-GS-11-926, records of which are attached hereto as a supplemental record to this action) in violation of S.C. Code Ann. § 44-53-375 (1976). Applicant did not appeal his guilty pleas or sentences.
2. Applicant was charged with the offenses which are the subject of this action in 2014 and 2015, including two counts of distribution of methamphetamine, third offense, and trafficking methamphetamine, third offense, in violation of S.C. Code Ann. § 44-53-375.
3. Applicant pled guilty to the charges for a negotiated sentence of fifteen years. He pled down to distribution and trafficking methamphetamine, second offense, instead of third offense.
4. Respondent submits that Applicant was appropriately charged with distribution and trafficking, third offense, and his charges and guilty pleas to the lesser offense are proper based on his prior convictions. Although both of his prior convictions are from more than ten years before his guilty plea, S.C. Code Ann. § 44-53-470(A)(4) provides:

(A) An offense is considered a second or subsequent offense if:
[...]

(4) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has *at any time* been convicted of a second or subsequent violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute

relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

S.C. Code Ann. § 44-53-470(A)(4) (1976) (emphasis added).

5. Respondent submits that any allegation presented by Applicant that his indictments were insufficient, the plea court lacked subject matter jurisdiction, or that Plea Counsel was ineffective based on the argument that he did not have the proper prior convictions to support his enhancement should be denied.
6. For these reasons, Respondent asks this Court to deny and dismiss the application for post-conviction relief with prejudice.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JULIE A. COLEMAN
Assistant Attorney General


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

By: 
ATTORNEYS FOR RESPONDENT

April 27, 2017

April P. Herron
P.O. Box 17675
Greenville, SC 29606

MEMORANDUM

TO: Clerk of Court
FROM: April Herron 
DATE: October 11, 2017
RE: - Exhibits

Please find enclosed Exhibits from June 30, 2017. I was working in Spartanburg that week and was going to mail them to the Cherokee Clerk of Court after court. I inadvertently filed them with my log sheets for that week and just discovered them as I was pulling a file from that week. Sorry for any inconvenience this may have caused.

Thank you.

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2017 OCT 16 AM 8:29
BRANDY W. MCBEE



Steve Mueller
Sheriff of Cherokee County
312 East Frederick Street
Gaffney, South Carolina 29340
PHONE: (864)489-4722



1/6/30/17

I hereby give my consent to a complete records check and further request that all information concerning my arrest(s) and/or conviction(s) be furnished.

Alonzo C Jeter III

(NAME)

[REDACTED]
(SOCIAL SECURITY NUMBER)

[REDACTED]
(DATE OF BIRTH)

11/13/2013
(DATE)



THIS IS TO CERTIFY THE ABOVE NAMED SUBJECT:

- Does Not Have a Criminal History in Cherokee County
- Does Have a Criminal History in Cherokee County

- 05/07/96 A&B/E687401/guilty 05/24/96
- 05/12/97 Providing false info to police/90424AL/guilty bt time served 06/03/97
- 06/25/00 DUS/67324BC/guilty forf 07/05/00
- 05/07/01 Simple poss marijuana/68274BC/time served 09/03/01
- 05/07/01 DUS 5th/68272BC/time served 09/03/01
- 05/07/01 Disregarding stop sign/68270BC/time served 09/03/01
- 05/07/01 Failure to stop for blue light/68271BC/time served 09/03/01
- 05/07/01 Operating uninsured vehicle/68273BC/time served 09/03/01
- 02/24/02 CDL/H001623/guilty plea/03/27/02
- 04/28/03 DUS 2nd/67323BY/guilty 90 days 11/19/03
- 04/28/03 DUS 6th/67324BY/guilty 6 months 11/19/03
- 01/29/04 DUS 3rd/6748908/guilty plea 04/13/04
- 01/29/04 Breach of trust/H005602/guilty plea 04/08/04
- 09/04/04 Simple poss marijuana/H004829/guilty plea 09/29/04
- 03/04/04 PWID crack cocaine/H004830/3 yrs & \$5,000 susp CTS/3 yrs prob 10/12/04
- 11/30/06 Simple poss marijuana/H854986/pled guilty/ time served 08/18/08
- 02/08/08 Simple poss/97413DV/guilty bt 03/13/08



Steve Mueller
Sheriff of Cherokee County
312 East Frederick Street
Gaffney, South Carolina 29340
PHONE: (864)489-4722



I hereby give my consent to a complete records check and further request that all information concerning my arrest(s) and/or conviction(s) be furnished.

Alonzo Jeter III *[Signature]*
(NAME)
[REDACTED]
(SOCIAL SECURITY NUMBER)
[REDACTED]
(DATE OF BIRTH)
11/18/2013 11:43:57 AM
(DATE)

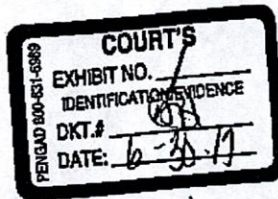
South Carolina IDENTIFICATION CARD
JETER, ALONZO COLUMBUS III ID# [REDACTED]
MALONE RD
GAFFNEY SC 293413211
DOB: [REDACTED]
Issued: 11-13-2013
Expires: 11-13-2018
Sex: M
Weight: 190
Height: 6-02
10-12-1971
NOT A DRIVER'S LICENSE
[Signature]

page 1 of 2

THIS IS TO CERTIFY THE ABOVE NAMED SUBJECT:

- Does Not Have a Criminal History in Cherokee County
- Does Have a Criminal History in Cherokee County

- 5-7-96 A&B/E687401/GUILTY 5-24-96
- 5-12-97 Providing false info to police/90424AL/guilty bt time served 6-3-97
- 6-25-00 DUS/67324BC/guilty for /7/5/00
- 5-7-01 Simple poss marij/68271BC/time served 9-3-01
- 5-7-01 Dus 5th/68271BC/time served 9-3-01
- 5-7-01 Disregarding stop sign/68270BC/time served 9-3-01
- 5-7-01 Driving to stop for blue light/68271BC/time served 9-3-01
- 5-7-01 Operating uninsured vehicle/68273BC/time served 9-3-01
- 2-24-02 CDV/H001623/guilty plea 3-27-02
- 4-28-03 DUI 2nd/57323BY/guilty 90 days 11-19-03
- 4-28-03 DUS 7th/Guilty 6 mo/11-19-03
- 1-29-04 DUS 3rd/27489CR/guilty plea/4-13-14
- 1-29-04 Breach of Trust/H005602/guilty plea 4-08-04
- 9-04-04 Simple poss marijuana/H004829/guilty plea 9-29-04
- 9-04-04 PWID crack cocaine/H004830/pled to poss of cocaine-3 yrs prob 10-12-04
- 11-30-06 Simple poss marijuana/H854986/pled guilty/ time served 8-18-08
- 2-08-08 Simple poss marijuana/97413DV/guilty bt 3-13-08



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHerokee
STATE ALONZO JETER III
AKA:
Race: B Sex: M Age: 26
DOB:
SS#:
Address: N. GRANAD ST.
City, State, Zip GAFFNEY SC 29340
DL# SID#

INDICTMENT/CASE#: 925
AW#: 04 -GS- 11 Direct Indictment
Date of Offense: 1-30-04
S.C. Code §: 44-53-375
CDR Code #: 0 1 1 1 0 1 0
CASE RESTORED SENTENCE
PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: POSSESSION OF CRACK 1 1/2
in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0 1 1 0 1 0
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
ATTEST: [Signatures] Solicitor, Defendant, Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 3 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$500.00; provided that upon the service of 3 days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for 3
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.
CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

SPECIAL CONDITIONS:

Table with columns for item description, amount, and total. Includes items like RESTITUTION, Public Service Employment, and various court fees.

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: October 12, 2004

BRANDY W. McBEE
Clerk of Court/ Deputy Clerk
Court Reporter: JAM GREEN

4
DOCKET NO. 04-GS-11-925

WITNESSES

Mike Gibson, CCSO

The State of South Carolina
County of Cherokee

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

SEP 30 2004 TERM

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

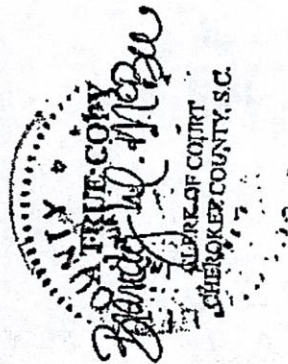
C.C.C. PLS. AND G.S.

THE STATE
vs.

Alonzo Columbus Jeter III

Indictment for
POSSESSION OF CRACK COCAINE

SC Code: 44-53-375



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLOTTE
 STATE VS. ALONZO JETER III
 AKA:
 Race: B Sex: M Age: 26
 DOB: [REDACTED] SS#: [REDACTED]
 Address: N. GUYARD ST.
 City, State, Zip: GAFFNEY SC 29340
 DL# _____ SID# _____

INDICTMENT/CASE#: 926
 A/W#: H-004830
 Date of Offense: 9-3-04
 S.C. Code §: 44-53-375
 CDR Code #: 0111010
 CASE RESTORED
 SENTENCE
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: POSSESSION OF CRACK 1ST
 in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0111010
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 3 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$500.00; provided that upon the service of time served days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on:
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
 Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms:
 set by SCDPPPS

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: _____

Recipient: _____
 *Fine: **A TRUE COPY**

\$14-3-206 (Assessment)	\$
\$14-1-211(a)(1) (Conv. Surcharge)	\$100
\$14-1-211(b)(2) (DUI Surcharge)	\$100
\$56-5-2995 (Public Defender)	\$12
\$35.13 (Public Defender)	\$500
\$73.3, 1B-TP (Law Enforce. Funding)	\$25
\$33.7, 1B-TP (Drug Court Surcharge)	\$100
\$50-21-114 (DUI Breath Test Fee)	\$50
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$
TOTAL	\$

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

Brandy W. McBee
 Clerk of Court/ Deputy Clerk
 Court Reporter: [Signature]

PRESIDING JUDGE [Signature]
 Judge Code: 0111315
 Sentence Date: October 12, 2004

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

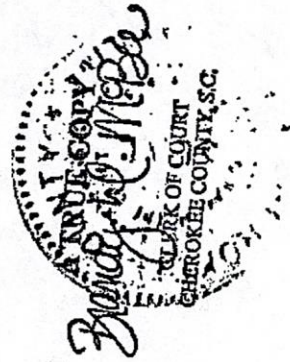
Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.



DOCKET NO. 04-GS-11- 926

The State of South Carolina
County of Cherokee

(04) Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

SEP 3 0 2004 TERM

THE STATE
vs.

Alonzo Columbus Jeter

Indictment for
POSSESSION OF CRACK COCAINE

SC Code: 44-53-375

WITNESSES

Kevin Wilson,
Cherokee Metro Drug Unit

ARREST WARRANT NUMBER

H-004830

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

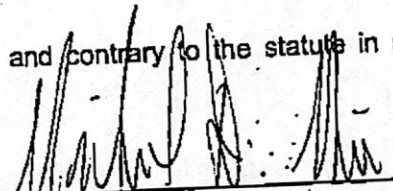
INDICTMENT

At a Court of General Sessions, convened on SEP 30 2004 the
Grand Jurors of Cherokee County present upon their oath:

POSSESSION OF CRACK COCAINE

That Alonzo Columbus Jeter did in Cherokee County on or about September 3, 2004, knowingly and intentionally possess a quantity of Crack Cocaine, a schedule II controlled substance, in violation of §§44-53-375, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended, such possession not having been authorized by law. ✓

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


ASSISTANT SOLICITOR

Form Approved by
S.C. Attorney General
July 26, 1980
SCGA 51B

ARREST WARRANT
H-004830

STATE OF SOUTH CAROLINA
County/ Municipality of Cherokee

THE STATE
against

Alonzo Columbus Jeter
Address: N. Granard St.
Gaffney, SC 29340

Phone: N: 600 SSN: 180
Sex: Race: Height: Weight: 180
DL State: DL #: SC0110000
DOB: Cherokee Metro Narcotic Unit
Prosecuting Agency: S/A Kevin Wilson
Prosecuting Officer: CRACK TOBACCO
Offense:
Code/Ordinance Sec. 44-53-375 Offense Code:

This warrant is CERTIFIED FOR SERVICE in the
County/ Municipality of
is to be arrested and brought before me to be
dealt with according to law.

Date: (L.S.)
Signature of Judge

RETURN
A copy of this arrest warrant was delivered to
defendant Alonzo Columbus Jeter
on
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
Robert B. Howell, Magistrate
312 E. Frederick Street
Gaffney, SC 29340
487-2502

STATE OF SOUTH CAROLINA
County/ Municipality of Cherokee

Personally appeared before me the affiant S/A Kevin Wilson
being duly sworn deposes and says that defendant Alonzo Columbus Jeter
did within this county and state on September 3, 2004 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Cherokee
in the following particulars:
DESCRIPTION OF OFFENSE: PWID CRACK COCAINE

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on the date of Sept. 03, 2004 the defendant, Alonzo Columbus Jeter, did have in his possession with
the intent to distribute a quantity of crack cocaine, a schedule II controlled substance, which at
N. Granard Street, in Gaffney, within Cherokee County South Carolina. This being in violation of the
South Carolina Code of Laws, 1976, as amended.

Warrant based on investigation of the Cherokee Metro Narcotic Unit.

Case No 2004-003121
Sworn to and subscribed before me)
on 09/03/2004)
Signature of Issuing Judge (L.S.))
312 E. Frederick Street
Gaffney, SC 29340
Affiant's Telephone 487-2504

STATE OF SOUTH CAROLINA
County/ Municipality of Cherokee

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:
It appearing from the above affidavit that there are reasonable grounds to believe that
on September 3, 2004 defendant Alonzo Columbus Jeter
did violate the criminal laws of the State of South Carolina (or ordinance of
County/ Municipality of Cherokee) as set forth
DESCRIPTION OF OFFENSE: PWID CRACK COCAINE

Now, therefore, you are empowered and directed to arrest the said defendant and bring him before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.
Judge's Address 312 E. Frederick Street
Gaffney, SC 29340
Judge's Telephone 487-2502
Signature of Issuing Judge (L.S.)
Judge Code: 403 Issuing Court: Magistrate Municipal Circuit

ORIGINAL

AFFIDAVIT
who

who

who

who

who

who

who

who

who

4
DOCKET NO. 08-GS-11-925

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

The State of South Carolina

County of Cherokee

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

SEP 30 2004 TERM

THE STATE vs.

Alonzo Columbus Jeter III

Indictment for
POSSESSION OF CRACK COCAINE

SC Code: 44-53-375

WITNESSES

Mike Gibson, CCSO

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

X

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLOTTE
STATE VS.

ALONZO JETER III

AKA:

Race: B, Sex: M Age: 26

DOB: [REDACTED] SS#: [REDACTED]

Address: N. GUYARD ST.

City, State, Zip GAFFNEY SC 29340

DL# _____ SID# _____

INDICTMENT/CASE#:

04 -GS- 11 FB 925
AW#: ~~#001557~~ Direct Indictment

Date of Offense: 1-30-04

S.C. Code §: 44-53-375

CDR Code #: 0 1 1 1 0 1 0

CASE RESTORED

SENTENCE

PLEA TRIAL

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

TO: POSSESSION OF CRACK 1ST

In violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0 1 1 1 0 1 0

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.

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

ATTEST:

[Signature]
Solicitor

[Signature]
Defendant

[Signature]
Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 3 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ 500.00; provided that upon the service of time served days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____

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

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 set by SCDPPPS _____

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: _____

Recipient: _____	
*Fine:	\$ _____
\$14-1-206 (Assessments 107.5%)	\$ _____
\$14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ _____
\$14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
\$56-5-2995 (DUI Assessment)	\$12 \$ _____
\$ 35.13 (Public Def/Prob)	\$500 \$ _____
\$73.3, 1B TP (Law Enforce. Funding)	\$25 \$ _____
\$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)	\$ _____
TOTAL:	\$ _____

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

Brandy W McBees
Clerk of Court/ Deputy Clerk

Court Reporter: Jam Green

PRESIDING JUDGE

Judge Code: 01 1 1 3 15

Sentence Date: October 12, 2004

STATE OF SOUTH CAROLINA

COUNTY OF Cherokee

THE STATE against

Alonzo Jeter III

ARREST WARRANT

Offense: Violation of Probation

Offense Section:

Date: May 3, 2005

Officer and Agency: SC Department of Probation, Parole and Pardon Services

Tammy Phillips

Disposition

Sentence

Co-Defendants

INFORMATION ON DEFENDANT

Name: Alonzo Jeter III
Address: [redacted] Malbone Rd.
Gaffney, SC 29341

Phone:
Sex: Male Race: Black Height: 6'3"
Weight: 176 Birth date: [redacted]
Social Security Number: [redacted]

INFORMATION ON WITNESSES

Name:
Address:
Phone:

Name:
Address:
Phone:

Name:
Address:
Phone:

Name:
Address:
Phone:

PRELIMINARY HEARING held by

Magistrate on with

Attorney for the Defendant.

Decision: BAIL
Date Set:
Magistrate Amount:
Surety:

RETURN

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

Alonzo Jeter

on the 13 day of June 2005

[Signature] Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge (L.S.)

WITNESSES

Kevin Wilson,
Cherokee Metro Drug Unit

DOCKET NO. 04-GS-11- 926

The State of South Carolina

County of Cherokee

(04) Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

SEP 3 0 2004 TERM

ARREST WARRANT NUMBER

H-004830

ACTION OF GRAND JURY

THE STATE
vs.

Alonzo Columbus Jeter

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

Indictment for
POSSESSION OF CRACK COCAINE

SC Code: 44-53-375

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE.)

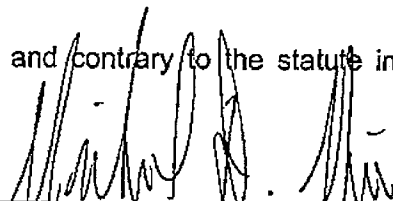
INDICTMENT

At a Court of General Sessions, convened on SEP 30 2004 the
Grand Jurors of Cherokee County present upon their oath:

POSSESSION OF CRACK COCAINE

That Alonzo Columbus Jeter did in Cherokee County on or about September 3, 2004, knowingly and intentionally possess a quantity of Crack Cocaine, a schedule II controlled substance, in violation of §§44-53-375, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended, such possession not having been authorized by law.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLOTTE
 STATE VS. ALONZO JETAL III
 AKA:
 Race: TR Sex: M Age: 26
 DOB: [REDACTED] SS#: [REDACTED]
 Address: N. GORDON ST.
 City, State, Zip: CANTON SC 29340
 DL# _____ SID# _____

INDICTMENT/CASE#: 04 -GS- 11 - 926
 A/W#: H-004830
 Date of Offense: 9-3-04
 S.C. Code §: 44-53-375
 CDR Code #: 0 1 1 0 1 0
 CASE RESTORED
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: POSSESSION OF CRACK 1ST
 in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0 1 1 0 1 0
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST: [Signature] Solicitor [Signature] Defendant [Signature] Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 3 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ 5000.00; provided that upon the service of time served days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for 3 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms:
 set by SCDPPPS _____

Recipient:	
*Fine:	\$ _____
§14-1-206 (Assessments 107.5%)	\$ _____
§14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ _____
§14-1-211(A)(2) (DUI Surcharge)	\$100 \$ _____
§56-5-2995 (DUI Assessment)	\$12 \$ _____
§ 35.13 (Public Def/Prob)	\$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding)	\$25 \$ _____
§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)	\$ _____
TOTAL	\$ _____

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 [checked]
 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.

Brandy L. McBee
 Clerk of Court/ Deputy Clerk
 Court Reporter: [Signature]

PRESIDING JUDGE [Signature]
 Judge Code: 01 1 1 3 1 5
 Sentence Date: October 12, 2004

AFFIDAVIT

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
Cherokee)

Personally appeared before me the affiant S/A Kevin Wilson who
being duly sworn deposes and says that defendant Alonzo Columbus Jeter
did within this county and state on September 3, 2004 violate the criminal laws of the
State of South Carolina (or ordinance of County/ Municipality of Cherokee)
in the following particulars:

DESCRIPTION OF OFFENSE: PNID CRACK COCAINE

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:

That on the date of Sept. 03, 2004 the defendant, Alonzo Columbus Jeter, did have in his possession with
the intent to distribute a quantity of crack cocaine, a schedule II controlled substance, which at
N. Granard Street, in Gaffney, within Cherokee County South Carolina. This being in violation of the
South Carolina Code of Laws, 1976, as amended.

Warrant based on investigation of the Cherokee Metro Narcotic Unit.

Case No # 2004-003121

Sworn to and subscribed before me)
on 09/03/2004)

[Signature])
Signature of Affiant)
Affiant's Address 312 E. Frederick Street
Gaffney, SC 29340
Affiant's Telephone 487-2504

STATE OF SOUTH CAROLINA)
 County/ Municipality of)
Cherokee)

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
on September 3, 2004 defendant Alonzo Columbus Jeter

did violate the criminal laws of the State of South Carolina (or ordinance of
 County/ Municipality of Cherokee) as set forth below:
DESCRIPTION OF OFFENSE: PNID CRACK COCAINE

Now, therefore, you are empowered and directed to arrest the said defendant and bring him or her before
me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the
defendant at the time of its execution, or as soon thereafter as is practicable.

[Signature])
Signature of Issuing Judge (L.S.))
Judge Code: 403)
Issuing Court: Magistrate Municipal Circuit
312 E. Frederick Street
Gaffney, SC 29340
487-2502

5 SERVED
ARREST WARRANT ENTERED
H-004830 9-3-04

STATE OF SOUTH CAROLINA
 County/ Municipality of
Cherokee

THE STATE
against

Alonzo Columbus Jeter
Address: N. Granard St.
Gaffney, SC 29340

Phone: [REDACTED] SSN: [REDACTED] Height: 180
Sex: M Race: [REDACTED] Weight: [REDACTED]
DL State: [REDACTED] DL #: [REDACTED]
DOB: [REDACTED] Agency ORI#: SC0110000
Prosecuting Agency: Cherokee Metro Narcotic Unit
Prosecuting Officer: S/A Kevin Wilson
Offense: PNID CRACK COCAINE

Code/Ordinance Sec. 44-53-375 Offense Code:

This warrant is CERTIFIED FOR SERVICE in the
 County/ Municipality of

is to be arrested and brought before me to be
dealt with according to law.

Date: _____ (L.S.)
Signature of Judge

RETURN
A copy of this arrest warrant was delivered to
defendant Alonzo Columbus Jeter
on 9-3-04
[Signature] 33218
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:
Robert B. Howell, Magistrate
312 E. Frederick Street
Gaffney, SC 29340
487-2502

BAIL set by

Judge _____

on _____

Type and Amount: _____

Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____

on _____

Defense Attorney: _____

Decision: _____

DISPOSITION before

Judge _____

on _____

by _____

(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

WITNESSES

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

CODEFENDANTS

STATE OF SOUTH CAROLINA)
 COUNTY OF CHEROKEE)
)
 Alonzo Columbus Jeter III, #282902,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

2016-CP-11-0293

ORDER OF DISMISSAL

FILED IN THE CLERK'S OFFICE
 CHEROKEE COUNTY
 2017 JUN 27 A 11:17

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on April 28, 2016. Respondent submitted its Return on November 15, 2016. An evidentiary hearing was convened on March 20, 2017, at the Spartanburg County Courthouse. Applicant was present at the hearing and was represented by Steven D. Epps, Esquire. Respondent was represented by Assistant Attorney General Julie A. Coleman of the South Carolina Attorney General's Office.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel, Christopher Kennedy, Esquire ("Plea Counsel") also testified. The Court had before it a copy of the guilty plea transcript, the records of the Cherokee County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the pleadings.

Following the evidentiary hearing, Respondent filed a motion to reopen the record to submit additional records from the Cherokee County Clerk of Court. Applicant objected to the motion, and a hearing was held on June 30, 2017, at the Spartanburg County Courthouse. At the hearing, this Court granted the motion and took judicial notice that Applicant had two prior convictions for possession of crack (2004-GS-11-925 and -926). The additional documentation

of these convictions were added to the record before the Court and considered in making the findings below. The Court finds as follows:

I. PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Cherokee County. Applicant was charged with two counts of distribution of methamphetamine, third or subsequent offense (2015-GS-11-0461 and -0463), two counts of distribution of methamphetamine within one-half mile of a park or school (2015-GS-11-0462 and -0464), and one count of trafficking in methamphetamine 10–28 grams, third offense (2015-GS-11-0465). Applicant was represented by Christopher Kennedy, Esquire. On July 16, 2015, Applicant waived presentment to the grand jury on all charges and pleaded guilty to the lesser included offenses of two counts of distribution of methamphetamine, second offense, and trafficking in methamphetamine 10–28 grams, second offense. Pursuant to a negotiated recommendation of 15 years and concurrent sentencing, the Honorable Lee S. Alford sentenced Applicant to imprisonment for concurrent terms of 15 years for each count of distribution of methamphetamine and trafficking in methamphetamine, and 10 years for each count of distribution of methamphetamine within one-half mile of school.¹ Applicant did not appeal his guilty plea or sentence.

II. ALLEGATIONS

In his current application, Applicant alleges that he is being held in custody unlawfully based on the following allegations:

¹ Applicant was also charged with possession of an ounce or less of marijuana (2014-GS-11-591), second offense, and pleaded guilty to that charge in the same proceeding. Judge Alford sentenced him to time-served. Applicant does not challenge that conviction in his application.

1322

1. Ineffective Assistance of Counsel, in that:
 - a. "Counsel failed to investigate and request continuance. . . . A continuance would have given counsel more time to investigate, prepare for mitigation and bargaining, as well as time to discover the applicant's state of mind and needs."
 - b. "Counsel failed to challenge insufficient indictments."
 - c. "Counsel failed to present nor allow me to present mitigating evidence and factors at opportunity"
 - d. "Counsel failed to obtain the original plea offer of seven (7) years."
 - e. "Counsel failed to inform me of my right to appeal and make sure I understood what it was and how to do it."
 - f. "Charges were erroneously enhanced - Prior marijuana conviction should not have been used to enhance my charges. It also had been 11 years since my first conviction and therefore should not have been used to enhance."

2. Due Process Violation
 - a. "My constitutional rights of due process under the Fourteenth Amendment, and applicable case law, was violated as counsel failed to request a competency hearing."
 - i. Absent counsel's errors there is a reasonable probability that the evidence would have been reweighed and thus it would have been concluded that the balance of aggravating and mitigating circumstances did not warrant such harsh sentencing and punishment.
 - ii. Applicant also had the right to be competent when entering a guilty plea and a complete picture of the Applicant's mental condition would have established that the Applicant was suffering from a mental or emotional disturbance both at the time the crimes were committed and at the time of entering a plea of guilty.
 - iii. Due process prohibits this conviction therefore the conviction is illegal.

3. Lack of Subject Matter Jurisdiction
 - a. "The court lacked subject matter jurisdiction to accept my guilty pleas."

III. APPLICABLE LAW

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

RA 5/3

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, (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. Applicant must overcome this presumption in order 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. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Id. (citing Strickland, 466 U.S. at 688). Second, any 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." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty pleas, 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 (1985).

V. SUMMARY OF RELEVANT TESTIMONY

Applicant testified that the prior convictions the Solicitor relied upon in charging him with a third offense in trafficking cocaine were incorrect and his convictions could not properly be used to enhance his sentence. He testified that he was charged with a third offense of trafficking, but he pled guilty to the lesser included offense of trafficking, second offense. He

RA?
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testified that he pled guilty to possession with intent to distribute within a half-mile of a park or school, but he later found out that the park he was near was a church playground, not a public park, and this charge was improper. He stated that he did not mention the fact that it was a church playground to Plea Counsel.

Applicant testified that he knew that he did not have any hard drug convictions from after 2004, but could not think straight enough to tell Plea Counsel. He stated that Plea Counsel did not discuss the defense of entrapment with him, but he knows that if he had gone to trial on his charges and argued entrapment, he would have been acquitted. He stated that the separate charges he picked up in April and May following this charge were dismissed after he pled guilty to these offenses in exchange for his guilty plea. He testified that he was not taking his medication during the guilty plea. He stated that Plea Counsel had mitigation materials about how Applicant had tried to find work but was turned down for multiple jobs, and Plea Counsel should have presented them to the plea court. He stated that he wanted Plea Counsel to appeal his guilty plea, but he never got a chance to talk to him after the plea.

Plea Counsel testified that the Solicitor's original plea offer to Applicant was a seven year deal, but it was contingent on him speaking to the investigators in the case. He stated that after the Solicitor spoke with the investigator, they revoked their offer and told him that they could not offer a seven year deal. He stated that he had nothing guaranteeing him this deal in writing, it was only on his word and it relied on the approval of the investigator, which the investigator did not give.

Plea Counsel testified that there was nothing that made him think that Applicant's mental health was an issue. He stated that he never thought that Applicant did not understand what was going on during his proceedings, and there was no basis to seek a hearing over his mental

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competency. Plea Counsel testified that, as part of his investigation, he went to the church playground in question and verified that it was within a half-mile of where Applicant was caught selling drugs. He testified that he had mitigation records to present, but they did not need to present them at the guilty plea because Applicant pled to a negotiated sentence. Plea Counsel stated that he did speak to Applicant after the guilty plea, and he also remembered Applicant's girlfriend calling him and speaking to him after the plea, and neither of them asked him to file an appeal. He stated that there was no indication that Applicant wanted an appeal.

Plea Counsel testified that he does not recall discussing an entrapment defense with Applicant, and he did not think that an entrapment defense would have been successful in this case. Plea Counsel stated that he did not think they would win if they had gone to trial. He stated that he did not ask for the identity of the confidential informant because the Solicitor's Office practice is to withdraw any plea offers if they reveal the identity. He stated that if Applicant had gone to trial rather than pleading guilty, the Solicitor's Office would have tried each charge separately, and on the third charge, he would have been convicted of trafficking third offense and received a life sentence. He stated that he believed there was a reasonable basis for the State to try each charge separately because there were a few days between each drug buy.

VI. 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

Applicant has asserted several allegations of ineffective assistance of counsel. This Court finds these claims to be meritless and they should be denied and dismissed with prejudice. This Court finds Plea Counsel's representation did not fall below the standards of professional norms in any manner. He communicated properly with Applicant and reviewed all discovery materials with him. Based on this testimony and the record before the court, this Court finds Plea Counsel's representation was not ineffective in any regard.

Failure to investigate and request a continuance

Applicant alleges that Plea Counsel was ineffective for failing to investigate his case and request a continuance before his guilty plea. This allegation is meritless.

Plea Counsel credibly testified that he investigated this case as well as Applicant's criminal history. He stated that he drove to the church playground in question to verify that it was within a half-mile of the location Applicant sold the drugs. He read the SLED report and verified its information. Based on the strength of the State's evidence against Applicant, Plea Counsel strategically negotiated plea deals with the State and was able to obtain a negotiated sentence. Plea Counsel testified that there was no reason to request a continuance before the guilty plea.

Based on this testimony, this Court finds that Plea Counsel thoroughly investigated Applicant's case and was not ineffective in this regard. Therefore, this allegation is denied and dismissed with prejudice.

Failure to present mitigation

Applicant alleges that Plea Counsel was ineffective for failing to present or allow him to present mitigating evidence and factors at the guilty plea. This Court finds that Plea Counsel was

not deficient for choosing not to present mitigating factors because Applicant pled guilty pursuant to plea deal for a negotiated sentence. Presenting mitigating factors would not have changed the plea court's sentence because it accepted a negotiated plea, and there can be no prejudice to Applicant. Therefore, since neither prong of the Strickland test is met, this allegation is denied and dismissed with prejudice.

Failure to obtain original seven year plea deal

Applicant alleges Plea Counsel was ineffective for failing to obtain the original seven year plea offer from the State. This allegation is meritless.

Plea Counsel credibly testified that the State's original offer of seven years was contingent upon approval from the investigator in the case. After the Solicitor consulted with the investigator, the investigator indicated that he wanted a much higher sentence, and the Solicitor rightfully revoked his offer. The Solicitor never promised to Applicant or Plea Counsel in writing or orally that he would definitely offer a seven year deal. It was through no fault of Plea Counsel's that this deal was not offered. Any plea offer and its terms are within the discretion of the prosecuting Solicitor. See State v. Johnson, 287 S.C. 171, 172, 337 S.E.2d 204, 205 (1985) (holding a solicitor has broad discretion in choosing the offenses with which a defendant will be charged and in plea negotiations leading up to trial). Based on this testimony presented at the evidentiary hearing, it is clear that Plea Counsel was not ineffective in this regard, and this allegation is denied and dismissed with prejudice.

Failure to inform of right to appeal

Applicant alleges Plea Counsel failed to inform him of his right to appeal his guilty plea. At the evidentiary hearing, Plea Counsel credibly testified that his practice is always to discuss his client's right to appeal before the actual guilty plea. He stated he was sure he did that in this



case, and the plea judge reviewed this right with him, as well. Trial tr. 17, ll. 25. Plea Counsel testified that there was no indication that Applicant wanted an appeal, and he spoke to both Applicant and his girlfriend after the guilty plea and neither mentioned an appeal. He further stated there was no factual or legal basis for an appeal of his guilty plea and there were no objections made during the guilty plea.

This Court finds that Plea Counsel did advise Applicant of his right to appeal and that he received no indication that an appeal needed to be filed. Therefore, Plea Counsel cannot be deficient. This allegation is denied and dismissed with prejudice.

Failure to challenge insufficient indictments

This Court finds that Plea Counsel was not ineffective for failing to challenge the indictments in this case. Applicant was properly indicted and put on notice of his charges. Applicant waived presentment to the grand jury on all of his charges. Plea Counsel credibly testified that he saw no basis for challenging the indictments on the grounds that the facts didn't support the charge on the indicted offense, and this Court agrees.

Applicant alleges that the indictments for Distribution of Methamphetamine within a Half-Mile of a Park or School (2015-GS-11-0462 and -0464) were improper because the park within a half-mile of the sale was a private church playground that does not fall under the statute, S.C. Code Ann. § 44-53-445 (2010). However, this Court finds that this challenge to the classification of the park is a factual argument against the State's evidence and not a challenge to the sufficiency of the indictment. Any factual challenge to this offense, meaning whether the church playground was public or private, was waived by Applicant when he chose to plead guilty.

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"[I]n South Carolina, a guilty plea constitutes a waiver of nonjurisdictional defects and claims of violations of constitutional rights." State v. Rice, 401 S.C. 330, 331-32, 737 S.E.2d 485, 485-86 (2013) (citing Hyman v. State, 397 S.C. 35, 44, 723 S.E.2d 375, 379 (2012)). A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal defendant's right to contest the validity of such a plea is usually, but not definitely, foreclosed. Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (2007). In Jamison, the South Carolina Supreme Court noted it would be a "rare case" where the interests of justice require the vacation of a knowing and voluntary guilty plea involving an admission of guilt and a waiver of trial. Jamison, 165 S.E.2d at 130.

The factual argument that the church playground is not a public park is not a defect in the indictment, but rather it is a challenge to the sufficiency of the State's evidence that Applicant and Plea Counsel could have raised if Applicant had chosen to go to trial. This Court finds that Plea Counsel was not deficient for failing to challenge this as an attack on the sufficiency of the indictments.

Furthermore, Applicant can prove no prejudice because he knowingly and intelligently pled guilty to this offense and received a ten year sentence for these charges, which he is serving concurrently to his fifteen year sentence for the other offenses. Even if these indictments had been dismissed, Applicant would still be serving a fifteen year sentence, so there can be no prejudice. Because Applicant has failed to meet his burden of proving both prongs of the Strickland test, this allegation is denied and dismissed with prejudice.

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Failure to challenge improper enhancements

Applicant alleges Plea Counsel was ineffective for failing to challenge the improper enhancement of his charges. This allegation is meritless.

Applicant was charged with Distribution of Methamphetamine, third offense, and Trafficking Ice, Crank, or Crack, ten grams or more but less than 28 grams, third offense. After plea negotiations with the State, Applicant pled guilty to distribution, second offense, and trafficking, second offense; the State allowed him to plea to a lower offense in exchange for his guilty plea. Applicant now alleges in his PCR action that he never had the proper prior convictions to allow the State to enhance his charge to third offense. He argued to the Court that his prior trafficking conviction was just outside of the ten year scope of offenses allowed and should not have been used to enhance his charge. He further argued that the other prior conviction used for enhancement purposes was a marijuana conviction, which under the law cannot be used for enhancement purposes in this case.

At the evidentiary hearing, Applicant testified that he did not tell Plea Counsel about the problems with his enhancement because he assumed they were correct. Plea Counsel testified that he discussed Applicant's prior convictions with him and the effect that they would have on his sentencing if convicted at trial. He stated that Applicant was subject to a potential sentence of Life Without Parole if convicted based on his prior record. Plea Counsel testified that his strategy was to negotiate a plea deal with the State to allow Applicant to plea to a lesser sentence, because he believed that the State could reasonably convict Applicant on all three separate drug buys, which would definitely be three strikes against him, resulting in a life sentence. He stated that there was video evidence of Applicant selling drugs, and the evidence was strong enough

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that Applicant likely would not prevail at trial. Because of this, Plea Counsel believed a plea deal was in Applicant's best interest, regardless of what his prior convictions were.

Based on Plea Counsel's credible testimony of the strategy behind his negotiations, this Court finds that Plea Counsel was not deficient in failing to challenge Applicant's charges.

Most importantly, this Court further finds that Applicant was not prejudiced by Plea Counsel's failure to challenge the charges against him because Applicant did have the proper prior convictions to enhance his charge to a second offense. Applicant pled guilty on October 12, 2004, to two separate counts of possession of crack. There is no question that these were separate and distinct convictions because the drug buys were on two different dates several months apart, and they resulted in two convictions with two concurrent sentences and sentencing sheets.

South Carolina law provides that an offense under the relevant statute is considered a second or subsequent offense if "the offender has *at any time* been convicted of a second or subsequent violation of a controlled substance offense provision" other than marijuana. S.C. Code Ann. § 44-53-470(A)(4) (emphasis added). Neither 2004 conviction was a marijuana conviction. Therefore, one of the 2004 convictions is a "second or subsequent" conviction under the law, and can be properly used to enhance Applicant's 2015 charges, even if they were more than ten years before the current guilty plea.

Although it appears from the guilty plea transcript that the Solicitor used the wrong charge to enhance the conviction (See Tr. 21:11-12, where the Solicitor cites a 2013 possession of a controlled substance conviction that was actually marijuana and unable to be used to enhance under the statute), there is no prejudice because Applicant *did* have prior convictions to properly enhance his charges to at least a second offense. Applicant pled guilty to trafficking, second offense, and thus his conviction was proper and should not be overturned.

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Because Applicant has failed to meet his burden of proving either prong of the Strickland test, this allegation is denied and dismissed with prejudice.

DUE PROCESS

Applicant alleges that he was denied due process of law. Applicant's allegation claims infringement of his rights under the Fourteenth Amendment to the United States Constitution based on Plea Counsel's failure to request a mental competency hearing. This allegation is meritless.

The testimony presented at the evidentiary hearing and the record of the guilty plea indicate that Plea Counsel was not deficient in choosing not to challenge Applicant's mental competency. Plea Counsel credibly testified that he believed Applicant always understood what was going on and show no indications of mental issues. He testified that he saw no reason to request an evaluation or challenge his guilty plea based on a lack of competency. This Court finds that Plea Counsel was not deficient in this regard.

Secondly, Applicant has failed to meet his burden of proving prejudice because he has not proven that he actually lack mental competency. The South Carolina Supreme Court "has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial." Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). "The applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice." Glover v. State, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Applicant did not present any testimony from a mental evaluator or introduced any mental health records or

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evaluation reports proving that he was incompetent. Therefore, as a matter of law, he cannot prove prejudice.

Applicant has failed to meet his burden of proving any due process violation, and this allegation is denied and dismissed with prejudice.

SUBJECT MATTER JURISDICTION

Applicant alleges the court did not have subject matter jurisdiction over his charges. An Applicant may challenge the subject matter jurisdiction of the trial court and such a claim is one that may be raised at any time. See Brown v. State, 343 S.C. 342, 540 S.E.2d 846 (2001), overruled in part by Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). However, “[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.” Gentry, 363 S.C. 93; See also S.C. Const. Art. V, § 7. Thus, Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant’s conviction involved a criminal charge in General Sessions Court. Thus, the circuit court had subject matter jurisdiction. Applicant has failed to present any evidence that the convictions he challenges in this application are in a class over which the circuit court does not have the authority to provide.

Furthermore, to any extent that Applicant is challenging subject matter jurisdiction based on what he alleges were faulty indictments, Applicant waived his right to challenge the indictments by waiving presentment to the grand jury and pleading guilty. “When a defendant timely objects to the sufficiency of the indictment, before the jury is sworn, a ruling that an indictment is not sufficient will result in the quashing of the indictment **unless the defendant waives presentment to the grand jury and pleads guilty.** State v. Means, 367 S.C. 374, 385, 626 S.E.2d 348, 354 (2006) (citing Cutner v. State, 354 S.C. 151, 155, 580 S.E.2d 120, 122–23

(2003), *overruled on other grounds*, Gentry, 363 S.C. 93, 610 S.E.2d 494) (emphasis added).

Therefore, this allegation is denied and dismissed with prejudice.

VII. CONCLUSION

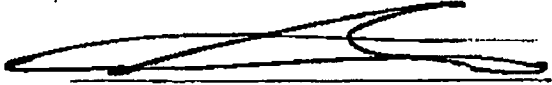
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty 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 post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant 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 is denied and dismissed with prejudice; and
2. That Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 24 day of July, 2017.


 ROBIN B. STILWELL
 Presiding Judge
 Seventh Judicial Circuit

Chambers, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016-CP-11-293

Alonzo Columbus Jeter, III, #282902

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

FILED IN THE CLERK'S OFFICE JUL 27 2016

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

S/ Robin B. Stilwell
Circuit Court Judge

2158
Judge Code

July 27, 2017
Date

For Clerk of Court Office Use Only

This judgment was entered on the 27th day of July, 2017 and a copy mailed first class or placed in the appropriate attorney's box on this 27th day of July, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Steven D. Epps

104-A Franklin Ave., Ste. 281

Spartanburg, SC 29301

ATTORNEY(S) FOR THE PLAINTIFF(S)

Office of the Attorney General (Alan M. Wilson)

PO Box 11549

Columbia, SC 29211-1549

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Jandy L. McBe

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Horizontal lines for additional information.

FILED IN THE OFFICE
CLERK OF COURT
2017 JUL 27 P 3:35
CLERK OF COURT

April 5, 2017

Alonzo C Jeter III
Perry Correctional Institution
Q1-B-215 / #282902
430 Oaklawn Road
Pelzer, SC 29669

~~Steven D. Epps, Esquire~~
Epps Law Firm, LLC
104-A Franklin Ave.
Spartanburg, SC 29301

RE: Alonzo C Jeter v State (PCR)
2016-CP-11-0293 (Cherokee County)

Dear Mr. Epps:

I am writing to you today in regards of my Post Conviction Relief (PCR) hearing which was held on March 20, 2017. I have received your letter and I would like for you to file a motion for reconsideration on the issues in which The Honorable Judge Stillwell has denied my PCR once you have received the PCR Court's Order.

I also ask that you file a Rule 59(e) Motion in the event that the PCR Court fails to make specific findings of fact and conclusions of law regarding any issues that I have raised. The issues that I raised were:

- 1) Improperly Enhanced Charges
 - (a) State used a prior first offense drug conviction from 2004 which was not supposed to be used as an enhancer due to the charge being over 10 years old. This was an error.
 - (b) My prior marijuana conviction from 8/15/2013 was used as an enhancer to my charges. This was an error.
- 2) Proximity – I should not have been charged with proximity to a church.
- 3) Mental Health Competency / Duress – I wasn't receiving my mental health medications while being housed at the Cherokee County Detention Center (Jail) prior to my plea. I was being assaulted by the officers at the jail. I wasn't able to assist my attorney (Mr. Kennedy) in my case.
- 4) Number of Controlled Buys – There were two controlled buys and not three. I also dispute the weight of the buys.
- 5) Failed to file an appeal or make sure that I knew how to invoke the appeal process

6) Failure to Investigate

7) Subject Matter Jurisdiction

8) Motion for Discovery – The PCR Court's Order should also address that this motion was made and denied by The Honorable Judge Stillwell and the Order should specifically address and list specific discovery motioned for.

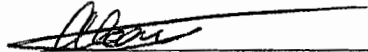
Mr. Epps, it is incumbent upon you that you file this Rule 59(e) Motion on my behalf if these issues are not addressed and the PCR Court's Order fails to make specific findings of fact and conclusions of law regarding any issues that I have raised.

Lastly, please provide me with the following:

- 1) A copy of the filed Motion for Reconsideration
- 2) A copy of the PCR Court's Order as soon as you have obtained it
- 3) A copy of the filed Rule 59(e) Motion
- 4) A copy of the Amendments to my PCR application that you filed (or should have filed)

Thanks for your time, attention, and all that you do.

Sincerely,


Alonzo C Jeter

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHEROKEE) SEVENTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-11-0293

Alonzo Columbus Jeter, III, #282902)
Applicant / Petitioner,)
v.) **PETITIONER'S NOTICE AND MOTION**
State of South Carolina,) **FOR RECONSIDERATION**
Respondent.)

To: The Honorable Alan Wilson, Attorney General for the State of South Carolina and Assistant Attorney General Julie Coleman, Esquires:

Please take note that the Petitioner, within 10 days or as soon as may be heard, pursuant to Rule 59, SCRCP, will move before the Court requesting it reconsider its final order in this matter for the following reasons:

1. Improperly Enhanced Charges -
 - a) During its presentation of the evidence during the original plea, the State used improper charges, references, and convictions to support the alleged proper "3rd offense" original charges and the alleged "reduced" "2nd offense" charges which were part of the recommended plea which was taken.
 - b) The State used a prior drug conviction from 2004 which was not supposed to be used as an enhancer due to the charge being over 10 years old and not being second/subsequent charge(s).
 - c) The State improperly used a prior marijuana conviction from 8/15/2013 as an enhancer to Petitioner's charges.
 - d) Plea counsel failed to properly investigate or object to the above and as a result, Petitioner followed his counsel's advice, to his detriment and prejudice, and pleaded guilty to the recommended charges with an improper background to form their basis.

2017 AUG -7 1 P 2: 52 I
BRANDY W. MCBEE
CLERK OF COURT
CHEROKEE COUNTY, S.C.


2. Proximity – Plea Counsel should have moved to have Petitioner's proximity drug charges dismissed as the church was an improper reference which did not give rise to that charge. As a result, Petitioner followed his counsel's advice, to his detriment and prejudice, and pleaded guilty to two (2) separate PWID charges which are classified as "Serious" crimes.
3. Mental Health Competency – Petitioner did not receive his mental health medications while being housed at the Cherokee County Detention Center and was being assaulted there. This prevented him from being able to assist plea counsel.
4. Number of Controlled Buys – Petitioner disputed the number of drug buys in that there were two buys and not three. Plea Counsel did not properly investigate this or any other aspect of this case. As a result, Petitioner followed his counsel's advice, to his detriment and prejudice, and pleaded guilty to a trafficking charge which is classified as a "Violent" and "Serious" crime.
5. Plea Counsel failed to file an appeal or make sure that Petitioner knew how to appeal his case.
6. Subject Matter Jurisdiction – The charging indictments were defective such that the Court did not have subject matter jurisdiction over the Petitioner on these charges.
7. Motion for Discovery – Petitioner properly filed a Motion for Discovery on March 10, 2017. This Court should have granted this Motion to allow Petitioner the opportunity to fully present his issues before this Court.
8. Petitioner was additionally prejudiced in that plea counsel's failure to properly investigate this matter and properly represent Petitioner led plea counsel to recommend to Petitioner to accept the State's recommended sentence as it was a

"lesser included plea" but, as a recommended plea, did not provide for the ability to present mitigation. If plea counsel properly represented Petitioner, Petitioner would have faced 2nd offense charges, rather than 3rd, and would have had the opportunity to present mitigating circumstances during his plea.

Therefore, Petitioner requests this Court reconsider its ruling for the above reasons.

Respectfully submitted,

EPPS LAW FIRM, LLC


STEVEN D. EPPS (SC Bar # 72722)

104-A Franklin Avenue, # 281
Spartanburg, SC 29301

(864) 590-4848 Telephone

steven@eppslawfirm.com

ATTORNEY FOR PETITIONER

Spartanburg, South Carolina
August 8, 2017

STATE OF SOUTH CAROLINA } COURT OF COMMON PLEAS
 County of CHEROKEE } CASE #: 2016-CP-11-0293
 }

Alonzo Columbus Jeter, III
 APPLICANT,
 v
 STATE OF SOUTH CAROLINA
 RESPONDENT.

} APPLICANT'S 59(e)
 } MOTION TO ALTER OR
 } AMEND A JUDGEMENT
 } 59(a)(2) MOTION FOR A
 } NEW POST-CONVICTION
 } RELIEF HEARING

2017 AUG - 7 11 AM 11:20
 BRANDY W. HOBEY
 CLERK OF COURT
 CHEROKEE COUNTY, S.C.

The Applicant in the above entitled case respectfully
 motions this Honorable Court pursuant to Rule 59(e) SCRPC
 to Amend the Finding of Facts and Conclusions of Law or
 make new findings and conclusions and/or grant a new
 post-conviction relief hearing.

This matter comes before the Court by way of a
 post-conviction Relief (PCR) application filed on April 28,
 2016. An evidentiary hearing was convened on March 20,
 2017, at the Spartanburg County Courthouse. Applicant was
 present at the hearing and was represented by Steven D.
 Epps, Esquire. Assistant Attorney General Julie A. Coleman
 represented the State.

Prior to the PCR hearing, Applicant's PCR Counsel filed
 the Petitioner's Notice and Motion for Discovery March 10, 2017.
 This motion was heard on March 20, 2017, prior to Applicant's
 PCR hearing. Judge Robin Stilwell presided over both, the
 hearing of the Applicant's motion for Discovery and Applicant's
 PCR hearing.

Judge Stilwell denied the motion and the PCR proceeding presumed. Post-Conviction Relief was also denied.

The Applicant's PCR was denied on July 24, 2017 and the PCR Court's Order was received by the Applicant on August 1, 2017. Upon reading the PCR Court's Order, the Applicant noticed that the PCR Court's Order of Dismissal failed to address that the Petitioner's Notice and Motion for Discovery was heard and ruled upon the Applicant's PCR hearing which was held on March 20, 2017.

Applicant respectfully requests this Honorable Court to make specific findings of fact and state expressly it's conclusions of law relating to each issue presented to include the Notice and Motion for Discovery - S.C. Code Ann. § 17-27-80 (2003), Applicant will be denied a meaningful appellate review if the Order of Dismissal fails to reflect that Petitioner's Notice and Motion for Discovery was raised and ruled upon by this Honorable Court.

See Bryson v State, 328 S.C. 236, 493 S.E.2d 500 (1997) Vacating a PCR order and remanding the matter for specific findings of fact and conclusions of law; McCullough v State, 464 S.E.2d 340 (1995); Pruitt v State, 423 S.E.2d 127, 128 (1992) - vacating and remanding PCR Court's Order dismissing the action where the PCR Court's Order failed to address the issues raised in the application (emphasizing the language in section 17-27-80 that specific findings of fact and conclusions of law regarding each issue presented must be

made by the PCR Court.

Counsel preparing proposed orders in post-conviction relief proceedings should be meticulous in doing so. Opposing counsel should call any omission to the attention of the PCR Judge prior to issuance of the Order, and the PCR Judge should carefully review the order prior to signing it.

After a post-conviction relief Order is filed, counsel has an obligation to review the order and file a motion to alter or amend judgement if the Order fails to set forth the required findings and reasons for those findings. Code 1976 § 17-27-80, SCRCP 59(a), 59(e); USCA Const. Amendment 6.

Applicant recognized that the PCR Court's Order of Dismissal did not address his Discovery motion which was filed on March 10, 2017, raised and heard before the Court on March 20, 2017 prior to Applicant's PCR hearing and ruled on, March 20, 2017.

Applicant also recognized that rulings based on findings of facts and conclusions of law in regards of the weight of the drugs and also number of controlled buys are not addressed in the PCR Court's Order. Applicant also respectfully requests this Honorable Court to Alter/Amend its Order in these regards.

Applicant has tried to consult with his PCR Counsel by way of mail and phone calls, but to no avail.

Applicant is filing this Rule 59(e) motion, because if not, his Motion of Discovery issue would forever be lost. Also, if this Rule 59(e) motioned is not filed, Applicant would waive appellate Court review of this critical issue. Applicant does not wish to waive any issues.

MOTION For A NEW PCR HEARING PURSUANT to 59(a)(2)

The Applicant, Alonzo C. Jeter, III, # 282902, respectfully motions this Honorable Court for a New PCR Hearing pursuant to Rule 59(a)(2) based on the PCR Court's denial of Petitioners Notice and Motion for Discovery.

The Applicant would show this Honorable Court that a motion for discovery was filed on behalf of the Applicant pursuant to the Uniform Post-Conviction Relief Act § 17-27-150 and the South Carolina Rules of Civil Procedure.

The Applicant sought SLED reports to substantiate his claims that there were only two (2) drug sales as opposed to three (3). The Applicant also disputes the weight of the drugs. The SLED reports would have shown and proved that the Applicant's Plea attorney, Christopher D. Kennedy, Esquire had not investigated on the Applicant's behalf. The record (Order of Dismissal) fails to reflect that the motion and hearing to include testimony, even took place.

The Applicant also sought Mental Health records from both Cherokee County Mental Health Department and also Cherokee County Detention Center. The Applicant also sought Disciplinary records from Cherokee County Detention Center.

The Applicant avers that these documents, reports, and records presented to the Court as exhibits and evidence would have given the court a much clearer picture as to the Applicant's issues, grounds, facts and most importantly frame of mind during the Applicant's guilty plea and critical stages of negotiation.

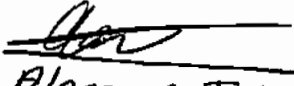
This Honorable Court did not weigh several factors against Applicant's right to compulsory process: (1) The integrity of the adversary process; (2) the interest in the fair and efficient administration of Justice; (3) the potential prejudice to the truth-determining function of the PCR process.

Applicant's Motion for Discovery was timely filed and specific. The weight of the alleged drugs was indisputable which the discovery of SLED records would have shown that the drugs weren't a trafficking amount. Also the results would have revealed that there was only two (2) sales and not three (3). Applicant's state of mind and duress. Records would have revealed that Applicant was incompetent at the time. Applicant was denied an opportunity to substantiate his burden of proof in these regards, prejudice is presumed.

This denial of discovery effectively paralyzed and prevented the Applicant from the ability to present the sought Discovery as exhibits and evidence which would have given the Court a much clearer picture as to the Applicant's issues, grounds, and facts for post-conviction relief.

The Applicant contends that although he did receive a "bite at the apple", he received not a Full "bite". The Applicant seeks Order for a New Post-Conviction Hearing-

Respectfully Submitted,


Alonzo C. Jeter, III
APPLICANT/PETITIONER

430 OAKLAWN ROAD
Pelzer, SC 29669

August 4th
~~2017~~, 2017
at Pelzer, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE
CASE NO.: 2016-CP-11-0293

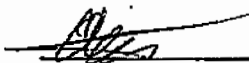
) IN THE COURT OF COMMON PLEA
) SEVENTH JUDICIAL CIRCUIT

Alonzo Columbus Jeter, III, #282902)
APPLICANT/PETITIONER)
V)
State of South Carolina)
RESPONDENT)

**MOTION FOR A NEW
POST-CONVICTION RELIEF HEARING
PURSUANT TO RULE 59(a)(2) SCRPC**

NOW COMES the Applicant asking that this Court would grant him a new post-conviction hearing. The Applicant would not that a Motion for Discovery was filed on March 10, 2017 prior to his post-conviction hearing by and through his then court-appointed counsel, Steven D. Epps, Esquire. The Applicant's Motion for Discovery was denied on March 20, 2017 by the Honorable Judge Stilwell whom also presided over the Applicant's post-conviction hearing which was held on the same day. This denial of discovery effectively paralyzed and prevented the Applicant from the ability to present the sought Discovery as exhibits and evidence which would have given the Court a much clearer picture as to the Applicant's issues, grounds, and facts for post-conviction relief. The Applicant contends that although he did receive a "bite at the apple", he received an unfair "bite". The Applicant seeks Order for a New Post-Conviction Hearing.

Respectfully Submitted,



Alonzo C Jeter, III
PETITIONER

430 Oaklawn Road
Pelzer, SC 29669

Pelzer, South Carolina
July 7, 2017
August

CLERK OF COURT
CHEROKEE COUNTY, S.C.
2017 AUG -7 A 11:23
BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)
CASE NO.: 2016-CP-11-0293

IN THE COURT OF COMMON PLEA
SEVENTH JUDICIAL CIRCUIT

Alonzo Columbus Jeter, III, #282902)
APPLICANT/PETITIONER)
V)
State of South Carolina)
RESPONDENT)

MEMORANDUM IN SUPPORT OF
MOTION FOR A NEW
POST-CONVICTION HEARING
PURSUANT TO RULE 59(a)(2)

STATEMENT OF THE CASE

Applicant provided an informant for the Cherokee County Narcotics Division with a quantity of methamphetamine between the dates of January 12, 2017 and January 15, 2017. The Appellant was arrested on March 31, 2017 and was charged with the offenses of trafficking in ice, crack, or crack between ten and twenty-eight grams 3rd offense, two counts of distribution of methamphetamine 3rd offense, and two counts of distribution of methamphetamine within a half mile of a school or park.

-- Applicant had a prior conviction for 1st offense possession of crack on his record which he was convicted of on October 12, 2004. Applicant also had a 2nd offense possession of marijuana on his record in which he was convicted of on August 15, 2013. All of the Applicant's current charges were enhanced to 3rd offenses based on these prior convictions.

A plea offer was extended to the Applicant through his attorney Christopher Kennedy. This negotiated plea agreement would be that the Applicant would enter a plea of guilty to lesser included offenses of these charges. The lesser included offenses and negotiation would be to plea guilty to the offenses of trafficking in ice, crack, or crack between ten and twenty-eight grams 2nd offense, two counts of distribution of methamphetamine 2nd offense, and two counts of distribution of methamphetamine within a half mile of a school or park and the Applicant would receive a negotiated term of imprisonment of 15 years concurrent sentencing on all of the charges.

On July 16, 2015 the Applicant appeared before the Honorable Lee S. Alford. The Applicant waived presentment to the grand jury and entered a plea of guilty and was sentenced a 15 year concurrent sentence on the offense of trafficking in ice, crack, or crack between ten and twenty-eight grams 2nd offense, 15 year concurrent sentences on the two counts of distribution of methamphetamine 2nd offense, and 10 year concurrent sentences on the two counts of distribution of methamphetamine within a half mile of a school or park in accordance with the negotiated plea agreement. No appeal was filed on the Applicant's behalf.

BRANDY W. MOBEE

2017 AUG - 7 A 11: 23 1

CLERK IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

I Mailed this to Steven Epps on July 6, 2017

Alonzo C Jeter III
Perry Correctional Institution
Q1-B-215 / #282902
430 Oaklawn Road
Pelzer, SC 29669

Steven D. Epps, *Esquire*
Epps Law Firm, LLC
104-A Franklin Ave.
Spartanburg, SC 29301

BRANDY W. MCBEE

2017 AUG - 11 A 11: 231

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

RE: Alonzo C Jeter v State (PCR)
2016-CP-11-0293 (Cherokee County)

Dear Mr. Epps:

I am writing to you today in regards of my Post Conviction Relief (PCR) hearing which was held on March 20, 2017. I have received your letter and I would like for you to file a motion for reconsideration on the issues in which The Honorable Judge Stillwell has denied my PCR once you have received the PCR Court's Order. *Also, please file a Rule 59(a)(2) Motion for a new PCR hearing, due to denial of Discovery.* I also ask that you file a Rule 59(e) Motion in the event that the PCR Court fails to make specific findings of fact and conclusions of law regarding any issues that I have raised. The issues that I raised were:

1) Improperly Enhanced Charges

(a) State used a prior first offense drug conviction from 2004 which was not supposed to be used as an enhancer due to the charge being over 10 years old. This was an error.

(b) My prior marijuana conviction from 8/15/2013 was used as an enhancer to my charges. This was an error.

2) Proximity – I should not have been charged with proximity to a church.

3) Mental Health Competency / Duress – I wasn't receiving my mental health medications while being housed at the Cherokee County Detention Center (Jail) prior to my plea. I was being assaulted by the officers at the jail. I wasn't able to assist my attorney (Mr. Kennedy) in my case.

4) Number of Controlled Buys – There were two controlled buys and not three. I also dispute the weight of the buys.

5) Failed to file an appeal or make sure that I knew how to invoke the appeal process

6) Failure to Investigate

7) Subject Matter Jurisdiction

8) Motion for Discovery – The PCR Court's Order should also address that this motion was made and denied by The Honorable Judge Stillwell and the Order should specifically address and list specific discovery motioned for.

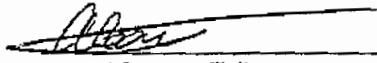
Mr. Epps, it is incumbent upon you that you file this Rule 59(e) Motion on my behalf if these issues are not addressed and the PCR Court's Order fails to make specific findings of fact and conclusions of law regarding any issues that I have raised.

Lastly, please provide me with the following:

- 1) A copy of the filed Motion for Reconsideration
- 2) A copy of the PCR Court's Order as soon as you have obtained it
- 3) A copy of the filed Rule 59(e) Motion *to Alter/Amend Judgement*
- 4) A copy of the Amendments to my PCR application that you filed (or should have filed)
- 5) *A copy of the Rule 59(a)(2) motion for a new PCR hearing that I am requesting that you file.*

Thanks for your time, attention, and all that you do.

Sincerely,


Alonzo C Jeter

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

COURT OF COMMON PLEAS
CASE: 2016-CP-11-0293

Alonzo C. Jeter, III
APPLICANT,

v
State of South Carolina
RESPONDENT

CERTIFICATE OF SERVICE

CLERK OF COURT
CHEROKEE COUNTY, S.C.
2017 AUG - 7 11:41:22
BRANDY W. MCBEE

I, Alonzo C. Jeter, III, #282902, hereby certify that I have served the Respondents with a copy of my motions Rule 59(e) Motion to Alter/Amend Judgement and Rule 59(a)(2) Motion for a New PCR Hearing by placing a copy of said motions in the hands of Perry Correctional Institution mailroom personnel for mailing postage prepaid and addressed as follows:

The Honorable Brandy W McBee
Clerk, Cherokee County Court
Post Office Drawer 2289
125 E. Floyd Baker Boulevard
Gaffney, SC 29342

The Honorable Alan Wilson
AAG-Julie Celerman
South Carolina Attorney General
PO Box 11549
Columbia, SC 29211

S/ [Signature] ✓

4, af
August 4, 2017

SWORN and Subscribed before me
this 4th day of August, 2017
Notary: Nancy C. [Signature]
Expires: 1-23-2023

Alonzo C Jeter, III, #282902
Perry Correctional Institution
430 OAKLAWN ROAD
Pelzer, SC 29669
~~July 7, 2017~~

~~2017~~, 2017
August 4, Af.


Alonzo C Jeter III
Perry Correctional Institution
Q1-B-215 / #282902
430 OAKLAWN ROAD
Pelzer, SC 29669

The Honorable Brandy W McBee
Clerk, Cherokee County Court
Post Office Drawer 2289
GAFFNEY, SC 29342

RE: Filing-59(e) motion & 59(a)(2) motion-
CASE 2016-CP-11-0293

Dear Ms McBee,
Please find enclosed, one self-addressed stamped envelope,
one original and one copy of Applicant's Rule 59(e) motion to
Alter/Amend Judgment and Applicant's Rule 59(a)(2) motion
for a New PCR Hearing and Certificate of Service. Please
return to me a copy of these motions and Certificate of
Service, both bearing the Court's time stamp "Filed" by way
of the enclosed SASE.

Thank you for your assistance in this matter.

Sincerely,

Alonzo C Jeter III
APPLICANT

CLERK OF COURT
CHEROKEE COUNTY, S.C.
2017 AUG - 7 A 11: 22
BRANDY W. MCBEE

CLERK'S OFFICE OF
COURT
COUNTY, SC.

AUG -1 A 11 2011

HARDY W. MCBEE



PITNEY BOWES

\$ 002.870

02 1P

0000879471

AUG 04 2017

MAILED FROM ZIP CODE 29669



FOREVER



*The Honorable Hardy W. McBee
Clerk, Cherokee County Court
Post Office Drawer 2289
Gaffney, SC 29342*

*III
Institution
282902
ROAD
9*

RECEIVED

AUG 04 2017

I. MAILROOM

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)
)
 Alonzo Columbus Jeter, III, #282902,)
)
 Applicant,)
)
 vs.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS


SEVENTH JUDICIAL CIRCUIT

**ORDER DENYING MOTION FOR
 RECONSIDERATION
 PURSUANT TO RULE 59, SCRP**

C. A. No.: 2016-CP-11-0293

This matter comes before the Court pursuant to the Applicant's Motion for Reconsideration of the Court's Final Order, pursuant to Rule 59 of the South Carolina Rules of Civil Procedure. After having had the opportunity to carefully review the Motion, this Court respectfully denies the same.

AND IT IS SO ORDERED.



ROBIN B. STILWELL
 2158

August 14, 2017
 Greenville, South Carolina

FILED IN OFFICE OF
 CLERK OF COURT
 CHEROKEE COUNTY, S.C.
 2017 AUG 16 10:17
 BRANDY W. MCBEE

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016-CP-11-293

Alonzo Columbus Jeter, III, #282902

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 12(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

FILED IN OFFICE OF
 CLERK OF COURT
 CHEROKEE COUNTY, S.C.
 2016 AUG 16 11:30 AM
 SHADY MCBEE

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

S/ Robin B. Stilwell
Circuit Court Judge

2158
Judge Code

August 16, 2017
Date

For Clerk of Court Office Use Only

This judgment was entered on the 16th day of August, 2017 and a copy mailed first class or placed in the appropriate attorney's box on this 16th day of August, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Steven D. Epps
104-A Franklin Ave., Ste. 281
Spartanburg, SC 29301
ATTORNEY(S) FOR THE PLAINTIFF(S)

SC Attorney General's Office
PO Box 11549
Columbia, SC 29211-1549
ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT
Brandy W. McBee

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCF.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Horizontal lines for additional information.

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2017 AUG 16 / A 11:35 /
BRANDY W. MCBEE

\$00.930

\$00.460

FILED IN THE OFFICE
CLERK OF COURT

2017 JUL 27 P 4: 12

CHEROKEE COUNTY, SC

Valerie Garcia Giovanoli, AAG
SC Attorney General's Office, PCR Division
Post Office Box 11549
Columbia, SC 29211-1549

Valerie Garcia Giovanoli, AAG
SC Attorney General's Office, PCR Division
Post Office Box 11549
Columbia, SC 29211-1549



State of South Carolina
The Circuit Court of the Thirteenth Judicial Circuit

Robin B. Stilwell
 Judge

Greenville County Courthouse
 305 East North Street, Suite 315
 Greenville, SC 29601-2113
 Phone: (864) 467-8406
 Fax: (864) 235-3625
 rstilwellj@sccourts.org

July 24, 2017

The Honorable Brandy W. McBee
 Cherokee County Clerk of Court
 Post Office Box 2289
 Gaffney, SC 29342

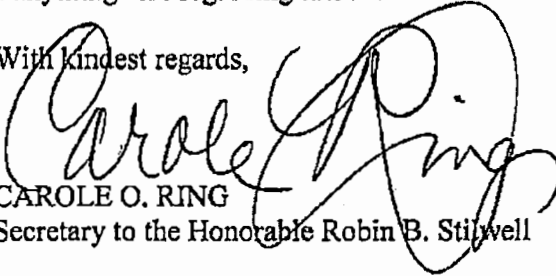
RE: Alonzo Columbus Jeter, III, v. State of South Carolina (2016-CP-11-0293)

Dear Ms. McBee:

Enclosed herewith please find an executed Order in the above-referenced matter. Judge Stilwell has asked that I send it to you for filing and for distribution to all interested parties.

Please let me know if you should need anything else regarding this matter.

With kindest regards,


 CAROLE O. RING
 Secretary to the Honorable Robin B. Stilwell

cor
 Enclosures

FILED
 2017 JUL 27 A 11:27
 CHEROKEE COUNTY, SC

WITNESSES

Cherokee County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

2014A1110T00238

ACTION OF GRAND JURY

TRUE BILL

Wayne Atkins

Foreperson of Grand Jury
Date: 6-26-14

VERDICT

Foreperson of Petit Jury
Date:

14-GS-11-00591

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 26 2014

TERM

THE STATE

vs.

Alonzo Columbus Jeter

Indictment for

POSSESSION OF MARIJUANA

SC Code: 44-53-370

FILED IN OFFICE OF
CLERK OF COURT
2014 JUN 26 AM 9 47
BRANDY W. MCBEE

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)


INDICTMENT

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

POSSESSION OF MARIJUANA

That Alonzo Columbus Jeter, did in Cherokee County on or about April 10, 2014, possess or attempt to possess Marijuana, a schedule I controlled substance as defined under §44-53-190 of the Code of Laws of this State of South Carolina, under provisions of §44-53-370, CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended, such possession not having been authorized by law.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Cherokee
STATE VS.
Alonzo Columbus Jeter

AKA:
Race: M Sex: B Age: 37
DOB: [redacted] - 897 SS# [redacted]
Address: Malone Rd.
City, State, Zip: [redacted] SC 29341
DL#: [redacted] SID#: [redacted]

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

In disposition of the said indictment comes now the Defendant who was [] CONVICTED OF or [X] PLEADS TO: Drugs / Poss. of 28g (1 oz) or less of marijuana or 10g or less of hash - 2nd or sub. offense (0-1 year &/OR 200-1,000)

in violation of § 44-53-0370(d)(4) of the S.C. Code of Laws, bearing CDR Code # 0182
[X] NON-VIOLENT [] VIOLENT [] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST: [Signature] 100207 [Signature] 79072
SAMS, CLIFTON M. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to [] State Department of Corrections, [X] County Detention Center,
for a determinate term of TIME SERVED 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.

[X] CONCURRENT or [] CONSECUTIVE to sentence on:
[X] 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 the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP
Total: \$ ___ plus 20% fee: \$ ___
Payment Terms: ___

[] Set by SCDPPPS
Recipient: ___

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$8.40, TOTAL \$288.40

___ 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, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk [Signature]
Court Reporter: [Signature]
SCCA/217 (03/2011)

Presiding Judge [Signature]
Judge Code: [Signature]
Sentence Date: 7/16/15

WITNESSES

Cherokee County Sheriff's Office

ARREST WARRANT NUMBER

2015A1110100230

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

15-05-11-00461

The State of South Carolina

County of Cherokee

Barry Bannette, Solicitor

COURT OF GENERAL SESSIONS

MAY 12 2015

TERM

THE STATE

vs.

ALONZO COLUMBUS JETER III

Indictment for

DISTRIBUTION OF METHAMPHETAMINE

SC Code: 44-53-375

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on MAY 12 2015 , the
Grand Jurors of Cherokee County present upon their oath:

DISTRIBUTION OF METHAMPHETAMINE

That Alonzo Columbus Jeter III, did in Cherokee County on or about January 14, 2015, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Methamphetamine, a schedule II controlled substance under provisions Code §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended, such distribution not having been authorized by law.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF Cherokee)
 STATE VS.)
 Alonzo Columbus Jeter III)
 AKA:)
 Race: BLACK Sex: M Age: 37)
 DOB: [redacted] 1977 SS#: [redacted])
 Address: Malone Rd.)
 City, State, Zip: [redacted] SC 29341)
 DL#: [redacted] /SID#:)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015-GS-11-00461
 A/W#: 2015A1110100230
 Date of Offense: 1/14/2015
 S.C. Code § : 44-53-0375(B)(3)
 CDR Code #: 3200

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Drugs/ Distribution, etc. of methamphetamine, 2nd offense (5-30 years &/OR 0-50K fine)

in violation of § 44-53-0375(B)(3) of the S.C. Code of Laws, bearing CDR Code # 3199
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lowd/Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. *Q/h* (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State. *15 yrs*

ATTEST: *[Signature]* 100227 *[Signature]* *[Signature]* 79072
 SAMS, CLIFTON M. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____
 days/hours Public Service Employment
 Payment Terms: _____
 Set by SCDPPPS _____

Recipient: _____
 *Fine: _____ \$
 § 14-1-206 (Assessments 107.5 %) _____ \$
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$
 § 56-5-2995 (DUI Assessment) \$12 \$
 § 56-1-286 (DUI Breath Test) \$25 \$
 Proviso 47.9 (Public Def/Prob) \$500 \$
 § 14-1-212 (Law Enforce. Funding) \$25 \$
 § 14-1-213 (Drug Court Surcharge) \$150 \$
 § 50-21-114(BUI Breath Test Fee) \$50 \$
 § 56-5-2942(J) (Vehicle Assessment) \$40/ca \$
 Proviso 90.5 (SCJA Surcharge) \$5 \$
 \$ _____ paid to Public Defender Fund
 Other: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$ 8.40
TOTAL		\$ 288.40

Clerk of Court/ Deputy Clerk *Brandi L. McBea*
 Court Reporter: *Nike [Signature]*
 SCCA/217 (03/2011)

Presiding Judge *[Signature]*
 Judge Code: *257*
 Sentence Date: *7/16/15*

Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

WITNESSES

Cherokee County Sheriff's Office

ARREST WARRANT

2015A1110100231

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.
15-GS-11-00462

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 12 2015

TERM

THE STATE

vs.

ALONZO COLUMBUS JETER III

Indictment for

**DISTRIBUTION OF METHAMPHETAMINE
WITHIN ONE-HALF MILE OF PARK/SCHOOL**

SC Code: 44-53-445

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on MAY 12 2015, the
Grand Jurors of Cherokee County present upon their oath:

DISTRIBUTION OF METHAMPHETAMINE
WITHIN ONE-HALF MILE OF PARK/SCHOOL

That Alonzo Columbus Jeter III, did in Cherokee County on or about
January 14, 2015, distribute, sell, purchase, manufacture, or unlawfully possess
with intent to distribute, a controlled substance, to wit: A quantity of
Methamphetamine, a schedule II controlled substance, within one-half mile of
Macedonia Baptist Church playground, South Carolina, such distribution not
have been authorized by law, in violation of § 44-53-445, 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.



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Cherokee
STATE VS.
Alonzo Columbus Jeter III
AKA:
Race: Sex: M Age: 37
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

INDICTMENT/CASE#: 2015-GS-11-00962
A/W#: 2015A1110100231
Date of Offense: 1/14/2015
S.C. Code § : 44-53-0445(A)
CDR Code #: 0107

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Drugs / Distribute, sell, manuf. or pwid, of cont. sub., near school (0-10 years &/OR 0-10,000 fine)

in violation of § 44-53-0445(A) of the S.C. Code of Laws, bearing CDR Code # 0107
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lowd Act) §17-25-45

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

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

ATTEST: SAMS, CLIFTON M. SC Bar# 100227 Defendant Attorney for Defendant SC Bar# 79072

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:

Set by SCDPPPS
Recipient:

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:

*Fine:
§ 14-1-206 (Assessments 107.5 %)
§ 14-1-211(A)(1) (Conv. Surcharge) \$100
§ 14-1-211(A)(2) (DUI Surcharge) \$100
§ 56-5-2995 (DUI Assessment) \$12
§ 56-1-286 (DUI Breath Test) \$25
Proviso 47.9 (Public Def/Prob) \$500
§ 14-1-212 (Law Enforce. Funding) \$25
§ 14-1-213 (Drug Court Surcharge) \$150
§ 50-21-114(BUI Breath Test Fee) \$50
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea
Proviso 90.5 (SCCJA Surcharge) \$2
3% to County (if paid in installments) \$ 8.40
TOTAL \$ 2388.40

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Brandi McRae
Court Reporter:
SCCA/217 (03/2011)

Presiding Judge:
Judge Code:
Sentence Date: 7/16/15

WITNESSES

Cherokee County Sheriff's Office

ARREST WARRANT NUMBER

2015A1110100233

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

~~DOCKET NO.~~ 15-GS-11-00463

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 12 2015

TERM

THE STATE

vs.

ALONZO COLUMBUS JETER III

Indictment for

DISTRIBUTION OF METHAMPHETAMINE

SC Code: 44-53-375

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on MAY 12 2015 the
 Grand Jurors of Cherokee County present upon their oath:

DISTRIBUTION OF METHAMPHETAMINE

That Alonzo Columbus Jeter III, did in Cherokee County on or about January 12, 2015, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Methamphetamine, a schedule II controlled substance under provisions Code §44-53-375, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, such distribution not having been authorized by law.

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


 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Cherokee
STATE VS.

Alonzo Columbus Jeter III

AKA: _____
Race: BLACK Sex: M Age: 37
DOB: 1977 SS#: _____
Address: Malone Rd
City, State, Zip: Gaffney, SC 29341-0000
DL#: _____ SID#: _____

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: Drugs/ Distribution, etc. of methamphetamine, 2nd offense (5-30 years &/OR 0-50K fine)

in violation of § 44-53-0375(B)(3) of the S.C. Code of Laws, bearing CDR Code # 3199
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State. 15 years

ATTEST: [Signature] 100227 [Signature] [Signature] 79072
SAMS, CLIFTON M. SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____ days/hours Public Service Employment
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
 Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2993 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ca	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)	\$ 8.40	\$
TOTAL	\$ 788.90	\$

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, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk [Signature]
Court Reporter: [Signature]
SCCA/217 (03/2011)

Presiding Judge [Signature]
Judge Code: 2113
Sentence Date: 7/16/15

WITNESSES

Cherokee County Sheriff's Office

ARREST WARRANT

2015A1110100234

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO
15-GS-11-0046A

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 12 2015

TERM

THE STATE

vs.

ALONZO COLUMBUS JETER III

Indictment for

**DISTRIBUTION OF METHAMPHETAMINE
WITHIN ONE-HALF MILE OF PARK/SCHOOL**

SC Code: 44-53-445

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

INDICTMENT

MAY 12 2015

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

DISTRIBUTION OF METHAMPHETAMINE
WITHIN ONE-HALF MILE OF PARK/SCHOOL

That Alonzo Columbus Jeter III, did in Cherokee County on or about
January 12, 2015, distribute, sell, purchase, manufacture, or unlawfully possess
with intent to distribute, a controlled substance, to wit: A quantity of
Methamphetamine, a schedule II controlled substance, within one-half mile of
Macedonia Baptist Church playground, South Carolina, such distribution not
have been authorized by law, in violation of § 44-53-445, 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.



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Cherokee
STATE VS.
Alonzo Columbus Jeter III

INDICTMENT/CASE#: 2015-GS-11-0046A
A/W#: 2015A1110100234
Date of Offense: 1/12/2015
S.C. Code § : 44-53-0445(A)
CDR Code #: 0107

AKA:
Race: BLACK Sex: M Age: 37
DOB: 777 SS#:
Address: 0 Malone Rd.
City, State, Zip: Coffey, SC 29341
DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Drugs / Distribute, sell, manuf. or pwid, of cont. sub., near school (0-10 years &/OR 0-10K fine)

in violation of § 44-53-0445(A) of the S.C. Code of Laws, bearing CDR Code # 0107
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.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: SAMS, CLIFTON M. SC Bar# 100227 Defendant
Attorney for Defendant SC Bar# 79072 other

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 10 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$130, § 50-21-114 (BUJ Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$ 8.40, TOTAL \$ 282.40

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, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Brandon L. McBean
Court Reporter: Mike
SCCA/217 (03/2011)

Presiding Judge
Judge Code: 2113
Sentence Date: 7/16/15

WITNESSES

Cherokee County Sheriff's Office

ARREST WARRANT NUMBER

2015A1110100235

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

15-GS-11-00465

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

MAY 12 2015 TERM

THE STATE

vs.

ALONZO COLUMBUS JETER III

Indictment for

TRAFFICKING IN METHAMPHETAMINE

SC Code: 44-53-375

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)

INDICTMENT

At a Court of General Sessions, convened on MAY 12 2015, the
 Grand Jurors of Cherokee County present upon their oath:

TRAFFICKING IN METHAMPHETAMINE

That Alonzo Columbus Jeter III, did in Cherokee County on or about January 15, 2015, knowingly sell, manufacture, deliver, purchase or bring into this State, or did provide financial assistance or did otherwise aid, abet, attempt, or conspire to sell, manufacture, deliver, purchase, or bring into this State, or did knowingly actually or constructively possess, or did knowingly attempt to actually or constructively possess (10) ten grams or more, but less than (28) twenty-eight grams of Methamphetamine, a schedule II controlled substance, in violation of §44-53-375, THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended.

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



 ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Cherokee
STATE VS.
Alonzo Columbus Jeter III

INDICTMENT/CASE#: 2015-GS-11-00465
A/W#: 2015A1110100235
Date of Offense: 1/15/2015
S.C. Code § : 44-53-0375(C)(1)(c)
CDR Code #: 0452

AKA:
Race: BLACK Sex: M Age: 37
DOB: [redacted] - 1977 SS#: [redacted]

City, State, Zip: Melrose Rd.
Cottree, SC 29341
DL#: SID#:

SENTENCE SHEET

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

In disposition of the said indictment comes now the Defendant who was [] CONVICTED OF or [X] PLEADS TO: Drugs / Trafficking in ice, crack or crack - 10 g or more, but less than 28 g - 2nd offense (5-30 days & 50K fine)

in violation of § 44-53-0375(C)(1)(c) of the S.C. Code of Laws, bearing CDR Code # 0451
[] NON-VIOLENT [X] VIOLENT [X] SERIOUS [] MOST SERIOUS [] Mandatory GPS(CSC w/minor 1st or Lewd Act) [] §17-25-45

The charge is: [] As Indicted, [X] Lesser Included Offense, [X] Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: [] Without Negotiations or Recommendation, [X] Negotiated Sentence, [] Recommendation by the State. 15

ATTEST: [Signature] 100007 SC Bar# Defendant [Signature] Attorney for Defendant 79072 years SC Bar#

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center, for a determinate term of 15 days/months/years or [] under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

[X] CONCURRENT or [] CONSECUTIVE to sentence on: all counts this date
[X] 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 the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
[] Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public Def/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (DUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCJA Surcharge) \$5, 3% to County (if paid in installments) \$ 89.40, TOTAL \$ 288.40

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, § 47.12 requires \$500 be paid to Clerk during probation.

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

Presiding Judge: [Signature]
Judge Code: 2143
Sentence Date: 7/16/16