

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Richland County

Honorable J. Derham Cole, Circuit Court Judge

TIRRELL BOYD,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2019-001999

APPENDIX

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S.C. SUPREME COURT

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1 STATE OF SOUTH CAROLINA) IN GENERAL SESSIONS
2 COUNTY OF RICHLAND_____) COURT
3)
4 STATE OF SOUTH CAROLINA,)
5) TRANSCRIPT
6 -V-) OF
7) RECORD
8 TIRRELL BOYD,)
9 DEFENDANT._____) 2014-GS-40-7490

10

11 MARCH 18, 2016

12 RICHLAND, SOUTH CAROLINA

13

14 B-E-F-O-R-E:

15 HONORABLE L. CASEY MANNING, JUDGE;

16

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

18 FOR THE STATE:

19 MEGHAN WALKER, ESQ.

20 FOR THE DEFENDANT:

21 BARNEY GIESE, ESQ.

22 JUSTIN KATO, ESQ.

23

24

25

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1 (The following proceedings were held on
2 March 18, 2016)

3 MS. WALKER: Your Honor, standing before you is
4 the Defendant, Tirrell Boyd. He's here today represented by
5 his attorneys, Bryan Giese and Justin Kato, of the private
6 bar. Your Honor, Mr. Boyd is here today to enter a guilty
7 plea for a negotiated sentence of 30 years. He was on the
8 trial docket to start Monday morning. He's here today, Your
9 Honor, to plead guilty to murder, two counts of attempted
10 murder, failure to stop for a blue light, trafficking
11 cocaine, possession with intent to distribute marijuana and
12 possession of a stolen vehicle.

13 THE COURT: The attempted murder carries 30 years?

14 MS. WALKER: Yes, Your Honor. And there's a
15 sentencing range chart that I shared with Mr. Kato. Your
16 law clerk has a copy of it.

17 THE COURT: I'm sorry?

18 MS. WALKER: There's a chart that has each --

19 THE COURT: It would be helpful if I had it.

20 MS. WALKER: Your law clerk, I think, is going to
21 go get it.

22 THE COURT: Mr. Giese, Mr. Kato, y'all represent
23 Mr. Boyd?

24 MR. GIESE: Yes, sir.

25 MR. KATO: Yes, sir.

1 THE COURT: I want to talk to, Mr. Giese.

2 You don't mind, do you, Mr. Kato?

3 MR. KATO: Not at all.

4 THE COURT: Mr. Giese, how does Mr. Boyd indicate
5 to you he wishes to plead, guilty or not guilty?

6 MR. GIESE: Your Honor, as to the drug charges and
7 the failure to stop charge and the possession of stolen
8 vehicle charge, he wishes to plead guilty. As to the murder
9 charge and the two assault and battery with intent to kill
10 charges, he wishes to plead guilty under North Carolina vs.
11 Alford.

12 MS. WALKER: And that's fine with the State.
13 They're just attempted murder charges.

14 MR. GIESE: What did I say?

15 MS. WALKER: Assault and battery with attempt to
16 kill.

17 MR. GIESE: I'm sorry.

18 THE COURT: Let me back up.

19 MR. GIESE: Okay.

20 THE COURT: As to the failure to stop for a blue
21 light, how does he plead, guilty or not guilty?

22 MR. GIESE: Guilty, Your Honor.

23 THE COURT: Possession of a stolen motor vehicle?

24 MR. GIESE: Guilty.

25 THE COURT: He's got a trafficking in cocaine.

1 MR. GIESE: Guilty.

2 THE COURT: All right. He's got the PWID
3 marijuana.

4 MR. GIESE: Guilty.

5 THE COURT: So as to the attempted murder and --
6 well, it's two counts of attempted murder, one count of
7 murder. As to the two attempted murders?

8 MR. GIESE: Guilty under North Carolina vs.
9 Alford.

10 THE COURT: So guilty on attempted murder -- two
11 counts of attempted murder and murder?

12 MR. GIESE: Yes, sir, under Alford.

13 THE COURT: Okay. I just needed to make sure.

14 Do you agree with his decision, Mr. Giese, to
15 enter these pleas?

16 MR. GIESE: Yes, sir, I do.

17 THE COURT: From your investigation of the facts
18 and circumstances surrounding these cases, do you feel that
19 the State could produce sufficient evidence to convince a
20 jury here in Richland County of Mr. Boyd's guilt beyond a
21 reasonable doubt and if he were to stand trial on these
22 charges, his convictions would be probable?

23 MR. GIESE: Yes, sir.

24 THE COURT: Now, has Mr. Boyd been ordered to
25 submit to a mental examination to determine his competency

1 to stand trial?

2 MR. GIESE: No, sir.

3 THE COURT: Any question in your mind, Mr. Giese,
4 Mr. Kato, that Mr. Boyd is, in fact, competent to enter this
5 plea?

6 MR. GIESE: No, sir.

7 MR. KATO: No, sir.

8 THE COURT: Do you, Mr. Boyd, agree with what your
9 attorneys have told me?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Come up, sir.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Not too close. Before I can accept
14 your plea of guilty, Mr. Boyd, it's necessary for me to make
15 sure that you're making this plea freely and voluntarily.
16 To do that, sir, I need to ask you a series of questions.
17 At any point during my questioning of you, if you do not
18 understand anything I say or any words that I use, please
19 stop me. I will be more than happy to repeat or explain
20 anything I say. Mr. Boyd, additionally, I'll be more than
21 happy to stop this plea and allow you as much time as you
22 feel you may need to consult with your lawyers, Mr. Giese
23 and Mr. Kato. Do you understand, sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: How old are you, Mr. Boyd.

1 THE DEFENDANT: I'm 26 years old, sir.

2 THE COURT: Twenty-six?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. How far did you go in
5 school, sir?

6 THE DEFENDANT: I went to the ninth grade.

7 THE COURT: All right. Mr. Boyd, what kind of
8 work have you done?

9 THE DEFENDANT: I don't have a record, sir. I
10 just got pending charges. Oh, and I used to work with my
11 granddaddy, sir.

12 THE COURT: All right. Would you back away from
13 that microphone? That's good.

14 Mr. Boyd, have you ever been treated for the abuse
15 of alcohol or drugs or mental illness?

16 THE DEFENDANT: No, sir.

17 THE COURT: All right. Mr. Boyd, have you taken
18 any medications, drugs or alcohol in the past 24 hours?

19 THE DEFENDANT: No, sir.

20 THE COURT: Are you today aware of any physical,
21 nervous or emotional problem that might keep you from
22 understanding what you're doing?

23 THE DEFENDANT: I mean, I understand, sir, but, I
24 mean, it's a whole of time, but I understand.

25 THE COURT: I understand. You know exactly what

1 you're doing and what you're pleading guilty to and what the
2 deal is?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. I mean, I know nobody wants
5 to go to jail for 30 years, I understand that, but you
6 understand exactly what you're doing, the circumstances, how
7 much time you're going to get if I go along with the deal?
8 You understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Now, Mr. Boyd, you heard
11 your lawyers tell me that they have explained to you the
12 charges contained in these indictments, the possible
13 punishments and your rights, including your right to a jury
14 trial and that you understand these things; is that correct?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Mr. Boyd, you're first
17 before me on indictment number 2014-7486, State v. Tirrell
18 Boyd. This is an indictment for possession with intent to
19 distribute marijuana.

20 And I assume it's a first offense?

21 MS. WALKER: Yes, Your Honor.

22 THE COURT: You understand this charge, Mr. Boyd?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. This indictment, Mr. Boyd,
25 alleges that you did here in Richland County on or about

1 March the 8th, 2014, possess with the intent to distribute a
2 quantity of marijuana. Do you understand that allegation,
3 Mr. Boyd?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: This is what you want to plead guilty
6 to?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Realizing that by pleading
9 guilty to possession with intent to distribute marijuana
10 first offense, Mr. Boyd, you can go jail for five years?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Knowing then, sir, that you go to
13 prison for five years by pleading guilty to this charge, do
14 you still wish to plead guilty to it?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Next, Mr. Boyd, I have before me
17 indictment 2014-7489, State v. Tirrell Boyd. This is an
18 indictment for possession of stolen motor vehicle. Do you
19 understand this charge?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: This indictment, Mr. Boyd, alleges
22 that you did here in Richland County on or about March the
23 8th of 2014, while not being entitled, had possession of the
24 below mentioned vehicle, to receive, possess, conceal, sell
25 or dispose of a GMC Yukon, knowing it to be stolen, further,

1 that the circumstances constitute a crime. The value of
2 this car was between two and \$10,000. You understand this
3 allegation, Mr. Boyd?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You had this stolen Yukon. You
6 realizing that by pleading guilty to possession of a stolen
7 motor vehicle, Mr. Boyd, that you could go to jail for five
8 years?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Knowing then, sir, that you can go to
11 prison for five years by pleading guilty to this charge, do
12 you still wish to plead guilty to it?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Next, Mr. Boyd, I have
15 before me indictment number 2014-7490, the State v. Tirrell
16 Boyd. This is an indictment for trafficking in cocaine
17 between 28 or more grams, but less 100 grams, first offense.
18 Do you understand this charge?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: This indictment, Mr. Boyd, alleges
21 that you did here in Richland County on or about March the
22 8th of 2014, knowingly sell -- that you had in your
23 possession between 28 -- more than 28 grams, less than 100
24 grams of cocaine.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You understand this allegation?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You want to plead guilty to
4 trafficking in cocaine between 28 and 100 grams; is that
5 correct?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You realize that by pleading guilty to
8 this charge, Mr. Boyd, that you could go to jail for no less
9 than seven, but no more than 25 years, so you're facing 25
10 years in jail? Once again, you can receive no less than
11 seven years on this charge. You understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Knowing then, sir, that you can go to
14 jail between seven and 25 years by pleading guilty to
15 trafficking in cocaine, between 28 and 100 grams, you still
16 wish to plead guilty to it?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Next, Mr. Boyd, I have
19 before me indictment number 2015-6590, State v. Tirrell
20 Boyd. Once again, this is an indictment for attempted
21 murder. Do you understand this charge?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: This indictment, Mr. Boyd, alleges
24 that you did here in Richland County on or about March the
25 1st of 2014, with intent to kill Cecil Morris with malice

1 aforethought, either expressed or implied.

2 I would assume he shot at him and missed?

3 MS. WALKER: Oh, he was actually struck by the
4 bullet, Your Honor.

5 THE COURT: Struck by the bullet.

6 You shot Mr. Morris. You understand this
7 allegation?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And you want to plead guilty under
10 North Carolina v. Alford, I do believe. And you
11 understand --

12 Is that correct?

13 MR. GIESE: Yes, sir.

14 THE COURT: And North Carolina v. Alford, you can
15 enter a plea and take advantage of the deal that's offered
16 to you. You're not specifically admitting that you are
17 guilty or that you did it. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: That's the important thing.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You still will be sentenced the same,
22 but you can claim your innocence if you want to, Mr. Boyd.
23 Do you understand all that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: But understanding that, you realize

1 that you still can receive 30 years in the penitentiary by
2 pleading guilty under Alford to this charge of attempted
3 murder. You understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Knowing then, sir, that you could
6 receive up to 30 years by pleading guilty under Alford to
7 this charge, do you still wish to plead guilty?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Next, Mr. Boyd, I have
10 before me indictment number 2015-6589. Once again, this is
11 a charge of attempted murder, Mr. Boyd. So once again, I
12 would assume you understand the charge, is that fair enough?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. This particular
15 indictment, sir, alleges that you did here in Richland
16 County on or about March 1st, once again, in 2014, with
17 intent to kill -- you attempted to kill Brad Hart with
18 malice aforethought, either expressed or implied.

19 I assume he shot at him, but I don't think he hit
20 him.

21 MS. WALKER: He was struck as well, Your Honor.

22 THE COURT: Struck as well you shot at Mr. Hart.
23 And once again, you want to plead guilty to the allegation
24 that you shot Mr. Hart under North Carolina v. Alford; is
25 that correct, Mr. Boyd?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. You realize, once again,
3 that by doing so, sir, you still can go to jail for 30
4 years?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Knowing that, sir, you still want to
7 plead guilty to that under Alford?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. And next, Mr. Boyd, I have
10 before me indictment number 2014-7487, State v. Tirrell
11 Boyd. This is an indictment for murder. Do you understand
12 this charge?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: The allegations are, Mr. Boyd, is you
15 did here in Richland County on or about March the 1st of
16 2014, kill a victim, Travis Singleton, with malice
17 aforethought, either expressed or implied, by means of a
18 gunshot and the victim did die as a proximate result
19 thereof. You understand this allegation, Mr. Boyd?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You want to plead guilty to murder
22 under North Carolina v. Alford; is that correct?

23 THE DEFENDANT: (Pause.) Yes, sir.

24 THE COURT: You realize that by doing so, Mr.
25 Boyd, that you can receive no less than 30 years and up to a

1 life sentence by pleading guilty to murder. And murder is
2 one of those special crimes, Mr. Boyd, that you have to
3 serve day for day. You understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Understanding all of that, sir, you
6 still want to enter this plea under North Carolina v.
7 Alford; is that correct?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Now, Mr. Boyd, when you
10 plead guilty, whether straight up or under Alford, you have
11 to give up certain basic Constitutional rights. First of
12 all, you have to give up your right to remain silent. Now,
13 this is your right under self-incrimination, Mr. Boyd, to
14 say nothing at all. No one can compel you to come into
15 court and provide evidence or to testify against yourself.
16 Do you understand this, sir?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Secondly, Mr. Boyd, if you
19 plead guilty, you give up your right to a jury trial. That
20 is your right for a jury here in Richland County to decide
21 whether or not you're guilty of these charges beyond a
22 reasonable doubt. A jury would base its decision on
23 whatever evidence the State would introduce at trial against
24 you and also on whatever evidence you and your lawyers, that
25 is Mr. Giese and Mr. Kato, may wish to introduce.

1 Now, I emphasize, Mr. Boyd, may wish to introduce,
2 sir, because in a trial, you would be presumed innocent and
3 would not have to proof anything and could not be convicted
4 unless the State convinced all 12 jurors of your guilt
5 beyond a reasonable doubt. All 12 jurors would have to
6 agree that you're guilty on all of these charges. Do you
7 understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Thirdly, Mr. Boyd, when you plead
10 guilty, you give up your right to confront and to be
11 confronted by the witnesses against you, that is your right
12 to see, hear and cross-examine any witnesses the State may
13 call to testify against you during the trial.

14 And also, Mr. Boyd, when you plead guilty, you
15 give up your right to subpoena and call witnesses on your
16 own behalf, that is someone who may testify for you. Do you
17 understand this?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: I've just been handed by the clerk the
20 indictment and sentencing sheet for failure to stop for a
21 blue light.

22 Are we doing that or is it dismissed at this time?

23 MS. WALKER: That's fine. We can do away with
24 that.

25 THE COURT: Now, Mr. Boyd, do you understand these

1 rights I've just mentioned to you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you understand, sir, that when you
4 plead guilty, whether straight up or under Alford, you give
5 up those Constitutional rights? Do you understand?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: I tell you that, Mr. Boyd, because you
8 may have some defenses to these charges. Of course, I have
9 no way of knowing that, but you need to realize that by
10 pleading guilty here today, you give up any defenses you
11 might have. Do you understand that, sir?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Additionally, Mr. Boyd, I tell you
14 that because when you were arrested by the Richland County
15 Sheriff's Department, you may have given some type of
16 incriminating statements, that is made some admissions or
17 confessions as to your guilt. You need to realize that by
18 pleading guilty here today, you waive your right to later on
19 challenge or contest that you gave any statements, whether
20 or not they were taken or obtained from you freely and
21 voluntarily in accordance with your Constitutional rights.
22 Do you understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So Mr. Boyd, I will ask you once
25 again, you want to plead guilty to possession of a stolen

1 motor vehicle, trafficking in cocaine, possession with
2 intent to distribute cocaine and plead guilty under North
3 Carolina v. Alford to two counts of attempted murder and one
4 count of murder; is that correct?

5 MR. GIESE: Your Honor, you said -- it's a count
6 of marijuana and cocaine. I think you said cocaine on both.

7 THE COURT: All right. Possession of stolen motor
8 vehicle, he's pleading guilty to?

9 MR. GIESE: Yes, sir.

10 THE COURT: I struck failure to stop.

11 MR. GIESE: Yes, sir, I appreciate that.

12 THE COURT: So guilty to possession of a stolen
13 motor vehicle, trafficking in cocaine and possession with
14 intent to distribute marijuana?

15 MR. GIESE: Yes, sir.

16 THE COURT: And guilty under North Carolina v.
17 Alford to murder and two counts of attempted; is that right?

18 You understand all that, Mr. Boyd?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And I have to go back through things,
21 Mr. Boyd, that's just my job, you understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: So, once again, you're telling me
24 you're pleading guilty under North Carolina v. Alford to
25 indictment number 2014-7487, murder; 2015 -- wait a minute.

1 All right. You want to plead guilty under North Carolina v.
2 Alford to indictment number 2014-7487, 2015-6589, attempted
3 murder and 2015-6590, attempted murder because back on March
4 the 1st of 2014, you shot and killed one Travis Singleton,
5 you shot, wounded, but did not kill Brad Hart and you also
6 shot Mr. Cecil Morris. That's what you're pleading guilty
7 to under Alford; is that correct, Mr. Boyd?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. And you are pleading
10 straight up guilty to indictment number 2014-7490, that is
11 trafficking in cocaine, 2014-7489, possession of a stolen
12 motor vehicle, and 2014-7486, possession with intent to
13 distribute marijuana first offense, because back on March
14 the 8th of 2014, you possessed with the intent to distribute
15 a quantity of marijuana, you possessed a stolen GMC Yukon,
16 and you possessed between 28 and 100 grams of cocaine?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You're pleading guilty to those
19 charges straight up because you are guilty; is that correct?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. The plea negotiations,
22 Solicitor, I think has been indicated to me is 30 years?

23 MS. WALKER: Yes, Your Honor.

24 THE COURT: And is anything being dropped or nolle
25 prossed as a result of his guilty plea here today?

1 MS. WALKER: Your Honor, there are roughly eight
2 indictments from separate incidents that will be nolle
3 prossed as a result of this guilty plea.

4 THE COURT: Now, do we need to specify what those
5 eight indictments are, Solicitor?

6 MR. GIESE: (Shakes head.)

7 THE COURT: I mean, not Solicitor --

8 MR. GIESE: That's all right.

9 THE COURT: Mr. Giese, Mr. Kato?

10 MR. GIESE: No, sir.

11 THE COURT: All right.

12 MR. GIESE: We know what they are.

13 THE COURT: All right. So in other words, I'm
14 going to try to sum it up, he's pleading guilty to these
15 charges. He's going to get 30 years. Anything else pending
16 or he was arrested for is going to be nolle prossed or
17 disposed of?

18 MS. WALKER: Yes, Your Honor.

19 THE COURT: You understand all that, Mr. Boyd?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. You still wish to continue
22 and enter this plea?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Mr. Boyd, are you fully
25 satisfied with the manner in which your lawyers, Mr. Giese

1 and Mr. Kato, have advised you and represented you on these
2 charges?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Have you talked with him for as long,
5 for as often as you feel it necessary for them to properly
6 represent you?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you need any more time to talk to
9 them?

10 THE DEFENDANT: No, sir.

11 THE COURT: All right. Mr. Boyd, have you
12 understand your talks with Mr. Giese and Mr. Kato?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Have they done everything
15 for you that you feel they should do or could do in advising
16 you and representing you on these charges?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: All right. Have they done anything
19 you feel they should not have done, Mr. Boyd?

20 THE DEFENDANT: I mean, sir, I will be honest with
21 you, sir, I feel like I should -- I mean, got something
22 better, sir, to be real with you.

23 THE COURT: But you're satisfied they did the best
24 they could do?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: I understand. Mr. Boyd, I've been
2 around a long time. I understand -- I don't understand
3 exactly how you feel, but everybody wants a better deal.
4 But this is the best they could do for you and you're
5 willing to accept it; is that fair?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Now, Mr. Boyd, do you have any
8 complaints with anyone at the Richland County Sheriff's
9 Department?

10 THE DEFENDANT: Yes.

11 THE COURT: What?

12 THE DEFENDANT: With Joseph Clark.

13 THE COURT: What now?

14 THE DEFENDANT: Clark, Mr. Clark, Investigator
15 Clark.

16 MS. WALKER: He's the lead investigator on this
17 case, Your Honor.

18 THE COURT: What now?

19 MS. WALKER: Joe Clark is the lead investigator on
20 this case.

21 THE COURT: Whatever complaints you have against
22 Mr. Clark, does that have any bearing on whether or not
23 you're guilty or innocent of these charges?

24 THE DEFENDANT: Well, sir, he told me that I
25 wasn't going to get -- they wasn't going to bring no more

1 charges up and at the end, they came and brought two
2 attempted murders, sir.

3 THE COURT: I don't know anything about this, but
4 my question to you is this, my job is to decide whether you
5 are freely and voluntarily pleading guilty to these charges.
6 Do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: If you have any specific complaints,
9 I'll tell you about that later on, but my question to you
10 today is do you wish to continue to pled guilty or not?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. And if you have some
13 complaints against Mr. Clark, there's another time and place
14 for those complaints to be handled and dealt with. Do you
15 understand that? I will tell you about that in a little
16 bit.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: So once again, I'm going to back up to
19 make sure, Mr. Boyd. You're admitting your guilt on
20 possession of a stolen motor vehicle, trafficking in
21 cocaine, possession with intent to distribute marijuana.
22 And you want to pled guilty, once again, under Alford to
23 murder and two counts of attempted murder. All right.

24 Now, anybody else involved in your case, either
25 Mr. Clark at the sheriff's department, anybody in the

1 solicitor's office, your lawyers, anybody else have anything
2 to do with making you enter this guilty plea?

3 THE DEFENDANT: No, sir.

4 THE COURT: All right. Now, having said that,
5 Mr. Boyd, do you need -- have you understood my questions?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: You've understood everything I've gone
8 over with you?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Now, Mr. Boyd, you have a right to
11 appeal this guilty plea. Do you understand that?
12 Regardless of whether it's negotiated or not, you have a
13 right to appeal this guilty plea, but if you want to appeal
14 it, you need to file a notice of intent to appeal within 10
15 days of today's date. Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You write a letter. Also, once you're
18 in the Department of Corrections, Mr. Boyd, if you ever find
19 or think that Mr. Clark or your lawyers, the solicitor or
20 anybody else that you have some complaints collaterally
21 relating to this hearing here today, what sentence you might
22 receive, you need to make those complaints known by filing a
23 post-conviction relief application within one year of
24 today's date. Do you understand that, sir?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Very well, Solicitor, be happy to hear
2 about it.

3 MS. WALKER: Thank you, Your Honor, had he gone to
4 trial in this case, the facts would have been presented
5 through witness testimony as follows: Saturday morning,
6 around March 1st of 2014, this Defendant, the victims and
7 several other individuals were at 3500 McCords Ferry Road at
8 Club Climax, which is located here in Richland County. Your
9 Honor, there was an incident involving people inside of the
10 club. And the club owner and club management made the
11 decision to shut the club down early that night.

12 As everyone is exiting, Your Honor, a friend of
13 this Defendant, by the name of Mark Anthony Wilson, who goes
14 by the nickname of Dooley, was in an altercation with
15 Bradley Hart, Maurice Hart, Cecil Morris about something
16 that happened inside of the club. Travis Singleton, Your
17 Honor, who is the deceased victim in this case, was standing
18 between the two groups telling everyone to go home and to
19 drop it. Your Honor, the witnesses would testify that there
20 was a light-complexioned male, who they did not know by
21 name, but who had long hair, a goatee and very long and
22 distinct sideburns, who said, Whatever, Dooley, I'll kill
23 them for you. Go ahead and fight them if you want to.
24 There were three eyewitnesses, Your Honor, who then later
25 picked this Defendant out of a photo lineup as being that

1 man. They also picked him out as having reached for a gun
2 at that point.

3 Your Honor, there's an additional eyewitness who
4 says that he saw not only all of that, but saw this
5 Defendant actually shoot shots from the gun he reached for.

6 THE COURT: Mr. Singleton?

7 MS. WALKER: This Defendant, Your Honor.

8 THE COURT: All right.

9 MS. WALKER: Your Honor, in the crossfire,
10 Mr. Singleton was shot and killed and the victims, Your
11 Honor, who survived, Mr. Bradley Hart and Mr. Cecil Morris,
12 were struck by bullets and those are the attempted murder
13 victims.

14 THE COURT: All right. Let me back up and make
15 sure I understand. So it's not like he took the gun and
16 tried to shoot, he just got shot in the crossfire?

17 MS. WALKER: Your Honor, the way the witness
18 testified is that he was shooting at someone else and Mr.
19 Singleton was an innocent bystander.

20 THE COURT: All right.

21 MS. WALKER: At that point, Your Honor, the
22 surviving victims were transported to Richland Memorial
23 Hospital, where they were treated for their wounds and
24 released after their hospitalization was over.

25 At that point, Your Honor, the investigation

1 began. They quickly were able to identify who Dooley was
2 and interviewed Mark Anthony Wilson, who said he had no
3 knowledge of any of these events although he was at the
4 club. There were calls coming in, Your Honor, saying there
5 was a Rell who was the shooter in this case. During their
6 investigation, Your Honor, they were able to identify
7 Tirrell Boyd as the Rell that they were talking about.
8 Placed Mr. Boyd in photo lineups and he was identified by
9 four people as being the man that they were talking about
10 with the long sideburns and the goatee.

11 The law enforcement officers at that point in
12 time, Your Honor, then made their way -- this was about
13 seven days later, made their way to Tirrell Boyd's house, at
14 which point in time, he led them on approximately a
15 10-minute high speed chase that crashed. And at that point,
16 he led them on a short chase into the woods. He was
17 apprehended there. Inside of the stolen vehicle, which is
18 why that charge is there, was a quantity of cocaine that
19 would warrant trafficking charges, quantity of marijuana
20 that warrants the possession with intent to distribute
21 marijuana charges.

22 Your Honor, those are the facts that would have
23 been presented at trial had we gone forward.

24 THE COURT: What's Mr. Boyd's prior record?

25 MS. WALKER: Your Honor, he does not have a prior

1 record. He just has the other pending charges.

2 THE COURT: All right. Now, Mr. Boyd, you heard
3 what the solicitor told me, Mr. Giese, you, too, Mr. Kato,
4 is that substantially what would have been presented at
5 trial, is that fair enough?

6 MR. GIESE: Yes, sir.

7 THE COURT: All right. Mr. Boyd, I can understand
8 some of your reluctance, I mean, crossfire and all of those
9 other sort of things, but I do find that there's a
10 substantial factual basis for your plea, Mr. Boyd. I
11 further find your decision to plead guilty to be freely and
12 voluntarily, knowingly and intelligently made, that you had
13 the advice of competent counsel, whom you've indicated to me
14 you're completely satisfied with. Therefore, I will accept
15 this plea.

16 Anything additional the State wants to present
17 before I hear from Mr. Giese?

18 MS. WALKER: Your Honor, the victims are present
19 and in the courtroom, but they do not wish to address the
20 Court.

21 THE COURT: All right. Mr. Giese, I will be happy
22 to hear from you, sir.

23 MR. GIESE: May it please the Court, Your Honor.
24 Tirrell is 26 years old, as he told you before. He grew up
25 in Columbia. He went to high school here through the ninth

1 grade. While he was living here, he was living with his
2 grandparents, who are in the courtroom today. They're right
3 back there (indicating). At some point, Tirrell moved to
4 Florida, lived down there for a period of time. He came
5 back to Columbia and was living here when all of this
6 occurred. Your Honor, we had long talks with Tirrell about
7 this and what the right path for him was in this case, and
8 we believe that this is the right path. He's pleading
9 guilty to the offenses that he knows he's guilty of and he's
10 pleading under Alford on the ones that --

11 THE COURT: That makes sense because, you know, he
12 probably would be convicted in theory and he's getting a
13 deal under the circumstances.

14 MR. GIESE: Yes, sir. That's why we have the
15 Alford plea. Tirrell understands that he's been -- he's a
16 good man. He just wants to make sure that there's a date
17 that he will get out. And that's what this is for. If he
18 had gone to trial and been convicted of all of it --

19 THE COURT: He would die in jail.

20 MR. GIESE: Yes, sir. And we've talked about
21 that. So we believe this is the right path for him. We ask
22 Your Honor to take the negotiated plea.

23 THE COURT: All right. I need to ask you so I can
24 write it down. How many days has he been in jail?

25 MR. GIESE: Your Honor, 740.

1 THE COURT: 740.

2 Is that correct?

3 MS. WALKER: Yes, Your Honor.

4 THE COURT: Now, Mr. Boyd, is there anything you
5 would like to tell me?

6 THE DEFENDANT: (No response.)

7 THE COURT: And, once again, I don't need to say
8 this, but I will, Mr. Boyd. I can understand your
9 reluctance and all that. You will be put in jail for a long
10 time, but it's not the end of your life. I wish you the
11 very best going forward. Of course, my sympathies for the
12 victims and what they've lost. It's a tragedy all the way
13 around.

14 So on indictment number 2014-7486, possession with
15 intent to distribute marijuana first offense, five years; on
16 indictment number 2014-7490, trafficking cocaine 28 plus
17 grams, five years, indictment number 2014-7489, possession
18 of a stolen motor vehicle, five years, indictment 2014-7487,
19 murder, sentenced to 30 years, on indictment number
20 2015-6590, attempted murder, sentenced to 30 years,
21 indictment number 2015-6589, attempted murder, sentenced to
22 30 years. The sentences are to run concurrent with each
23 other. And you will be given credit for time served of 740
24 days, Mr. Boyd. Good luck to you.

25 Everyone, thank you very much.

1 MS. WALKER: Thank you, Your Honor.

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3 END OF PROCEEDINGS

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1 COUNTY OF RICHLAND)

2 CERTIFICATE OF REPORTER

3 I, Crystal Holmes, hereby certify that I reported
4 the preceding case entitled State of South Carolina Vs.
5 Tirrell Boyd, Case No. 2014-GS-40-7487; 7490; 6589-90; 4489,
6 at the Richland County Courthouse, March 18, 2016.

7 I FURTHER CERTIFY that the foregoing pages 1
8 through 32 constitute a true, accurate and full transcript
9 of said hearing.

10 I FURTHER CERTIFY that I am not employed by any of
11 the parties hereto and I have no financial interest in the
12 outcome of said case.

13 IN WITNESS WHEREOF, I have heretofore set my hand
14 and seal at Richland County on this 26th day of September,
15 2016.

16

17 _____
Crystal Holmes, Official Court Reporter

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STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

Tirrell Boyd #367470
Full name and prison number (if any) of Applicant,

vs.

State of South Carolina
Name of Respondent.APPLICATION FOR
POST-CONVICTION RELIEFJEANETTE H. MORRIS
C.C.P. & G.S.

2016 JUL 25 AM 10:21

RICHLAND COUNTY
FILED**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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention _____
2. Name and location of Court which imposed sentence Richland County General Session
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) Warrant # 14A4010200753, K-1A401060302
 - (b) Warrant # 14A4010600243
 - (c) Warrant # DP15305, DP15304
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) March 18, 2016
 - (b) _____
 - (c) _____

5. 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 M _____

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

NO

7. If you answered "yes" to (6), list

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

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

(c) the date of each such result:

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) Advice From Attorneys
- (b) Ineffective Assistance of Counseling. Franeous
- (c) Advice

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

- (a) NO independent investigation, Inconsistance Statements, NO
- (b) Search Warrant, Mistaken Identity, Hear said evidence,
- (c) Intimidation with A life Sentence, NO Guns Recovered

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) Rule 3. (a) (b) (c), Rule (b) (a) (b), Chain of custody, Rule 401
- (b) Relevant evidence, Rule 410, (3) (4) Inadmissibility of Pleas,
- (c) Rule 601 (a) (b) Competency, Rule 602, Lack of Personal Knowledge
Rule 607. Who may be impeach, Rule 802 Hearsay Rule

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

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

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

17. If you answered "yes" to one or more parts of (16), list:

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

- i. Barney Giese, Justin Kala
1315 Blending Street Columbia S.C. 29201
- ii. _____
- iii. _____

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

- i. Guilty Plea
- ii. _____
- iii. _____

18. State clearly the relief you seek in filing this application.

vacated To have my conviction and sentence

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

NO

STATE OF SOUTH CAROLINA

County of Richland

VERIFICATION

I, Tirrell Boyd, 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.

Tirrell Boyd

SWORN to and subscribed before me this 19th
day of July, 2016

Ludrecan Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

JEANETTE W. RODRIGUEZ
C.C.P. & G.S.

2016 JUL 25 AM 10:21

ALBANY COUNTY
FILED

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

I, Tirrell Boyd, 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 therefor.

Tirrell Boyd
Applicant

SWORN or affirmed to and subscribed before me this

19th day of July, 2016

Ludrecan Bryant
Notary Public

My Commission Expires May 26, 2020

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Tirrell Ramar Boyd, #367470,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

2016-CP-40-4421

RETURN

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed on July 25, 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 Richland County. Applicant was indicted by the December 2014 term of the Grand Jury for Richland County for trafficking in cocaine, 28 to 100 grams, first offense (2014-GS-40-7490); possession with intent to distribute marijuana (2014-GS-40-7486); two counts of attempted murder (2015-GS-40-6589, -6590); and murder (2014-GS-40-7487).. Applicant was represented by Barney Giese, Esquire and Justin Kata, Esquire. Assistant Solicitor Meghan Walker, Esquire, prosecuted the case. On March 18, 2016, Applicant pled guilty to failure to stop for a blue light, trafficking cocaine, possession with intent to distribute marijuana, and possession of a stolen vehicle, as well as guilty pursuant to North Carolina vs. Alford to murder and two counts of attempted murder. Pursuant to a negotiated sentence, Applicant was sentenced on March 18, 2016 by the Honorable L. Casey Manning to five years for possession with intent to distribute marijuana, first offense; five years for trafficking cocaine, 28-100 grams; five years for possession of a stolen motor vehicle; thirty

years for murder; and 30 years for each count of attempted murder. These were set to run concurrently with credit for 740 days of time served.

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject convictions, the pleadings related to this application for post-conviction relief, 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
 - a. No independent investigation
 - b. Inconsistent statements
 - c. No search warrant
 - d. Mistaken identity
 - e. Hear said evidence
 - f. Intimidation with a life sentence
 - g. No guns recovered
 - h. Rule 3(a)(b)(e)
 - i. Rule 6(a)(b)
 - j. Chain of custody
 - k. Rule 401 relevant evidence
 - l. Rule 410 (3)(4) Inadmissibility of pleas
 - m. Rule 601(a)(b) Competency
 - n. Rule 602 Lack of personal knowledge
 - o. Rule 607 Who may be impeach
 - p. Rule 802 hearsay rule
 - q. language, the statute, or in the body of indictment with certainty."

III.

Applicant claims Ineffective Assistance of Counsel. Nevertheless, Respondent contends that Applicant's counsel rendered adequate assistance and provided representation within the

range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, Applicant bears the burden of proving the allegations in their application. See Butler, 286 S.C. at 442, 334 S.E.2d at 814. Where ineffective assistance of counsel is alleged 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, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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. See Strickland, 466 U.S. at 669. Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625, (citing Strickland, 466 U.S. at 688). Second, counsel's deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not

have pleaded guilty and would have insisted on going to trial. See Hill v. Lockhart, 474 U.S. 52, 52 (1985).

Respondent submits that Applicant cannot satisfy either requirement of the Strickland test. However, where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record, a question of fact is raised which can only be resolved by an evidentiary hearing. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983). If the court does determine that Applicant's alleges specific instances of ineffective assistance which are not conclusively refuted by the record, then Respondent would request an evidentiary hearing to fully resolve this issue.

IV.

Respondent interprets Applicant to also allege that his guilty plea was involuntary, and further submits that this 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 pled 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 Hill v. 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.” Hill v. 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.

V.

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.

VI.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCRCP. All claims should be made well in advance of the evidentiary hearing.

Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCP. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCP.

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

VII.

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

VIII.

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 follows.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT BOLCHOZ
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JESSICA E. KINARD
Assistant Attorney General

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

By: Judith N. Vandyke for Jessica E. Kinard
ATTORNEYS FOR RESPONDENT

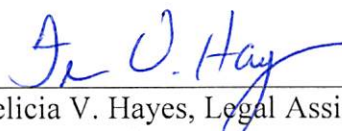
June 23 2017

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
	)	2016-CP-40-4421
	)	
TIRRELL RAMAR BOYD, #367470,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent,	)	
_____	)	

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

Jonathan D. Waller, Esquire
Giese Law Firm
1315 Blanding Street
Columbia, SC 29201

DATED this the 23rd day of June, 2017.



 Felicia V. Hayes, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Tirrell Ramar Boyd, #367470,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

2016-CP-40-4421

**AMENDED RETURN, MOTION FOR
MORE DEFINITE STATEMENT, AND
PARTIAL MOTION TO DISMISS**

RICHLAND COUNTY
FILED
2016 JUL 23 1 PM 2:16
JEANETTE W. MCBRIDE
CLERK OF COURT & G.S.

The State (Respondent), making its Amended Return to the Application for Post-Conviction Relief (PCR) filed on July 25, 2016, would respectfully show this Court:

I.

Tirrell Ramar Boyd (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. Applicant was indicted at the December 2014 term of the Grand Jury for Richland County for possession with intent to distribute marijuana (2014-GS-40-7486); murder (2014-GS-40-7487); possession of a stolen motor vehicle (2014-GS-40-7489); and trafficking in cocaine, 28 to 100 grams – first offense (2014-GS-40-7490). Applicant was subsequently indicted at the November 2015 term for two counts of attempted murder (2015-GS-40-6589, -6590). Applicant was represented by Barney Giese, Esquire, and Justin Kata, Esquire. Assistant Solicitor Meghan Walker, Esquire, prosecuted the case. On March 18, 2016, Applicant pleaded guilty before the Honorable L. Casey Manning to trafficking cocaine, possession with intent to distribute marijuana, and possession of a stolen vehicle, as well as guilty pursuant to North Carolina vs. Alford to murder and two counts of attempted murder. The State dismissed the charges of possession with intent to distribute cocaine (2013-CP-40-2800), possession of a stolen pistol (2013-CP-40-2801),

unlawful carrying of a pistol (2013-CP-40-2802), hit and run (2013-CP-40-2803), and failure to stop for a blue light (2014-CP-40-7488) in exchange for the plea. Pursuant to a negotiated sentence, Judge Manning sentenced Applicant to five years for possession with intent to distribute marijuana; five years for trafficking cocaine; five years for possession of a stolen motor vehicle; thirty years for murder; and thirty years for each count of attempted murder, all to be served concurrently. He did not appeal his convictions or sentences.

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject convictions, the pleadings related to this application for post-conviction relief, the transcript from Applicant's plea, and Applicant's records from 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
 - a. No independent investigation
 - b. Inconsistent statements
 - c. No search warrant
 - d. Mistaken identity
 - e. Hear[say] evidence
 - f. Intimidation with a life sentence
 - g. No guns recovered

III.

Respondent submits Applicant's allegations of "inconsistent statements," "no search warrant," "mistaken identity," "hear[say] evidence," and "no guns recovered" should be dismissed for failure to state a claim cognizable under the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §17-27-10 to -160. The Act provides an applicant may commence a post-

conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy. . . . **Provided, however, that this section shall not be construed to permit collateral attack on the ground that the evidence was insufficient to support a conviction.**

S.C. Code Ann. § 17-27-20. Further, section 17-27-20(B) expressly states PCR “is not a substitute for. . . direct review of the sentence or conviction.” Applicant’s allegations of “inconsistent statements,” “no search warrant,” “mistaken identity,” “hear[say] evidence,” and “no guns recovered” raise only direct appeal issues which are procedurally barred in PCR, and the Court should summarily dismiss these allegations.

PCR relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). “In a direct appeal, the focus generally is upon the propriety of rulings made by the circuit court in response to a party’s motions or objections. In PCR, the focus usually is upon alleged errors made by trial or plea counsel. Therefore, when asserting the erroneous admission of evidence, a violation of a constitutional right, or other errors in a proceeding, the applicant generally must frame the issue as one of ineffective assistance of counsel.” Id. at 363-64, 527 S.E.2d at 747. A post-conviction

relief application cannot assert any issues that could have been raised at trial or on appeal. Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 520 (1993). Applicant could have raised all of these issues on appeal, and his failure to do so has waived these allegations as grounds for relief.

Moreover, Applicant pleaded guilty to all charges on March 18, 2016, thus waiving any defenses he may have had to these charges. “Where a defendant voluntarily, intelligently, and understandingly enters a plea of guilt, this makes it unnecessary for the State to offer evidence to prove the offense charged in the warrant or indictment.” State v. Allen, 261 S.C. 448, 200 S.E.2d 684, 686 (1973). This is because the guilty plea “admits all matter of fact averments of the accusation.” Id. The defendant admits all circumstances described in the indictment, leaving only sufficiency of the indictment for review, and waiving all other defenses. See State v. Thomason, 341 S.C. 524, 534 S.E.2d 708, 709 (2000).

For these reasons and pursuant to Rule 12(b)(6), SCRCP, Respondent moves for summary dismissal of this application for failing to state a cognizable claim for which relief can be granted under the Post-Conviction Relief Act.

IV.

Applicant’s remaining claims allege ineffective assistance of counsel due to counsels’ failure to conduct an independent investigation and “intimidation with a life sentence.” As an initial matter, Respondent hereby moves for a more definite statement as to these two allegations. Applicant has failed to set forth facts to “support each ground” or to explain with any specificity whatsoever the facts upon which these claims are based. The Uniform Post-Conviction Procedure Act requires Applicant to “**specifically set forth the grounds upon which the application is based.**” S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his

application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for the evidentiary hearing. Therefore, Respondent requests Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

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

V.

In any event, Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (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 v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegations of ineffective assistance of counsel probably raise 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).

VI.

Applicant also asserts he was intimidated with a life sentence. Respondent interprets this to be an allegation that his plea was involuntary. In PCR 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) (citations omitted). 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 pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). 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." Hill, 474 U.S. at 56. Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably,

foreclosed. Dalton, at 137-38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, 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. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). “In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” Id. at 138–39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

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 a question of fact that is not conclusively refuted by the record. 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).

VII.

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 § 17-27-70 of the South Carolina Code of Laws on the basis that they raise only direct appeal issues or challenges to the sufficiency of the evidence, which are expressly prohibited by statute, and therefore, those allegations should be dismissed as a matter of law.

VIII.

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

IX.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel and involuntary guilty plea.

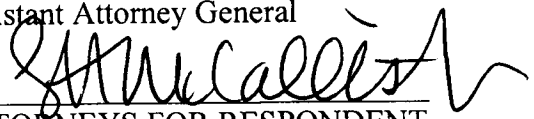
Respectfully submitted,

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By: 
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August 30, 2018

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

2016-CP-40-4421

TIRRELL RAMAR BOYD, #367470,)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

AFFIDAVIT OF SERVICE BY MAIL

RICHLAND COUNTY
FILED
2018 AUG 31 PM 2:16
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

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 **Amended Return, Motion for More Definite Statement, and Partial Motion to Dismiss** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Leah B. Moody, Esquire
Law Office of Leah B. Moody, LLC
Post Office Box 1015
Rock Hill, South Carolina 29730

DATED this the 30th day of August, 2018.


 Caroline Collins, Administrative Coordinator
 For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
County of Richland	)	2016CP4004421
	)	
TIRRELL BOYD,	)	
	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT,	)	

April 5, 2019
Columbia, South Carolina

BEFORE:

THE HONORABLE J. DERHAM COLE, JUDGE.

APPEARANCES:

LEAH MOODY, ESQ.
Attorney for the Applicant

LINDSAY McALLISTER, ASSISTANT ATTORNEY GENERAL
Attorney for the Respondent

KAREN AMBROZIAK
Official Court Reporter

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(No exhibits were introduced)

1 MS. MCALLISTER: May it please the Court, Your Honor.
2 Tirrell Lamar Boyd vs. the State of South Carolina.
3 2016-CP-40-4421.

4 Your Honor, Mr. Boyd was indicted at the
5 December 2014 term of the grand jury for Richland County
6 for possession with intent to distribute marijuana,
7 murder, possession of a stolen motor vehicle, and
8 trafficking in cocaine 28 to 100 grams as a first offense.

9 He was subsequently indicted at the November 2015
10 term for two counts of attempted murder.

11 He was represented on those charges by Barney Giese
12 and Justin Kata. Assistant Solicitor Meghan Walker
13 prosecuted the case for the State.

14 On March 18th, 2016, Mr. Boyd pleaded guilty before
15 Judge Manning to trafficking cocaine, possession with
16 intent to distribute marijuana, possession of a stolen
17 vehicle and pursuant to Alford, to murder and the two
18 counts of attempted murder.

19 The State in exchange dismissed the charges of
20 possession with intent to distribute cocaine, possession
21 of a stolen pistol, unlawful carrying of a pistol, a hit
22 and run, and failure to stop for a blue light, which were
23 also indicted in 2013 and 2014, Your Honor.

24 Pursuant to a negotiated sentence, Judge Manning
25 sentenced Mr. Boyd to five years for possession with

1 intent to distribute marijuana, five years for trafficking
2 cocaine, five years for possession of a stolen motor
3 vehicle, 30 years for murder and 30 years for each count
4 of attempted murder all to be served concurrently.

5 He did not appeal those convictions or sentences.
6 However, he did file this application for Post Conviction
7 Relief on July 25th, 2016.

8 Ms. Leah Moody has been appointed to represent him in
9 this matter, Your Honor. Both Ms. Moody and Mr. Boyd are
10 present in the courtroom today. I believe Ms. Moody has a
11 motion she would like to address with the Court at this
12 time.

13 THE COURT: All right. Ms. Moody.

14 MS. MOODY: Thank you, Your Honor. May it please the
15 Court. After briefly with speaking with my client today,
16 he indicates that he wishes to relieve me as counsel and
17 request a continuance to do so, Your Honor.

18 THE COURT: Why is that?

19 THE APPLICANT: Because, sir --

20 THE COURT: Excuse me, I'm talking to your lawyer.

21 MS. MOODY: Well, Your Honor, he feels like we're not
22 prepared. I gave him some information with regard to some
23 of the witnesses that he presented to me, the names that
24 he gave, and they called my office and after talking to
25 them.

1 They indicated that they were not interested in
2 coming to testify. They were under the impression they
3 could give a statement to the Court, a written statement
4 as to the allegations, the particular allegation that Mr.
5 Boyd was not the shooter in this whole incident. So
6 there's a murder and two attempted murder charges.

7 After speaking with them and understanding that they
8 thought they could give a statement, I explained to them
9 that based on this kind of hearing, they have to come to
10 the court and they have to take the stand and testify as
11 to what they observed on the particular night in question.

12 They indicated -- two of them, Mr. Whitten Moody and
13 Mr. Profitt, Travis Profitt, Your Honor, indicated to me
14 that they would call me back on Monday as to whether they
15 would be willing to come forward.

16 I explained to my client that they did not call my
17 office. I do not have an address for them, as I don't
18 know them, but they indicated they were going call back.

19 Mr. Profitt indicated, when I talked to him,
20 indicated that if he had to take the stand, he was not
21 willing to do that. And so I informed my client of that,
22 and he feels that we're not ready to go forward. And he
23 wants another attorney.

24 THE COURT: Okay. Are you his original lawyer in
25 this case?

1 MS. MOODY: Yes, sir, I believe so.

2 THE COURT: And this has not been set before?

3 MS. MOODY: Well, Your Honor, with all candor to the
4 Court, the last hearing that we were here before the
5 Court, Judge Curtis did indicate that this would -- the
6 continuance that she granted him so I could contact those
7 witnesses, that's the time I got those names. She
8 indicated that he could not have another continuance and
9 that he would have to go forward.

10 Now, we haven't gotten that order back yet from the
11 Judge from that last term, but that's what the Court
12 indicated to him. But he asked me to relay this to the
13 Court and so I am, Your Honor.

14 THE COURT: Ms. McAllister?

15 MS. MCALLISTER: Your Honor, the State would strongly
16 object. This would be, I believe, the third time, maybe
17 the -- this might be the fourth time this is on the
18 roster. It's either the third or fourth time. It's been
19 continued multiple times before.

20 The witnesses are here. They've been here since this
21 morning and the State is prepared to go forward, and he
22 was told in no uncertain terms his case would not be
23 continued again.

24 THE COURT: All right. Motion for continuance is
25 denied.

1 MS. MOODY: Your Honor, at this time, we would call
2 Mr. Tirrell Boyd to the stand.

3 TIRRELL BOYD, after being duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION:

6 BY MS. MOODY:

7 Q Mr. Boyd, would you please state your full name for
8 the record.

9 A My name is Tirrell Lamar Boyd.

10 Q And what are you currently incarcerated for?

11 A Murder, two attempted murders, trafficking cocaine,
12 possession of stolen vehicle and PWID marijuana.

13 Q All right. Okay.

14 A Yes, ma'am.

15 Q All right. And you had attorneys on these particular
16 charges?

17 A Yes, ma'am.

18 Q Okay. Who were your attorneys?

19 A Mr. Giese and Kata, Mr. Kata.

20 Q And were they your only attorneys that you ever had
21 on these cases?

22 A Yes, ma'am.

23 Q And do you recall when you hired Mr. Giese and
24 Mr. Kata?

25 A Well, I was on the outside then, you know, when I --

1 Q You were out on bond?

2 A Yes, ma'am. And so when I did hire them, I met them
3 through a friend of mine. And he's actually here, too.
4 So, you know, basically, he referred me to them, so I
5 knew -- he was going through things and, you know, so I
6 feel like, you know, that was a good, you know, to go
7 forward with.

8 Excuse me, Your Honor.

9 But, you know, basically, to go forward with hiring
10 them as the attorney.

11 Q And so they represented you here in Richland County?

12 A Right.

13 Q Did you have an opportunity to meet with them and
14 discuss your case?

15 A Ma'am? Say that again.

16 Q Did you have an opportunity to meet with your
17 attorneys and discuss your case?

18 A Yes, ma'am, but I had numerous cases going on. I had
19 pending cases going on, so they was representing me for my
20 first, you know, my first pending cases and then, you
21 know, I got in trouble for this. So I just kept him, you
22 know, when I got locked up.

23 Q Okay.

24 A I just kept him.

25 Q All right. So as it relates to these charges, the

1 possession with intent to distribute marijuana, murder,
2 possession of stolen motor vehicle, the trafficking
3 cocaine and two attempted murderers, you discussed with
4 them the facts of these cases?

5 A Yeah, but I also -- I also discussed that I didn't do
6 it. I said that the whole time.

7 Q I understand. I'm just asking, you all had a
8 discussion about the cases?

9 A Yes, ma'am.

10 Q And did you give them any information that would help
11 them investigate your case?

12 A Ma'am, at the time, I did, but nobody wouldn't -- you
13 know, nobody wouldn't come forward for me. And they did
14 try to, you know, get in touch with people, but the same
15 thing, people wouldn't come forward for me and, you know,
16 just -- so I felt like, basically, why I took the -- why I
17 took what it was, the plea because I didn't have no
18 defense.

19 I didn't have no fight, so I looked at it as -- you
20 know, I'd rather my life coming home one day than no day.
21 That's how I looked at it. That's why I took the plea.

22 Q So we're going to get around to all that?

23 A Right.

24 Q But in filing this application for ineffective
25 assistance of counsel, you indicated that your attorneys

1 did not do independent investigation?

2 A No, ma'am, I don't think so.

3 Q What do you mean by that?

4 A The only thing they told me, well, we sent -- I don't
5 remember the private investigator name they had. He was
6 an elderly fellow. And he told me, basically, when they
7 went down wherever, you know, it happened at in Eastover
8 that everybody -- you know, people started running.
9 That's all I ever know. People started running, so they
10 didn't get to question nobody.

11 Q Okay. So your testimony here today is that your
12 attorneys didn't have any one statement through the
13 investigator?

14 A Right.

15 Q Okay. Now, did you ask any -- give them any of the
16 information to have the investigator to look into?

17 A At the time, ma'am, I was -- you know, I was -- like
18 my mind was -- I had a lot of stuff on my mind so the
19 things that I did give them, basically, they were saying
20 it wasn't trying to help me. Like, the people that was
21 supposed to come speak up for me, like what's his name,
22 Mark Wilson, he can still come speak up for me, but I told
23 Justin, can you, you know, basically, speak to him and
24 speak if he's going to come up for me. But, you know,
25 Justin always said that he -- it might turn against us,

1 basically. It might turn against us. So, you know, I
2 just -- that's how I went forth with it, you know, with
3 the plea deal.

4 Q Outside of talking to witnesses, did you give them
5 any other information to investigate?

6 A No, ma'am, it wasn't no other information that I
7 knew, ma'am.

8 Q All right. You also indicate your attorneys were
9 ineffective assistance of counsel regarding inconsistent
10 statements?

11 A Right, right.

12 Q Can you please explain that to the Court?

13 A Okay. People -- in some of my statements, people
14 saying that they didn't see me do it, but the
15 investigators and Justin at the time was saying, well, you
16 got three or four witness that is going to come and say
17 that you did do it. But the three or four witnesses, I'm
18 looking at my paperwork and it's like they're not saying
19 that I actually -- they had seen me do this. They're
20 saying they heard it. It's a difference.

21 Q Okay.

22 A So at the time, you know -- let me see the best way I
23 can explain it, ma'am.

24 At the time, I just -- I was puzzled with a lot of
25 things and I didn't know how to go about -- I didn't know

1 how to go forth with it no more, so I felt like Justin and
2 Mr. Giese was in my right, you know, in my right interest.
3 So I didn't know how to go forth no more, ma'am.

4 Q So as to the inconsistent statement, you saw in the
5 discovery material --

6 A I seen, it wasn't no defense. I seen they wasn't
7 trying -- basically, I didn't see no defense. People
8 saying that they seen me do this. But it's not saying
9 this exactly in the paperwork.

10 Q Okay. I'm just trying to make sure I understand what
11 the inconsistent statement is.

12 A Right.

13 Q The paperwork didn't match what?

14 A They was saying.

15 Q All right.

16 A Right. Right.

17 Q So you also state that your attorneys -- under
18 ineffective assistance of counsel, you challenge the no
19 search warrant?

20 A Yeah, there was no search warrant for -- they came --
21 I guess they came for certain clothing, so they did not
22 find certain closing. So when they came -- when they got
23 me for the drugs.

24 Q When you say they, you're speaking of law
25 enforcement?

1 A You know, Joseph Clark and the officers.

2 Q Law enforcement?

3 A Yeah, law enforcement. So when they got me for the
4 drugs, they didn't have no warrant for drugs. They had a
5 warrant for murder.

6 So when they came, like, you know, that was just in
7 the process. Like I always told Mr. Giese and Mr. Kata,
8 I'm wrong for the drugs, but the murder I didn't do. I
9 kept my story the same. It's no different.

10 Q All right. The next allegation you state is mistaken
11 identity?

12 A Right.

13 Q I assume you're referring to the photo ID, the lineup
14 that was performed?

15 A Right.

16 Q So what do you -- what was ineffective about your
17 counsel as it relates to mistaken ID?

18 A Well, I feel like -- well, okay, they said about the
19 long sideburns or whatever. Anybody can have long
20 sideburns. And mistaken identity, okay, I tell them I was
21 there, but you didn't -- you didn't -- hold on. I'm
22 getting frustrated. I'm sorry. My bad, Judge.

23 Just at the end -- but -- I'm getting frustrated.
24 But they didn't -- say that again, ma'am. My mind just --
25 please, ma'am, say that again.

1 Q Your allegation against your attorneys is that there
2 was mistaken identity. Explain to the Court how you feel
3 your counsel was ineffective assistance -- ineffectively
4 assisted you as it relates to mistaken identity.

5 A Well, let me see the best way I can say this.
6 They -- well, the investigators, they say people picked me
7 out a lineup, but when they picked me out of a lineup,
8 it's like they coerced them to pick me out of that lineup.

9 Q What did you want your attorneys to do as of that
10 lineup?

11 A Basically, I mean, it was no questioning about that
12 lineup. There was no questioning about it. They didn't
13 question the investigators, I don't think, about the
14 lineup.

15 Q What, if any, conversation did you with your
16 attorneys regarding the lineup?

17 A They just said they picked me out of the lineup. So,
18 I mean, that's all they told me.

19 Q Did you ask them anything further?

20 A No, ma'am.

21 Q The next allegation you indicate is that your
22 attorneys were ineffective assistant as it relates to
23 hearsay evidence. Does that go back to the inconsistent
24 statements?

25 A Right, it's, basically, the same thing.

1 Q The next allegation you have is intimidation with a
2 life sentence?

3 A Right.

4 Q What was ineffective assistance from your -- excuse
5 me, I keep saying it wrong. How were your counselors
6 ineffective in assisting you as it relates to a life
7 sentence?

8 A Well, just to go back to two months before I'm about
9 to go to trial for this murder. So I was fixing to go to
10 trial for it and so now they came and hit me with two
11 attempted murderers from the same incident.

12 So I'm like, you know, now you really got me in a
13 corner, so, you know, I don't know. I'm like what? Why
14 didn't they just charge me from the beginning? So I'm
15 like, basically, two months before I go to -- I'm about to
16 go to trial, they come at me with 2015, February 1st, I
17 think, or the 5th, they hit me with the two attempted
18 murderers.

19 So, basically, I felt like it was ineffective of you
20 push me -- you push me up under the gun. You push me up
21 under the gun to where okay, you know I'm not ready for
22 trial. We don't even have a defense to even fight. He
23 tried to come with a defense at the end.

24 Q Okay. So let's back up. Who presented you the life
25 sentence? Was it your attorneys?

1 A Yeah, they said if I lose trial, they're probably
2 going to give you life, you know. Prior to it all, I had
3 all kind of pending charges, too, so I kind of felt where
4 he was coming from, but, you know, at the time, I didn't
5 know how to stand up for myself. I didn't know how to
6 stand up for myself at the time because --

7 Q What do you mean stand up for yourself?

8 A I've never been through nothing like this.

9 Q What do you mean stand up for yourself?

10 A Standing up for myself knowing how to -- basically,
11 when I've got my back up against the wall, I didn't know
12 how to stand up for myself and, basically, think fast at
13 the time when it was time to think fast.

14 I just looked at it, like, okay, well, you know, I
15 feel like they going to find me guilty anyways because I
16 got all these other charges. I felt that. I'm just being
17 real with you.

18 So I'm looking at it like, okay, well, they're going
19 to give me a life sentence, so I tried to, basically,
20 escape that. Because like I say, I looked forward to
21 going home one day instead of no day. I mean, that's the
22 best way I can explain it, ma'am.

23 Q So your last allegation that you have is there was no
24 gun recovered?

25 A No, ma'am.

1 Q What, if anything, did you and your attorneys talk
2 about a gun being recovered?

3 A We never talked about a gun being recovered.

4 Q Well, when you got the discovery -- well, whenever --
5 did you have an opportunity to have the discovery and go
6 over it yourself, the evidence of the --

7 A Yeah, probably like in the -- well, Justin came in
8 probably like the -- me, being in the county, I'd say
9 about eight months, nine months, I seen my motion.

10 Q Okay. So when you had an opportunity to look at the
11 discovery, did you ask or question your attorney about the
12 gun not being recovered?

13 A To be real with you, ma'am, I don't think I asked
14 that question because I never knew about a gun.

15 Q So you never asked them like how the other -- how the
16 victim was murdered?

17 A Ma'am, it was three different guns, three different
18 cases. So it was -- I guess it's supposed to have been
19 three different shooters from three different guns. I
20 can't shoot three guns.

21 Q But you understood it was death by a gun?

22 A Right.

23 Q It was attempted murder by a gun?

24 A Right, but at the time, Justin didn't even know what
25 cases it was. Justin would tell me a .45, then he would

1 tell me a .40. So I never knew no acknowledgment about no
2 gun, you know what I'm saying.

3 Justin was telling me -- I was asking, what did he
4 get shot with, you know what I'm saying. And, basically,
5 he was telling me sometimes a .45 and sometimes a .40.
6 That's all I got.

7 Q I get that you understand that. But I'm asking did
8 you guys specifically talk about evidence they didn't
9 have, like there was no gun?

10 A No, we never did.

11 Q All right.

12 A Not that I can recall now, not that I can recall.

13 Q All right. Now, ultimately, when it came down to how
14 you ended up in the Department of Corrections, you ended
15 up taking a plea, correct?

16 A Right.

17 Q And was there an offer presented to you by the State?

18 A Well, the first time -- the first time, it was two --
19 they switched my prosecutor. I had Hans at first. I
20 don't know his first name, but his name is Hans. And Hans
21 came to Justin and told Justin that the case was bull, BS,
22 so it was ten years up for discussion.

23 Q So your first offer was ten years?

24 A Yeah, but this is before the two attempted murders.

25 Q All right. And then did you get a second offer?

1 A The second offer was the last one or go to trial.

2 Q Okay.

3 A And then they hit me with the attempted murder when
4 I'm fixing to go to trial for the murder. Basically, like
5 two months before I'm fixing to go to trial, they hit me
6 with two attempted murders from the same incident.

7 Q But, ultimately, you got a negotiated plea?

8 A Right. Right. Right.

9 Q And can you tell the Court what was that negotiated
10 plea?

11 A A 30 mandatory.

12 Q So 30 on?

13 A On everything. Basically, they dropped the rest of
14 the charges.

15 Q So did you have an opportunity to discuss this
16 negotiated plea with your attorneys before you accepted
17 it?

18 A Yeah, but it wasn't that much time.

19 Q What do you mean?

20 A It was -- I pled it on a Friday. I was supposed to
21 go to trial that Monday. I pled it on a Friday. Justin
22 came that Thursday, that Thursday and I signed the
23 negotiated plea.

24 Q But did y'all talk about what a negotiated plea was?

25 A Yeah, we discussed it, but I did also still tell

1 Justin, man, listen, I ain't do it, you know what I'm
2 saying.

3 I really want to go to trial, but once I seen like --
4 you know, what I'm saying, it's going to be -- it ain't no
5 defense, no kind of defense. He's trying to jot down
6 names at the end when I'm fixing to go to trial. I was
7 scared. I'm being honest with you.

8 Q So jot down names. So at that time, were you giving
9 him witnesses to contact?

10 A Ma'am?

11 Q Were you giving Justin witnesses to contact?

12 A Yeah, I always did, but Justin also said to that they
13 wouldn't -- you know, the same thing, they wouldn't come
14 up. Also, it was a girl, Ashley -- I forgot her last
15 name, her name is Ashley. But she was supposed to come up
16 and speak up for me, but she never did.

17 Q So you entered your plea and you received the 30
18 years?

19 A Right.

20 Q On all the charges --

21 A Right.

22 Q -- that we pled? And so you filed this Post
23 Conviction Relief action stating that your attorneys
24 prejudiced you in some kind of way?

25 A Right.

1 Q Can you please explain to the Court what is the
2 prejudice?

3 A Best way I can explain it, at first, I really didn't
4 feel like it was -- you know, we had a problem of it. But
5 once I got back here and I thought it, I'm this is my
6 life, you know. I didn't -- I'd rather do 30 years for
7 drugs than something -- you know what I'm saying, for a
8 murder. I didn't murder nobody.

9 So if I'm going to take 30, I'd rather take 30 for
10 drugs. That's because I'm guilty of that. So I was just
11 trying to throw that to them and it wasn't no budging,
12 ma'am.

13 Q What do you mean throw that to him? Who is him?

14 A Mr. Kata.

15 Q And what were you trying to get -- when you say after
16 you got the sentence, you're saying you talked to him
17 after you were sentenced?

18 A Yeah.

19 Q And you wanted him to understand what?

20 A I wanted him to understand I still need help, I still
21 need help because, I mean, I didn't do this. I didn't
22 murder nobody. So I came at him like, hey, can you help
23 me?

24 I still ask him to this day when I see him, Justin,
25 can you help me? Is there any kind of way you can help

1 me? But they wasn't no bad attorneys now.

2 They wasn't bad attorneys. But at the same time, I'm
3 not just fixing to lay down for something that I didn't
4 do. I rather lay down for something that I did do, you
5 know. And I felt like okay, I mean, they could have stood
6 up for me better than they did.

7 I thought I was dealing with Barney Giese at first,
8 but I really was dealing with Mr. Kata, so I didn't -- at
9 one point in time, I didn't know the difference between
10 them until -- I used to call Mr. Kata Mr. Giese when I
11 used to go see them and pay them and take them the money
12 and stuff.

13 Q All right. Okay, but how has their representation --
14 based on the allegations that we've gone through --

15 A Right.

16 Q -- how has it prejudiced you to where you're asking
17 the Court to grant you relief?

18 A Well, ma'am, I'm going to tell you right now, for
19 one, it was lack of personal knowledge and they knew that.
20 My educational level wasn't nowhere near as his.

21 Q How does that prejudice you?

22 A I mean, you could look at a person, ma'am, and tell
23 they're not smart at certain things, ma'am. I mean, just
24 because you might know the law, I might not know the law.
25 I might need you to show me certain things, like, what it

1 really means, you feel me? I didn't go to school for
2 that. I didn't pass the 7th grade, the 8th grade, ma'am.

3 Q I understand. I'm just asking you to relate to the
4 Court how you were prejudiced. Are you saying that your
5 attorney should have spent more time explaining to you --

6 A Right.

7 Q -- the plea offer that you got?

8 A Right. Right. And, basically, taking more time to
9 really pay attention more to my case instead of looking at
10 all the cases, all in one, instead of just looking at a
11 deal. He should have just paid attention to that one,
12 what I told him I didn't do.

13 I would have took the time for the drugs, but I wish
14 he would have just paid attention just to that one case at
15 the time and, you know, maybe we could have did, you know,
16 process by process instead of just jumping the gun and
17 just saying okay, you just take this deal. No, I don't
18 feel that now.

19 Q What relief are you seeking from the court here
20 today?

21 A Ma'am, like I just said, I just want the murder
22 charge off me, ma'am. I'll sit down and do my time for
23 drugs, ma'am. I'd rather do 30 years for drugs instead of
24 murder, ma'am. I ain't murdered nobody.

25 Q But you understand this Court cannot give you --

1 A Right, right.

2 Q Let me finish. You understand this Judge cannot
3 dismiss any charges here today?

4 A Right.

5 Q If he grants you relief, you start all the way over?

6 A Right. Right.

7 Q Facing all the charges, plus the eight that were
8 dismissed?

9 A Right.

10 Q So you are asking the Court to grant your that relief
11 so you can start it all over from day one with those
12 charges plus these charges?

13 A Yes, ma'am.

14 MS. MOODY: No further questions for this witness,
15 Your Honor.

16 CROSS-EXAMINATION:

17 BY MS. MCALLISTER:

18 Q Mr. Boyd, do you recall the day you went in front of
19 the plea judge to enter this plea?

20 A It was Mr. Manning. It was March.

21 Q I'm sorry, I'm not asking you the date. I'm just
22 asking you, you remember doing that, correct?

23 A Yes.

24 Q And you remember the fact that Judge Manning kind of
25 talked to you and asked --

1 A Yeah, he asked me three times. He say now, sir, do
2 you know what you doing. He asked me three times. He
3 said, sir, do you know what you're doing?

4 So I said, Well, sir -- after he asked me the second
5 time, I thought about something and I thought about Joseph
6 Clark where he said -- the investigator, Joseph Clark, I
7 thought about what he said, Well, sir -- he came to me
8 down in the 321 hallway in the county.

9 He said, Well, sir, there's going to be no more
10 charges filed against you and that's it. And this is my
11 first couple days in the county when they captured me. So
12 when they caught me, you know, like he said, no more
13 charges going to be filed. And they came at the end and
14 hit me with the two attempted murderers from the same
15 incident. So when they hit me like -- I was -- I was
16 scared, sir, I ain't lying, I was scared.

17 Q Mr. Boyd, let me refocus you on the question I asked
18 you. You recall that Judge Manning kind of went through
19 what was going on that day. And he asked you a bunch of
20 questions about what you were doing, correct?

21 A Right.

22 Q And he explained to you the charges that you were
23 pleading guilty to and the sentences that you were looking
24 at that, correct?

25 A Right.

1 Q And you told him you understood all that?

2 A Yes. And he also said, Well, sir, you know that
3 these people have to find you guilty of this charge. He
4 kept -- he told me that three time. He told me that three
5 times, but I -- Mr. Giese and Mr. Kata, they said when you
6 go up there, just say yes, sir, just say yes, sir, just
7 say yes.

8 Q Okay. So when the Judge went through the fact that
9 you were giving up certain things. You were giving up the
10 right to call witnesses. Ashley and Mark and these other
11 people that you mentioned, the Judge explained to you, you
12 were giving up the right to call those witnesses to
13 testify in your defense, right?

14 A Right.

15 Q And you told the Judge that's what you wanted to do?

16 A Right.

17 Q And you told the Judge that you had enough time to
18 talk with your attorneys about this decision and that you
19 were satisfied with the advice your attorneys had given
20 you, correct?

21 A Yes, ma'am.

22 Q Okay.

23 MS. MCALLISTER: I think that's all the questions I
24 have for Mr. Boyd, Your Honor.

25 MS. MOODY: No further questions, Your Honor.

1 THE COURT: Okay. Step down.

2 Any other witnesses?

3 MS. MOODY: No, sir, Your Honor.

4 THE COURT: Ms. McAllister.

5 MS. MCALLISTER: Your Honor, the State would call
6 Justin Kata.

7 JUSTIN KATA, after being duly sworn,
8 testified as follows:

9 DIRECT EXAMINATION:

10 BY MS. MCALLISTER:

11 Q Mr. Kata, you were Mr. Boyd's defense attorney on
12 these charges, correct?

13 A Correct.

14 Q And how did you come to be involved in his case?

15 A I was originally retained to represent him on charges
16 apart from the murder and attempted murders, the drug
17 charges and the other ones that you had listed earlier.
18 During the course of that representation, he was charged
19 with these new charges and we became his lawyer on those
20 charges, too.

21 Q Okay. So once he got the new charges, you kind of
22 just represented him on everything?

23 A Correct.

24 Q Okay. You've heard Mr. Boyd -- well, let me back up
25 for just a second. Can you explain briefly the facts of

1 the murder charge and the attempted murder charges?

2 A Sure. This was the murder charge and two attempted
3 murder charges that arose out of a shooting at a club down
4 in lower Richland. Essentially, the club was closing and
5 a fight had occurred at some point -- or a fight had
6 occurred, they had closed the club and everybody was
7 leaving the club and the fight spilled outside. Words
8 were exchanged and then shots began to ring out. It was a
9 very chaotic scene. The 9-1-1 call, multiple shooters --

10 (Court reporter coughing)

11 THE COURT REPORTER: I'm sorry, I'm going to need to
12 get some water. I can feel it starting.

13 THE COURT: Let's take five minutes.

14 (WHEREUPON, a short break was taken.)

15 BY MS. MCALLISTER:

16 Q So the murder charge and attempted murder charge
17 arose out of this same incident in the nightclub parking
18 lot?

19 A That's correct.

20 Q Okay. So you had multiple other charges with
21 Mr. Boyd before these charges were filed. Were you
22 preparing to go to trial on those charges or what was the
23 status of those cases?

24 A Really, the status of those cases were -- I mean,
25 they were just pending. We were going through the process

1 of getting discovery and trying to make negotiations and
2 all the normal things that you would normally do in the
3 case. I mean, nothing ever really happened with those
4 charges --

5 Q Okay.

6 A -- prior to the new charges coming into effect. I
7 mean, we were midway through those cases when this
8 happened.

9 Q Okay. So then the new charges came in and how does
10 that change the situation?

11 A Well, it changed the situation because it changed the
12 focus. I mean, of course, you've got drug charges, even
13 though they may have been serious, and all of a sudden,
14 you're charged with murder and attempted murder, I mean,
15 your focus is going to change from the drug cases to the
16 murder and the attempted murder.

17 Q And what was Mr. Boyd's position on the murder? What
18 did you want to do?

19 A Well, he always maintained that he did not shoot the
20 victim.

21 Q Okay.

22 A I mean, he always maintained that.

23 Q And did he give you potential witnesses or some
24 avenues to investigate to kind of back that up or try to
25 back that up?

1 A We attempted to find any witness that we could put on
2 the stand and affirmatively say I had my eyes on Tirrell
3 Boyd at the time the shots were fired and he was not the
4 shooter. I mean, that was the ideal testimony we were
5 looking for.

6 We were hopeful we could find it because this was a
7 club shooting situation where there were -- there were
8 people everywhere. I mean, this was a packed club.

9 They released all the people, fights breaking out and
10 a really chaotic scene. So, I mean, that's what we
11 discussed a lot about. I mean, who else was there, you
12 know, point us in a direction we could go try to explore
13 this.

14 Q Did you have a private investigator you were using or
15 how were you tracking people down?

16 A We did. We had a private investigator named Billy
17 Taber.

18 Q Was Mr. Boyd able to actually give you some names,
19 like, something definitive to track down?

20 A He did give names. He did give names. And what we
21 did was -- of course, we called all the people that he
22 gave us. But what we also did was during the course of
23 the life of this case, he had many, many, many jail phone
24 calls, over 500 hours of jail phone calls. And when we
25 would meet and discuss well, you know, who do we need to

1 find and all those issues, he was trying to find those
2 witnesses actively on the phone.

3 So the system we developed was well, let's try to
4 identify those phone calls, listen to the phone calls and
5 see what we can pull out of those conversations. Because
6 when we would come meet and he talked on the phone five
7 days ago, it's hard to get the specifics just from memory
8 and all that.

9 So we went back and listened to a lot of them. We
10 got a list of numbers and we did followups. And a lot of
11 it, just people were very uncooperative or he would
12 have -- we would listen to a conversation on the jail
13 tape.

14 There would be a conversation saying one thing and we
15 would go to follow it up and they would either not come
16 into the office, wouldn't give us any more information on
17 where to find them or just -- or they'd say stuff that
18 just wasn't going to be favorable if we put them up.

19 Q So, ultimately, you were unable to find any favorable
20 witness who could definitively say that Mr. Boyd was not
21 the shooter?

22 A That's correct.

23 Q Did you explain that to Mr. Boyd?

24 A I did.

25 Q Okay. There was also an allegation Mr. Boyd was

1 testifying about, a photo lineup and identification?

2 A Uh-huh.

3 Q Was Mr. Boyd identified in a photo lineup?

4 A He was.

5 Q And he was identified as the shooter?

6 A Correct.

7 Q Did you feel that there was some potential to
8 challenge that photo lineup if Mr. Boyd chose to go to
9 trial?

10 A There was.

11 Q Okay.

12 A You know, a big key issue in the case was the people
13 that ID'd him did not know him prior. So, essentially,
14 they're ID'ing a stranger out of a lineup, and a big part
15 of the information that law enforcement had gathered prior
16 to the ID's were Wolverine-type sideburns, and that was
17 the description.

18 Well, we sat down and looked at the lineups and, you
19 know, Wolverine sideburns are very specific. They're
20 specific to a movie character. That's the Wolverine-type
21 description, and they're very unique.

22 And we discussed well, you know, we can challenge the
23 fact that all six photographs may have -- they had a
24 little additional facial hair, you know, than technically
25 Wolverine-type sideburns that were from the movie.

1 And we discussed that, that's a possibility. And we
2 discussed that that would be an issue that we would
3 challenge at trial, you know, that those photo lineups
4 were unduly suggestive and we would try and extrapolate
5 that into trying to suppress any in-court identification.

6 Q So Mr. Boyd was aware that he had a potential
7 challenge to the lineup if he choose to go to trial?

8 A He was.

9 Q And, ultimately, he chose to plead guilty, correct?

10 A Yes.

11 Q And can you explain from your conversations with him
12 why he chose to go that route?

13 A Through our conversations -- and we had a lot of
14 them. I mean, we met a lot. I mean, we had a good
15 relationship over a number of years and we really worked
16 the case, and we talked about a lot of things that didn't
17 have anything to do with the case, okay. And him having a
18 get out date at some point in time was a big deal. It was
19 a big deal to him. And that was a big factor, I think, in
20 his decision to plead guilty.

21 Q Okay. So, essentially, he didn't want to risk the
22 maximum punishment at trial if convicted at trial?

23 A Correct.

24 Q Okay. Were you prepared to take the case to trial if
25 that's what Mr. Boyd had chosen to do?

1 A We were.

2 Q Oh, you mentioned phone calls. On the jail phone
3 calls, was there -- how did those phone calls end up
4 playing into your plea negotiations?

5 A The phone calls played into the plea negotiations
6 because the Solicitor's Office was listening to them. And
7 there was talk about -- between Mr. Boyd and, I can't
8 remember if she was a fiancée or girlfriend, about the
9 number of years that he would accept. So when we would go
10 to the Solicitor's Office -- we were trying to get -- I
11 mean, okay, it's a murder case.

12 You want to get it to voluntary if you can. We went
13 to Meghan Walker and Luck Campbell who had taken the case
14 over from Hans Pauling. You know, we're giving them these
15 reasons that we think this should be, at least, voluntary
16 manslaughter and they're telling us well, we already know
17 that he'll take 30. And they got the tapes. I mean,
18 that's where we get the tapes from.

19 Q Okay.

20 A And so that was challenging.

21 Q And did you discuss that with Mr. Boyd?

22 A I did.

23 Q So, in your opinion, when Mr. Boyd agreed to accept
24 the plea, did he realize he was going in there to accept a
25 plea of 30 years?

1 A He was.

2 MS. MCALLISTER: I think that's all the questions I
3 have for Mr. Kata.

4 CROSS-EXAMINATION:

5 BY MS. MOODY:

6 Q Good afternoon.

7 A Good afternoon.

8 Q Mr. Kata, when you talk about the jail phone calls
9 and the solicitor was listening to them, did you discuss
10 with your client, or Mr. Boyd, that he should not have
11 conversation over the phone?

12 A Yes.

13 Q So when you say the problems that you were having,
14 are you saying that you were trying to get below 30 years?

15 A If possible. I mean, yes, of course, we were trying
16 to negotiate that.

17 Q Okay. And so, I guess, what you're saying from your
18 last statement where you testify, when you talk to Luck
19 Campbell and Meghan Walker, they would not budge below --

20 A No.

21 Q -- or go below 30 years?

22 A They would not.

23 Q Did you explain that to Mr. Boyd?

24 A I did.

25 Q Did he appear to understand all that?

1 A He did.

2 Q As to the investigation, you indicated you contacted
3 witnesses. Did you ever talk to any witness that
4 indicated that they did not see Tirrell Boyd with a gun?

5 A No, I did not.

6 Q And so the conversation between Mr. Boyd and
7 yourself, did he maintain the position -- I know he said
8 that he was not the shooter, did he maintain the position
9 that he never had a gun?

10 A He did with me.

11 Q And so what did the State -- what was the State's
12 view in terms of him having the gun or being the shooter?

13 A Yeah. Well, they had three witnesses, okay, an owner
14 of the club and two bouncers. They had the owner and one
15 bouncer ID him as an active shooter. And then they had --
16 the last bouncer, Marlin Broster (phonetic), gave a
17 statement to law enforcement that he had saw Mr. Boyd
18 earlier in the day pull up his shirt and have a gun in his
19 waistband. And that was the core of their case.

20 Q Okay. So what about the victims in the case?

21 A The victims were uncooperative at first. I believe
22 Bradley Harte ended up identifying Mr. Boyd as the person
23 that he thought shot him, but there were real problems
24 with that ID.

25 Q Okay.

1 A I mean, that one was -- you had a lot of avenues of
2 attack on him. The two bouncers and the owner were more
3 of a concern from a defense attorney's perspective in the
4 State's case.

5 Q And when it comes down to identifying them, one of
6 the -- from the transcript, they identified in court that
7 the person had long hair. In addition to the Wolverine
8 sideburns, did Mr. Boyd have long hair at the time?

9 A I don't believe he did. He probably had a haircut
10 just like -- I've never seen him with a haircut different
11 than what he's got.

12 Q All right. And so the only distinction would have
13 been the -- well, outside of the fact that he is light
14 complexion, you understood that, but the -- did you all
15 challenge the State on the long hair identification?

16 A I mean, in negotiations we brought up all those
17 facts, but we never ended up challenging it --

18 Q That's what I mean.

19 A No, no, we did not. We didn't file any motions
20 challenging that getting his case resolved.

21 Q So I guess in terms -- I'm trying to understand, you
22 felt that -- was identification an issue that you all were
23 going to challenge if you had gone to trial?

24 A Oh, yeah, if we had gone to trial, we would have
25 challenged all that, yes.

1 Q All right. So now, let's talk about the intimidation
2 with life sentence. Did you -- help me understand how you
3 conveyed to him the penalties that the charges carry?

4 A Well, what we did was we took every charge, okay, and
5 went over the minimums and the maximums. And,
6 essentially, we did a worst case scenario, we did a best
7 case scenario, we did an all in between scenario and we
8 just -- we ran the numbers. I mean, we did the math, and
9 I told him, you know, if we lose at trial, it can be any
10 one of these situations.

11 I mean, it can be a number of years run consecutive
12 together, that could be the rest of your life. It could
13 be a concurrent 30 that we negotiated or it could be 40.
14 I mean, we went over all those options.

15 Q Okay.

16 A On what could happen.

17 Q And did he appear to understand?

18 A He did.

19 Q Okay. Did you have an opportunity to explain to him
20 what the technical -- what the term negotiated sentence,
21 meaning technical, did you all discuss that?

22 A We did.

23 Q Did he appear to understand that?

24 A He did.

25 MS. MOODY: Beg the Court's indulgence.

1 (Pause.)

2 No further questions for this witness.

3 THE COURT: Step down, Your Honor.

4 MS. MCALLISTER: Your Honor, the State would call
5 Barney Giese.

6 BARNEY GIESE, after being duly sworn,
7 testified as follows:

8 DIRECT EXAMINATION:

9 BY MS. MCALLISTER:

10 Q All right. Mr. Giese, you were also involved with
11 Mr. Kata in representation of Mr. Boyd on these charges,
12 correct?

13 A Yes, I was.

14 Q Can you describe a little bit how that came to be?

15 A Yes. Mr. Boyd came in originally and me with Justin
16 and retained Justin in office on some drug cases. I was
17 really not involved in those because they were just drug
18 cases.

19 At some point while he was out on bond, this charge
20 came up. And once the charge -- that charge came -- it
21 was a murder came up, Justin came to me and asked if I
22 would help, you know, move the case, try the case. I said
23 yes, I would. So that's how I got involved.

24 Q Okay. Did you meet with Mr. Boyd prior to the plea?

25 A Yes, I did.

1 Q And did you kind of explain to him how the
2 representation would work in terms of your involvement
3 and -- essentially, that you and Justin would be working
4 on the case together. Did you've make Mr. Boyd aware of
5 that?

6 A I'm sure I did at some point.

7 Q And you actually were the one who went into court
8 with Mr. Boyd to enter the plea; is that correct?

9 A I was.

10 Q Did you review with him the negotiations and what the
11 deal was going to be?

12 A Yes, I did. If I could just give you a little, just
13 real quick background on it. What had happened was they
14 had offered the 30 years at some point, Ms. Campbell and
15 Ms. Walker. At some point during that process, I felt
16 like that was a lot of time, so I decided to appeal it
17 above Ms. Walker and Ms. Campbell.

18 So I set up an appointment with Dan Johnson, who was
19 at the time the solicitor, so that I could go over, see if
20 I could get a better deal than that. I met with Mr.
21 Johnson in his office, and I don't have a date, but he was
22 very firm about not allowing us to go below 30 years. But
23 I tried.

24 At that point, because it was the 30 years, I start
25 to prepare for trial because I didn't think it would be a

1 plea. So I spent whatever length of time that was
2 actually getting ready to try the case.

3 The case got ready to be called and about four -- I
4 don't know, four weeks before the plea date, the State
5 dropped about 500 pages of discovery on us. Most of it
6 ended up being just lab notes from a DNA person, but they
7 also dropped some of these phones calls on us.

8 At that point, I had another lawyer in the office and
9 Mr. Kata listen to as many of those phone calls as we
10 could, get as many phone numbers as we could, try and
11 track anybody down that could help us. We did all that.
12 I honestly was preparing to try the case.

13 The Tuesday before the call -- and by the way, then I
14 asked Judge Newman because of this new discovery to
15 continue the case. He continued it to a date certain.
16 The Tuesday before the date certain is the first I heard
17 that Mr. Boyd wanted to accept the plea offer of 30 years.

18 So I had prepared to try the case. I got my trial
19 notebook here.

20 Q Okay.

21 A And I told him -- I remember telling him, especially
22 the morning of the guilty plea, which was a Friday, I
23 said, Look, I'm ready to try the case. If you want me to
24 try the case, we'll try the case on Monday. And he was
25 adamant about saying, I don't want to go to trial on

1 month. At that point, I said, Well, you either have to
2 take this plea or go to trial on Monday.

3 Q Okay. Okay. So that Friday, you have that
4 discussion with him and it's his decision that he's going
5 to go ahead and enter the plea?

6 A Yes. In fact, I talked to him, at least, twice about
7 it inside -- in the courtroom. Judge Manning had not
8 gotten there yet. I discussed it with him, at least,
9 twice that morning.

10 Q So do you have any doubt that it was Mr. Boyd's free
11 and voluntary decision to enter into the plea?

12 A No, none.

13 MS. MCALLISTER: Okay. Thank you.

14 MS. MOODY: You finished?

15 MS. MCALLISTER: Uh-huh.

16 MS. MOODY: Okay.

17 CROSS-EXAMINATION:

18 BY MS. MOODY:

19 Q Mr. Giese, you indicated that you were preparing for
20 trial and Mr. Boyd was adamant about pleading guilty?

21 A That Friday morning, he wanted to plead guilty, yes.

22 Q So he contacted you all, Justin and yourself, and
23 told you he wanted to plea?

24 A He had contacted us earlier in the week.

25 Q Okay.

1 A I want to say -- I don't know the date. Someone
2 contacted Justin about it. I want to say it was a Tuesday
3 or a Wednesday of that week. I think it was a Tuesday.

4 Q Okay.

5 A My memories tell me that.

6 Q So when you received the offer -- I'm trying to make
7 sure I understand. You received the offer from the State,
8 you presented the offer to him, he turned down the offer,
9 y'all are going to trial, correct? And then he contacted
10 you again and said he wanted to take the plea offer?

11 A I think he contacted Mr. Kata at some point. I don't
12 know if Mr. Kata went down there to see him. I don't know
13 how that actually took place. And I think I found out
14 Tuesday or Wednesday that he wanted to take the plea from
15 Mr. Kata.

16 Q So did you have an opportunity -- and you may have
17 answered this already, but to discuss the meat of the
18 negotiated plea with him?

19 A No, I did not.

20 Q So all of the preparations before the plea was
21 entered, that was done by Mr. Kata?

22 A Most of it. Like I said, I had a discussion with him
23 that morning, with Mr. Boyd that morning. I know for sure
24 in the courtroom twice and I have might have seen him down
25 in the D cell downstairs before that. I'm not -- I'm

1 vague on that. I know I discussed it with him in the
2 courtroom.

3 Q Now, as to the phone calls, when you were in trial
4 prep mode, had you had any discussion with the State about
5 what was on the phone calls?

6 A I had not.

7 Q Okay.

8 A Mr. Kata had been in contact with Ms. Walker, I
9 think, and Ms. Campbell in regards to all that. I know
10 Ms. Walker for sure, I'm not sure about Ms. Campbell.

11 Q So at that point, you wanted to hear those
12 conversations that had been --

13 A I had my office do it, yes.

14 Q All right. Now, when you talked to Dan Johnson,
15 Solicitor Johnson about getting a better deal, did he
16 offer any reason why he wanted 30 years, no less than 30
17 years?

18 A I'm fairly confident that Mr. Johnson knew why I was
19 coming to see him because I think he had already -- I
20 don't know if Ms. Campbell had told him or whoever had
21 told him, but he knew what case I was coming to talk to
22 him about because I didn't have to -- it wasn't one of
23 those things where I sat down and told him the facts.

24 He basically, said, I mean -- I don't remember
25 verbatim, but I remember he said that there were a lot of

1 charges that he had and that they had been having a lot of
2 shootings like this in parking lot bars and that he was
3 staying firm with the 30 years. That's the best of my
4 recollection.

5 Q And to your recollection, do you recall explaining
6 this to Mr. Boyd?

7 A At some point.

8 MS. MOODY: Beg the Court's indulgence.

9 (Pause.)

10 BY MS. MOODY:

11 Q Mr. Giese, so, as far as the murder charges were
12 concerned, when they came on board, it's your position
13 that it was two attorneys representing Mr. Boyd, yourself
14 and Mr. Kata?

15 A That's correct.

16 Q And you all had an opportunity to go over the case
17 with him and explain to him what the significance of a
18 negotiated plea was?

19 A I know Mr. Kata did about a negotiated plea. I know
20 that Mr. Boyd knew if he pled to 30 years, he was getting
21 30 years.

22 Q Okay.

23 A I know I explained -- I know -- I see his grandmother
24 and grandfather here. I know on several occasions, I had
25 meetings with them and with Mr. Taber, who was my

1 investigator at the time. On Friday afternoons, I think
2 they came by four or five times to discuss the case. I
3 know I discussed the facts and the issues with them, too.

4 MS. MOODY: Thank you. No further questions for this
5 witness.

6 MS. MCALLISTER: Nothing further from the State.

7 THE COURT: You may step down.

8 THE WITNESS: Thank you.

9 MS. MCALLISTER: That's the State's case, Your Honor.

10 THE COURT: Anything else?

11 MS. MOODY: No, sir, Your Honor.

12 THE COURT: All right. I'll issue an order.

13 MS. MCALLISTER: Thank you.

14 (Whereupon, the proceedings were concluded.)
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CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th 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
Richland County, South Carolina, on the 5 day of April,
2019.

February 24, 2020

Karen Ambroziak

Karen Ambroziak, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FOR THE FIFTH JUDICIAL CIRCUIT

Tirrell Boyd, #367470,

) C.A. No. 2016-CP-40-4421

) Applicant,

) **ORDER OF DISMISSAL**

) v.

) State of South Carolina,

) Respondent.

RICHLAND COUNTY
FILED
2019 OCT -8 AM 9:42
JEANETTE W. MOODY
C.C.P., G.S., & F.C.

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed by Tirrell Boyd (Applicant) on July 25, 2016. Respondent made its return on June 23, 2017. An evidentiary hearing into the matter was convened on April 5, 2019, at the Richland County Courthouse before the undersigned. Leah B. Moody, Esquire, represented Applicant. Assistant Attorney General Lindsey A. McCallister represented Respondent.

At the call of the case, Ms. Moody informed the Court Applicant wanted a continuance and to relieve her as counsel. Ms. Moody explained Applicant was upset because the witnesses he provided were not present to testify. Ms. Moody stated she contacted the witnesses as Applicant requested, but none were willing to come to court to testify on Applicant's behalf. Respondent objected to a continuance as this matter had been continued several times previously, and both parties agreed Applicant was told there would be no further continuances. This Court therefore denied Applicant's request for a continuance and proceeded with the evidentiary hearing.

Thereafter, Applicant testified on his own behalf. W. Barney Giese, Esquire, and Justin M. Kata, Applicant's plea counsel, testified on behalf of Respondent. This Court had before it a

copy of the records of the Richland County Clerk of Court, records from the South Carolina Department of Corrections, the PCR application, Respondent's Return, and the plea transcript. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof and denies this application for relief.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Richland County. Applicant was indicted at the December 2014 term of the Grand Jury for Richland County for possession with intent to distribute marijuana (2014-GS-40-7486); murder (2014-GS-40-7487); possession of a stolen motor vehicle (2014-GS-40-7489); and trafficking in cocaine, 28 to 100 grams – first offense (2014-GS-40-7490). Applicant was subsequently indicted at the November 2015 term for two counts of attempted murder (2015-GS-40-6589, -6590). Applicant was represented by W. Barney Giese (Giese), Esquire, and Justin Kata (Kata), Esquire. Assistant Solicitor Meghan Walker, Esquire, prosecuted the case.

On March 18, 2016, Applicant pleaded guilty before the Honorable L. Casey Manning to trafficking cocaine, possession with intent to distribute marijuana, and possession of a stolen vehicle, as well as guilty pursuant to North Carolina vs. Alford to murder and two counts of attempted murder. The State dismissed the charges of possession with intent to distribute cocaine (2013-CP-40-2800), possession of a stolen pistol (2013-CP-40-2801), unlawful carrying of a pistol (2013-CP-40-2802), hit and run (2013-CP-40-2803), and failure to stop for a blue light (2014-CP-40-7488) in exchange for the plea. Pursuant to a negotiated sentence, Judge Manning sentenced

Applicant to five years' imprisonment for possession with intent to distribute marijuana; five years for trafficking cocaine; five years for possession of a stolen motor vehicle; thirty years for murder; and thirty years for each count of attempted murder, all to be served concurrently. Applicant did not appeal his convictions or sentences.

ALLEGATIONS

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

1. Ineffective Assistance of Counsel:
 - a. No independent investigation
 - b. Inconsistent statements
 - c. No search warrant
 - d. Mistaken identity
 - e. Hear[say] evidence
 - f. Intimidation with a life sentence
 - g. No guns recovered

At the evidentiary hearing, Applicant proceeded on the claim of ineffective assistance of counsel and discussed the allegations in (a)-(g) as support for the deficiency prong of the Strickland analysis.

SUMMARY OF TESTIMONY

Applicant testified he was referred to Giese and Kata through a friend and hired them to represent him on these charges. Applicant explained the charges arose from separate incidents, and he kept Giese and Kata on once he received the second set of charges. Applicant testified he met with his attorneys numerous times and discussed his version of the facts of the case. Applicant stated he gave them the names of several witnesses, but no one would cooperate. Applicant agreed his attorneys tried to contact several witnesses on his behalf. Applicant testified he thought he was

dealing with Giese on these charges, but Kata handled most of the work, and he did not understand the difference between the two of them.

Applicant testified he accepted the plea agreement because he felt his attorneys did not have a defense for him. Applicant stated they used a private investigator who went to the scene, but the investigator told Applicant everyone out there ran away so he was unable to question them. Applicant also testified several witnesses gave inconsistent statements because no one said they saw Applicant at the scene, but multiple people came forward claiming they heard Applicant was the perpetrator. Applicant further testified he felt witnesses were coerced to pick him out of the photo lineup, and the lineup was misleading because anyone could have long sideburns. Applicant stated he wanted his attorneys to question investigators about the lineup and identification, but they simply told Applicant someone had picked him out of the lineup and did not discuss it further. Finally, Applicant testified Kata told him first the murder weapon was a .45 caliber, then a .40 caliber. Applicant testified he and his attorneys never discussed the fact that the State had not recovered the gun.

Applicant stated he accepted the plea agreement because he felt "backed into a corner" without a viable defense. Applicant explained he was charged with the two counts of attempted murder approximately two months before the trial was scheduled to begin. Applicant testified he felt his attorneys were not prepared for trial at that point, and they told him if he lost at trial, he would receive a life sentence. Applicant stated he agreed to the plea deal because he wanted "to go home one day instead of no day." Applicant testified the State originally offered him ten years, but then the two counts of attempted murder were added, and eventually they agreed to a negotiated

term of thirty years. Applicant stated he discussed the agreement with his attorneys, but they did not have much time to do so because he signed the agreement on Thursday, pleaded guilty on Friday, and his trial was scheduled to start the following Monday. Applicant testified he felt he had no defense prepared because, although he gave names of witnesses to these attorneys, they kept telling him none of those people would come to testify.

Finally, Applicant testified he did not understand all of this was a problem until after his guilty plea. Applicant explained he is “not smart at certain things,” and he felt his attorneys should have taken more time to investigate instead of simply looking for a plea deal. Applicant testified he would rather be sentenced to thirty years for the drug charges, which he admitted to, rather than the murder, which he did not commit. Applicant stated Giese and Kata were not bad attorneys, but he did not want to “lay down” for something he did not do. On cross-examination, Applicant agreed the plea judge explained Applicant was giving up certain rights, specifically the right to present a defense and call witnesses, and Applicant told he the judge he understood. Applicant also agreed he informed the plea court he was satisfied with the attorneys.

Kata testified Applicant first retained him to deal with the drug charges, but Applicant picked up the murder charge while he was out on bond and extended the representation to deal with both sets of charges. Kata testified the drug charges were pending and still in the discovery phase when Applicant was charged with murder, which changed the focus of the representation because it was a much more serious charge.

Kata explained Applicant always maintained he did not shoot the victim, and Kata attempted to find witnesses who could affirmatively say Applicant was not the shooter. Kata stated

he employed a private investigator to track people down, and Kata listened to over 500 hours of jail phone calls from Applicant in which Applicant was attempting to obtain information and names of witnesses. Kata testified he personally followed up with several witnesses, but ultimately, they were all uncooperative, unfavorable, or simply nonexistent. According to Kata, none of the witnesses ever said Applicant did not have a gun, although Applicant claimed not to have one. Kata further testified he relayed and explained this information to Applicant.

Kata stated Applicant was identified as the shooter from a photo lineup, and Kata felt this was an area the defense could challenge if the case went to trial. Kata explained the eyewitnesses had never met Applicant before the incident, and they described the shooter as having "Wolverine-like" sideburns. Kata testified the defense would have argued the lineup was unduly suggestive because only three men in the lineup had sideburns. However, Kata also testified he felt the identification witnesses, the club's owner and two bouncers, were reliable witnesses, and the owner and a bouncer identified Applicant as the shooter; the other bouncer saw Applicant with a gun earlier in the night. Kata further explained one of the victims also identified Applicant as the shooter, but he felt the defense could attack the credibility of that identification. Kata testified he "really worked the case" and had many conversations about it with Applicant. Kata explained he did not file any motions to challenge the identification because the case was resolved by the guilty plea before trial.

Kata explained Applicant ultimately chose to plead guilty because having a release date was a primary focus for him, and Applicant did not want to risk being sentenced to life without parole after a trial. Kata further testified Applicant was recorded in jail phone calls telling his

fiancée he would accept a thirty-year sentence, which factored heavily into plea negotiations. Kata stated he had warned Applicant his calls would be recorded and not to discuss sensitive information. Kata explained once the solicitors heard the phone call, they would not agree to anything less than thirty years, and he explained this to Applicant. Kata stated Applicant was well aware the agreement was for a thirty-year sentence, but he was prepared to go to trial if Applicant had wanted one. Kata further testified he explained to Applicant what a negotiated sentence meant, and he and Applicant had a detailed discussion about the potential sentences for each charge, possible outcomes at trial, and the possibility of Applicant receiving a life sentence.

Giese testified Applicant originally retained his firm, and Kata specifically, on the drug charges, and Giese was not involved in the case at that time. Giese explained he became involved once Applicant was charged with murder and Kata asked him to assist. Giese testified he met with Applicant and explained he would be working with Kata. Giese testified he handled the guilty plea hearing and reviewed the terms of the negotiated agreement.

Giese testified after the State offered thirty years, he met with then-Solicitor Johnson to see if they could negotiate something lower, but the Solicitor was firm on the thirty-year offer. Giese stated he began preparing for trial at that point, and received about 400 pages of documentation, mostly related to DNA analyses, along with the jail phone call tapes, about four weeks prior to trial. Giese testified the defense used the tapes to try to track down witnesses and obtained a continuance to a date certain from Judge Jocelyn Newman on the Tuesday before trial was scheduled to start. Giese explained, however, Applicant then changed his mind and decided to plead guilty. Giese testified he told Applicant at least twice that he was prepared for trial, and they

could start the following Monday, but Applicant wanted to plead guilty. Giese stated Applicant entered the guilty plea on Friday morning, but he had informed defense counsel earlier in the week of his decision to plead guilty. Giese testified he believed Applicant made the decision to do so freely and voluntarily, and he was certain Applicant understood the agreement included a thirty-year sentence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the record and heard the testimony at the PCR hearing. This Court has observed the evidence and witnesses presented at the evidentiary hearing, judged their credibility, and weighed their testimony accordingly in its discussion below. Set forth below are findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code.

Applicant alleges he received ineffective assistance of counsel. In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove “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 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. at 689. Applicant must overcome this

presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. Id. at 117, 386 S.E.2d at 625. First, the applicant must prove counsel's performance was deficient. Id. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Id. (quoting Strickland, 466 U.S. at 688 (1984)). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Id. at 117-18, 386 S.E.2d at 625. When there has been a guilty plea, the applicant must prove counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668.

This Court finds Applicant failed to prove either Giese or Kata's performance was deficient in any way, nor was Applicant prejudiced by either's performance. Both Giese and Kata met with Applicant on several occasions and reviewed with him the evidence and discovery in the case,

Applicant's version of the facts and potential defenses and witnesses, the challenges of tracking down favorable witnesses, potential sentences and outcomes, and the State's plea offer. This Court finds Applicant ultimately chose to plead guilty in order to avail himself of a guaranteed thirty-year sentence rather than face the possibility of life without parole, and this decision was made freely and voluntarily. Therefore, for the reasons stated below, the Court denies relief and dismisses the allegations with prejudice.

Ineffective Assistance of Counsel/Involuntary Guilty Plea

Applicant alleges Counsel's ineffective assistance in failing to properly investigate the case and prepare a defense, as well as "threatening [him] with a life sentence," led to Applicant entering an involuntary and unknowing guilty plea. This Court disagrees and finds the combined record from the plea hearing and the evidentiary hearing clearly establishes Applicant pleaded guilty freely and voluntarily.

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced." Reed v. Becka, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). An applicant who pleads guilty with the advice of counsel may collaterally attack the plea only by showing (1) counsel was deficient 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 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); Lockhart, 474 U.S. at 52). 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.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. Boykin v. Alabama, 395 U.S. 238 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. Harres, 282 S.C. at 133, 318 S.E.2d at 361. However, statements 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. Crawford v. United States, 519 F.2d 347 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985).

The plea transcript reflects Applicant informed the court he understood the charges and the terms of the plea agreement. Tr. pp. 7-8. Applicant stated his attorneys had explained to him the charges, possible punishments, and his constitutional rights. Tr. p. 8. The plea court explained each charge and indictment individually, and Applicant indicated he understood each one and wished

to plead guilty. Tr. pp. 8-15. The plea court also explained the State's burden of proof beyond a reasonable doubt and Applicant's presumption of innocence, Applicant's right to have a jury trial, and, specifically, Applicant's right to call witnesses and present a defense, and Applicant indicated he understood those rights and wished to give them up in order to plead guilty. Tr. pp. 15-17. The plea court then explained the negotiated agreement and clearly informed Applicant if it accepted his plea, the sentence would be the agreed upon thirty years, and Applicant again indicated he understood. Tr. pp. 19-20.

Importantly, Applicant informed the plea court he had enough time to talk with his attorneys, and he understood the discussions he had with them. Tr. pp. 20-21. Applicant stated he wanted less time, but he felt his attorneys had done the best they could for him. Tr. p. 21. Giese then informed the plea court Applicant's motivation for accepting the plea agreement was to avoid a possible life sentence, and when Applicant was given the opportunity to speak to the plea court he declined. Tr. pp. 29-30. Applicant never indicated he did not understand the proceedings, the terms of the agreement, or that he was not entering the plea freely and voluntarily.

Additionally, this unchallenged statement by Giese at the plea hearing supports his and Kata's testimony at the evidentiary hearing that the focus of the representation changed once the murder charges were added, and Applicant's goal became avoiding the possibility of life in prison. The Court finds credible Giese and Kata's testimony on this issue. Further, both Giese and Kata testified they informed Applicant of the difficulty in negotiating with the State after Applicant was recorded telling his fiancée he would accept a thirty-year sentence. The Court finds both attorneys also explained Applicant did not have to plead guilty, and they were prepared for trial had Applicant chosen that option. Kata further testified he used an investigator and followed up with

potential witnesses from the scene but the witnesses were unfavorable or refused to cooperate. For all of these reasons, this Court finds neither attorney was deficient in the representation of Applicant.

In any event, Applicant did not present any witnesses or evidence to support his claims his attorneys failed to investigate and failed to prepare a defense, and therefore, this claim must fail on the prejudice prong as well. See, e.g., Palacio v. State, 333 S.C. 506, 513, 511 S.E.2d 62, 66 (1999) (finding trial counsel not ineffective for failing to timely request discovery because the contents of the documents were not presented at the PCR hearing); Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (holding 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); Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997) (denying relief where applicant failed to present witnesses or specific testimony establishing applicant would have had a defense with additional time to prepare for trial); Skeen v. State, 325 S.C. 210, 217, 481 S.E.2d 129, 133 (1997) (finding applicant was not entitled to relief where no evidence was presented at the PCR hearing to show how additional preparation would have had any possible effect on the result at trial).

Accordingly, based on the combined record of the plea transcript and the testimony presented at the evidentiary hearing, this Court finds neither attorney's representation of Applicant was not deficient, nor was Applicant prejudiced by their representation. Both Giese and Kata met with Applicant on multiple occasions to review discovery, discuss the facts of the case, and explain Applicant's constitutional rights and options for resolving the case. Further, the plea transcript reflects Applicant understood the proceedings, interacted intelligently with the plea court, and

entered his guilty plea knowingly and voluntarily. Therefore, this Court denies relief and dismisses this allegation with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. His attorneys were not deficient in any manner, nor was Applicant prejudiced by their representation. Therefore, this application for post-conviction relief is denied and dismissed with prejudice.

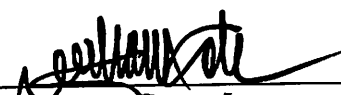
Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR (providing the appropriate procedure to perfect an appeal). Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Further, Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for the appropriate procedures for appealing a judgment in a PCR action.

IT IS THEREFORE ORDERED:

1. the Application for Post-Conviction Relief is denied and dismissed with prejudice; and
2. Applicant shall be remanded to the custody of the Respondent.

AND IT IS SO ORDERED.

9/20, 2019



J. DERHAM COLE, JR.
Presiding Circuit Court Judge
Fifth Judicial Circuit

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

117

COUNTY OF Richland
STATE VS.
Tirrell Ramar Boyd

AKA: _____
Race: BLACK Sex: M Age: 26
DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]
City, State, Zip: [REDACTED]

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

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

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

TO: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 1st offense

INDICTMENT/CASE#: 2014GS4007490

A/W#: 2014A4010600302

Date of Offense: 3/8/2014

S.C. Code § : 44-53-0370(e)(2)(b)1

CDR Code #: 2359

SENTENCE SHEET

in violation of § 44-53-0370(e)(2)(b)1 of the S.C. Code of Laws, bearing CDR Code # 2359

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

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

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

ATTEST:

M. Walker 78494 Tirrell Boyd J. M. Kata 78873
Walker, Meghan SC Bar# Defendant Attorney for Defendant SC Bar#

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

☐ 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

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(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
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

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

\$ _____ paid to Public Defender Fund

Other: _____

**CERTIFIED TRUE COPY
OF ORIGINAL FILED**
Jeanette Marsick
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

CANNED

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: _____

Sentence Date: 3-11-14

Clerk of Court/ Deputy Clerk

Court Reporter: _____

SCCA 017 (02/2011)

WITNESSES

(S) Joseph Clarke
- Richland County Sheriff

ARREST WARRANT NUMBER

2014A4010600302

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

DEC 17 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS4007490

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014
007

THE STATE
vs.

Tirrell Ramar Boyd

Indictment for
DRUGS / TRAFFICKING IN COCAINE, 28 G
OR MORE, BUT LESS THAN 100 G - 1ST
OFFENSE

SC Code: 44-53-0370(e)(2)(b)1
CDR Code: 2359

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.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. M. Brade
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

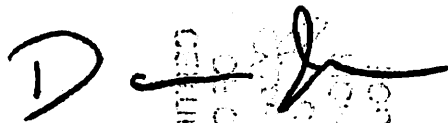
INDICTMENT

At a Court of General Sessions, convened on December 16, 2014,
the Grand Jurors of Richland County present upon their oath:

TRAFFICKING COCAINE (28 - 100 GRAMS) -1ST OFFENSE

That Tirrell Ramar Boyd did in Richland County on or about March 8, 2014, knowingly sell, deliver, purchase or bring in this State, or aid, abet, attempt or conspire to sell, deliver, purchase or bring into this State, or was in actual or constructive possession, or attempted to become in actual or constructive possession of a quantity of Cocaine in an amount of more than twenty-eight (28) grams, but less than one-hundred (100) grams, same being a controlled substance all within the meaning of Section 44-53-370, et.seq., S. C. Code of Laws, 1976, as amended, such possession not having been authorized, and being in violation of section 44-53-370(e)(2)(b), S. C. Code of Laws, 1976, as amended, for the crime of trafficking

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



DAN JOHNSON, SOLICITOR

ARREST WARRANT

2014A4010600302

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

THE STATE

#1403006801-R1

against

Tirrell Ramar Boyd

Address:

Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 5 10 Weight: 140

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: 04000

Prosecuting Agency: Richland County Sheriff Department

Prosecuting Officer: Joseph Clarke - 1241

Offense: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 1st offense

Offense Code: 2359

Code/Ordinance Sec: 44-53-0370(e)(2)(

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to defendant on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
1701 Main Street
P O Box 192
Columbia, SC 29202

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

Personally appeared before me the affiant Joseph Clarke

being duly sworn deposes and says that defendant Tirrell Ramar Boyd

did within this county and state on or about 3/8/2014

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

in the following particulars:

Richland / Lykesland Magistrate

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 1st offense

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 MARCH 8, 2014 while at MONTOMGERY LANE & LYKESLAND TRAIL in the HOPKINS Magisterial District of Richland County one TIRRELL RAMAR BOYD did commit the crime of TRAFFICKING IN COCAINE, 28 GRAMS OR MORE, BUT LESS THAN 100 GRAMS - 1ST OFFENSE in that during a lawful traffic stop the defendant was found in possession of three (3) clear baggies of a white powder substance (cocaine). Field weight of the powder was 54 grams. Due to the weight and packaging (three (3) baggies & 54 grams) makes the charge Trafficking level offense. Pursuant to waiving miranda, the defendant, claimed ownership of the cocaine.

RCSD Case #1403006801-R1. Affiant and others are witness to prove the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

Affiant's Address 5623 Two Notch Road

Columbia, SC 29223-

Affiant's Telephone (803)576-3000

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 or about 3/8/2014

defendant Tirrell Ramar Boyd

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

) as set forth below:

DESCRIPTION OF OFFENSE: Drugs / Trafficking in cocaine, 28 g or more, but less than 100 g - 1st offense

Having found probable cause and the above affiant having sworn before me, 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

Sworn to and subscribed before me

on 3/18/2014

Signature of Issuing Judge

Michael R Davis

Judge Code: 5458

Judge's Address 1403 Caroline Road

Columbia, SC 29209-2609

Judge's Telephone (803)576-2500

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518CERTIFIED TRUE COPY
OF ORIGINAL FILED

G.C.C.P.&G.S.

RICHLAND COUNTY
SOUTH CAROLINAAPR 15 AM 11:29
FILED
RICHLAND COUNTY
SOUTH CAROLINA

BAIL set by

WITNESSES



Judge MEHS
on 3-19-14
Type and Amount: _____
Name of Surety: 56,000
Concur

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

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

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
 STATE VS.
Tirrell Ramar Boyd

AKA: _____
 Race: BLACK Sex: M Age: 26
 DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED]
[REDACTED]
 DL#: [REDACTED] SID#: _____

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

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

TO: Drugs / Manuf., poss. of other sub. in Sch. I, II, III or flunitrazepam or analogue, w.i.t.d. - 1st

in violation of § 44-53-0370(b)(2) of the S.C. Code of Laws, bearing CDR Code # 0186

☒ 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: Walker, Meghan 78494 Tirrell Boyd Just M. Kote 78823
 Walker, Meghan SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

☐ 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

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(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

INDICTMENT/CASE#: 2014GS4007486

A/W#: 2014A4010200753

Date of Offense: 3/8/2014

S.C. Code § : 44-53-0370(b)(2)

CDR Code #: 0186

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

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 w/ _____

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

**CERTIFIED TRUE COPY
 OF ORIGINAL FILED,
 J. Jeanette W. McBride
 C.C.C.P.&G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA**

SCANNED

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation

Presiding Judge [Signature]

Judge Code: _____

Sentence Date: 3-7-16

Clerk of Court/ Deputy Clerk Jeanette McBride

Court Reporter: Holmes

SCCA 017 (03/2011)

WITNESSES

(S) Joseph Clarke
- Richland County Sheriff

ARREST WARRANT NUMBER

2014A4010200753

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

DEC 17 2014

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2014GS4007486

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014

007

THE STATE
vs.

Tirrell Ramar Boyd

Indictment for
DRUGS / MANUF. POSS. OF OTHER SUB.
IN SCH. I, II, III OR FLUNITRAZEPAM OR
ANALOGUE, W.I.T.D. - 1ST

SC Code: 44-53-0370(b)(2)

CDR Code: 0186

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.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

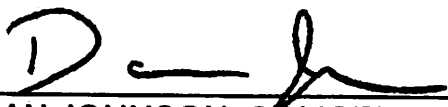
INDICTMENT

At a Court of General Sessions, convened on December 16, 2014,
the Grand Jurors of Richland County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE MARIJUANA

That Tirrell Ramar Boyd did in Richland County on or about March 8, 2014,
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 controlled substance, to wit: Marijuana. All in violation of § 44-
53-370(b)(2) of the SC Code of Laws (1976, as amended).

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


DAN JOHNSON, SOLICITOR

2014A4010200753

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland Bond Court

THE STATE
against

1403006801 R1

Tirrell Ramar Boyd

Phone: (8) SSN: 2
 Sex: M Race: B Height: 5 10 Weight: 140
 DL State: SC DL #: DOB: 0 Agency ORI #: 04000
 Prosecuting Agency: Richland County Sheriff Department
 Prosecuting Officer: Joseph Clarke - 1241
 Offense: PWID Marijuana

Offense Code: 0186
 Code/Ordinance Sec: 44-53-0370(b)(2)

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
 The accused
 is to be arrested and brought before me to be
 dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
 defendant Tirrell R. Boyd
 on 3-8-2014

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
 1701 Main Street
 P O Box 192
 Columbia, SC 29202

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

☒ County/ ☐ Municipality of

Richland Bond Court

Personally appeared before me the affiant Joseph Clarkebeing duly sworn deposes and says that defendant Tirrell Ramar Boyddid within this county and state on or about 3/8/2014State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

DESCRIPTION OF OFFENSE: PWID Marijuana

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 or about 3/7/2014 while at 300 Montgomery Rd in the Hopkins Magisterial District of Richland County, one Tirrell R. Boyd did commit the crime of PWID Marijuana Statute Number 44-53-370. It is believed the defendant committed the crime because during a lawful traffic stop of the subject, for an outstanding Murder warrant. Boyd was found in possession, of a clear baggie, containing Green Leafy substance (Marijuana). When asked for ownership of the substance he admitted to being the sole owner. Marijuana weight @ 140 grams. Affiant and others are witness to prove same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland Bond Court

Affiant's Address 5623 Two Notch RoadColumbia, SC 29223-Affiant's Telephone (803)576-3000

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 or about 3/8/2014 defendant Tirrell Ramar Boyd

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Richland Bond Court

DESCRIPTION OF OFFENSE: PWID Marijuana

Having found probable cause and the above affiant having sworn before me, 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, as soon thereafter as is practicable
 Sworn to and subscribed before me
 on 3/8/2014

Signature of Issuing Judge

Ethel Brewer

Judge Code: 7270Judge's Address P. O. Box 192Columbia, SC 29201-

Judge's Telephone

Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

Form Approved by
 S.C. Attorney General
 April 21, 2003
 SCCA 518

AFFIDAVIT

who

violate the criminal laws of the

Richland Bond Court

K.O. D. for Clarke

14 MAR 20 AM 11:44
 JUANITA E. W. McBRIDE
 C.C.P. & G.S.

CERTIFIED TRUE COPY
 OF ORIGINAL FILED,
 JUANITA E. W. McBRIDE
 C.C.P. & G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA

125

BAIL set by

WITNESSES

Judge Hood
on 4/23/14
Type and Amount: WAIVED
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____

Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)

Disposition: _____

Sentence: _____

JURORS

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

IN THE COURT OF GENERAL SESSIONS ¹²⁷COUNTY OF Richland
STATE VS.
Tirrell Ramar Boyd

AKA:

Race: BLACK Sex: M Age: 26DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]City, State, Zip: [REDACTED]DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / MurderINDICTMENT/CASE#: 2014GS4007487A/W#: 2014A4010600243Date of Offense: 3/1/2014S.C. Code § : 16-03-0010CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

M. Walker
Walker, Meghan78494
SC Bar#Tirrell Boyd
DefendantJames Kato
Attorney for Defendant78873
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 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

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(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
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 ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
CLERK OF COURT, RICHLAND COUNTY
SOUTH CAROLINA

SCANNED

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 to be paid to Clerk
during probation.Presiding Judge [Signature]Judge Code: 2061Sentence Date: 3-18-16Clerk of Court/ Deputy Clerk Jeanette McBride RCourt Reporter: Holmes

SCCA 217 (02/2011)

WITNESSES

(S) Joseph Clarke
- Richland County Sheriff

ARREST WARRANT NUMBER

2014A4010600243

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

DEC 17 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS4007487

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014
007

THE STATE
vs.

Tirrell Ramar Boyd

Indictment for
MURDER / MURDER

SC Code 16-03-0010
CDR Code 0116

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.

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December 16, 2014,
the Grand Jurors of Richland County present upon their oath:

MURDER

That Tirrell Ramar Boyd did in Richland County, on or about March 1, 2014, kill the victim, Travis Singleton, with malice aforethought, either express or implied, by means of a gun shot, and the victim did die as a proximate result thereof. All in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended

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


DAN JOHNSON, SOLICITOR

ARREST WARRANT

2014A4010600243

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

THE STATE

#1403006801-R1

against

Tirrell Ramar Boyd

Phone: [REDACTED] SSN: [REDACTED]
Sex: M Race: B Height: 5 10 Weight: 140

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: 04000

Prosecuting Agency: Richland County Sheriff Department

Prosecuting Officer: Joseph Clarke - 1241

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010, 0020

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant
on

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
1701 Main Street
P.O. Box 192
Columbia, SC 29202

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

Personally appeared before me the affiant Joseph Clarke

being duly sworn deposes and says that defendant Tirrell Ramar Boyd

did within this county and state on or about 3/1/2014

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

in the following particulars:

Richland / Lykesland Magistrate

DESCRIPTION OF OFFENSE: Murder / Murder

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 MARCH 1, 2014 while at 3500 MCCORDS FERRY ROAD in the EASTOVER Magisterial District of Richland County one TIRRELL RAMAR BOYD did commit the crime of MURDER in that he did with malice aforethought, shoot and kill one, Travis Singleton, with a firearm. The defendant has been identified by independent witnesses as the shooter in the case. RCSD Case #1403006801-R1. Affiant and others are witness to prove the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

Affiant's Address 5623 Two Notch Road

Columbia, SC 29223-

Affiant's Telephone (803)576-3000

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 or about 3/1/2014

defendant Tirrell Ramar Boyd

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of Richland / Lykesland Magistrate

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, 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

Sworn to and subscribed before me

on 3/7/2014

Signature of Issuing Judge (L.S.)
Michael R Davis

Judge Code: 5458

Judge's Address 1403 Caroline Road
Columbia, SC 29209-2609

Judge's Telephone (803)576-2500

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL

AFFIDAVIT

ORIGINAL

Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518JUDGE MICHAEL R DAVIS
Lykesland Magistrate
1403 Caroline Road
Columbia, SC 29209
(803)576-2500JEANETTE W. BRIDE
C.C.P. & G.S.
14 MAR 20 AM 11:15
C.C.P. & G.S.CERTIFIED TRUE COPY
OF ORIGINAL FILEDRICHLAND COUNTY
SOUTH CAROLINA

BAIL set by

Judge Hood
on 4/23/14
Type and Amount: WAIVED
Name of Surety: _____

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant 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

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
 STATE VS.
Tirrell Ramar Boyd

AKA: _____

Race: _____ Sex: _____ Age: _____

DOB: _____ SS#: _____

Address: No Perm AddressCity, State, Zip: Columbia, SC 29201

DL#: _____ SID#: _____

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

In disposition of the said indictment comes now the Defendant who was
 TO: Attempted Murder

INDICTMENT/CASE#: 2015GS4006589A/W#: DP15304Date of Offense: 3/1/2014S.C. Code § : 16-03-0029CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

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

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

ATTEST:

M. Walker
Walker, Meghan73494
SC Bar#Tirrell Boyd
DefendantJ. M. Carter
Attorney for Defendant78873
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 30 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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 56-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.9 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 50-21-114 (BUI Breath Test Fee)

§ 56-5-2942(J) (Vehicle Assessment)

Proviso 90.5 (SCCJA Surcharge)

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 ☐

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

\$ _____ paid to _____

Other: _____

**CERTIFIED TRUE COPY
 OF ORIGINAL FILED,**

Jeannette M. McBride
 C.C.C.P. & G.S.

**RICHLAND COUNTY
 SOUTH CAROLINA**

☐ Appointed PD or appointed other counsel.
 § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: _____

Sentence Date: 3/7/16

Clerk of Court/ Deputy Clerk

Court Reporter: _____

SCCJA 117 (03/2011)

WITNESSES

(S) Joseph Clarke
- Richland County Sheriff

ARREST WARRANT NUMBER

DP15304

ACTION OF GRAND JURY

TRUE BILL

Deavon Gardner

Foreperson of Grand Jury

Date:

NOV 10 2015

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2015GS4006589

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2015

101

**THE STATE
vs.**

Tirrell Ramar Boyd

**Indictment for
ATTEMPTED MURDER**

SC Code: 16-03-0029

CDR Code: 3410

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.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

CANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

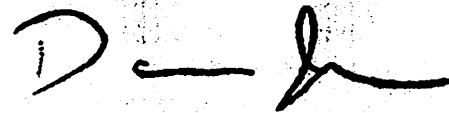
INDICTMENT

At a Court of General Sessions, convened on November 10, 2015,
the Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Tirrell Ramar Boyd did in Richland County on or about March 1,
2014, did with the intent to kill, attempt to kill Brad Hart with malice
aforethought, either expressed or implied. All in violation of SC Code of
Laws § 16-3-29 (1976, as amended)

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



DAN JOHNSON, SOLICITOR

RECEIVED
NOV 10 2015

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

135

COUNTY OF Richland
STATE VS.
Tirrell Ramar Boyd

AKA: _____
Race: _____ Sex: _____ Age: _____
DOB: _____ SS#: _____

Address: No Perm Address
City, State, Zip: Columbia, SC 29201

DL#: _____ SID#: _____

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

In disposition of the said indictment comes now the Defendant who was
TO: Attempted Murder

INDICTMENT/CASE#: 2015GS4006590

A/W#: DP15305

Date of Offense: 3/1/2014

S.C. Code § : 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ 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: M. Walker 78494 Tirrell Boyd John M. Carter 78873
Walker, Meghan 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 30 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

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(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$
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 ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____

\$ _____ paid to Public Defender's Office

Other: Heather W. McBride

C.C.C.P.&G.S.

RICHLAND COUNTY

SOUTH CAROLINA

☐ Appointed PD or appointed third-party
§ 47.12 requires \$500 fee paid to CDR
during probation.

Presiding Judge

Judge Code: _____

Sentence Date: 3-18-16

Clerk of Court/ Deputy Clerk

Court Reporter: Holmes

SCCA 217 (02/2011)

WITNESSES

(S) Joseph Clarke
- Richland County Sheriff

DOCKET NO. 2015GS4006590

The State of South Carolina

County of

Richland

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.

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2015

101

**THE STATE
vs.**

Tirrell Ramar Boyd

ACTION OF GRAND JURY

TRUE BILL

Daanin Gardner
Foreperson of Grand Jury
Date: **NOV 10 2015**

VERDICT

**Indictment for
ATTEMPTED MURDER**

SC Code: 16-03-0029
CDR Code: 3410

Foreperson of Petit Jury
Date:

**CERTIFIED TRUE COPY
OF ORIGINAL FILED,
Jeannette W. McBride
C.C.C.P.&G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

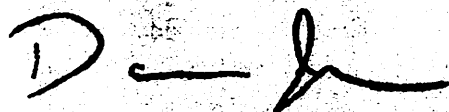
INDICTMENT

At a Court of General Sessions, convened on November 10, 2015,
the Grand Jurors of Richland County present upon their oath:

ATTEMPTED MURDER

That Tirrell Ramar Boyd did in Richland County on or about March 1, 2014, did with the intent to kill, attempt to kill Cecil Morris with malice aforethought, either expressed or implied. All in violation of SC Code of Laws § 16-3-29 (1976, as amended)

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



DAN JOHNSON, SOLICITOR

THREE BUT

ARREST WARRANT



2014A4010600301

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

THE STATE

#1403008601-R1

against

Tirrell Ramar Boyd

Address:

Phone:

Sex: M Race: B Height: 5 10 Weight: 140

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: 04000

Prosecuting Agency: Richland County Sheriff Department

Prosecuting Officer: Joseph Clarke - 1241

Offense: Vehicle / Poss., conceal, sell., or dispose of stolen vehicle, value more than \$2,000 but less than

Offense Code: 3467

Code/Ordinance Sec: 16-21-0080

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant

on

T. Boyd
03-19-14

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
1701 Main Street
P O Box 192
Columbia, SC 29202

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

Personally appeared before me the affiant Joseph Clarke

who

being duly sworn deposes and says that defendant Tirrell Ramar Boyd

did within this county and state on or about 3/8/2014

violate the criminal laws of the

State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

in the following particulars:

DESCRIPTION OF OFFENSE: Vehicle / Poss., conceal, sell., or dispose of stolen vehicle, value more than \$2,000 but less than \$10,000

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 MARCH 8, 2014 while at MONTGOMERY LANE & LYKESLAND TRAIL in the HOPKINS Magisterial District of Richland County one TIRRELL RAMAR BOYD did commit the crime of POSSESSION OF A STOLEN VEHICLE, VALUE MORE THAN \$2,000. BUT LESS THAN \$10,000. in that during a lawful traffic stop the defendant was found in possession of a tan in color, 2001 GMC Yukon. VIN #3GKEC16T01G196317. The vehicle had been recently reported stolen out of the City of Columbia Police Department's jurisdiction by owner, Peter Contreras. This discovery came after the defendant failed to yield to emergency blue lights and sirens and wrecked the vehicle at the intersection of Montgomery Lane and Lykesland Trail. RCSD Case #1403006801-R1. Affiant and others are witness to prove the same.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

Affiant's Address 5623 Two Notch Road

Columbia, SC 29223-

Affiant's Telephone (803)576-3000

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 or about 3/8/2014

defendant Tirrell Ramar Boyd

did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of

Richland / Lykesland Magistrate

) as set forth below:

DESCRIPTION OF OFFENSE: Vehicle / Poss., conceal, sell., or dispose of stolen vehicle, value more than \$2,000 but less than \$10,000

Having found probable cause and the above affiant having sworn before me, 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

Sworn to and subscribed before me

on 3/18/2014

Signature of Issuing Judge

Michael R Davis

Judge Code: 5458

Judge's Address 1403 Caroline Road

Columbia, SC 29209-2609

Judge's Telephone (803)576-2500

Issuing Court:

☒

Magistrate

☐

Municipal

☐

Circuit

JEANETTE V. McBRIDE
C.C. S.G.S.
14 APR 15 AM 11:29
FILED
RICHLAND COUNTY

WITNESSES

(S) Joseph Clarke
– Richland County Sheriff

ARREST WARRANT NUMBER

2014A4010600301

ACTION OF GRAND JURY

TRUE BILL

Michael B. Boyd
Foreperson of Grand Jury
Date:

DEC 17 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014GS4007489

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014
007

THE STATE
vs.

Tirrell Ramar Boyd

Indictment for
VEHICLE/POSS., CONCEAL, SELL,. OR
DISPOSE OF STOLEN VEHICLE, VALUE
MORE THAN \$2000 BUT LESS THAN
\$10,000

SC Code: 16-21-0080 (2)
CDR Code: 3467

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.

SCANNED

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

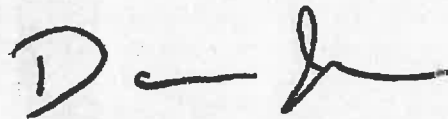
INDICTMENT

At a Court of General Sessions, convened on December 16, 2014,
the Grand Jurors of Richland County present upon their oath:

POSSESSION OF A STOLEN VEHICLE - \$2000 - \$10000

That Tirrell Ramar Boyd did in Richland County on or about March 8, 2014,
while not being entitled to possession of the below-mentioned vehicle,
receive, possess, conceal, sell or dispose of a GMC Yukon, knowing it to
be stolen or converted under circumstances constituting a crime, where
the value of the vehicle was over Two Thousand (\$2,000.00) Dollars but
less than Ten Thousand (\$10,000.00) Dollars, in violation of Section 16-
21-0080, S. C. Code of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Richland
 STATE VS.
Tirrell Ramar Boyd

AKA:

Race: BLACK Sex: M Age: 26

DOB: [REDACTED]

Address: [REDACTED]

City, State, Zip: [REDACTED]

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

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

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

TO: Vehicle/Poss., conceal, sell., or dispose of stolen vehicle, value more than \$2000 but less than \$10,000in violation of § 16-21-0080 (2) of the S.C. Code of Laws, bearing CDR Code # 3467

☒ 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:

M. Waller
Walker, Meghan78494
SC Bar#Tirrell Boyd
DefendantJust M. Kato
Attorney for Defendant78873
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

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

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

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ 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

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(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Clerk of Court/ Deputy Clerk

Court Reporter: _____

SCCA/217 (03/2011)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS4007489A/W#: 2014A4010600301Date of Offense: 3/8/2014S.C. Code § : 16-21-0080 (2)CDR Code #: 3467

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSWHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of _____ 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

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SPECIAL CONDITIONS:

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

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

Presiding Judge

Judge Code: _____

Sentence Date: _____