

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

—————  
Certiorari to Marion County

Honorable D. Craig Brown, Circuit Court Judge  
—————

**RECEIVED**

**May 19 2021**

S.C. SUPREME COURT

LARRY ANTHONY WHITE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2020-001607  
—————

APPENDIX  
—————

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Deputy Chief Appellate Defender

ALAN WILSON  
Attorney General

South Carolina Commission on Indigent  
Defense  
Division of Appellate Defense  
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ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

**INDEX**

INDEX ..... i

GUILTY PLEA TRANSCRIPT DATED JULY 30, 2018.....1

APPLICATION FOR POST-CONVICTION RELIEF .....13

RETURN.....20

POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED DECEMBER 17, 2019 ....26

ORDER DENYING PCR AND GRANTING BELATED APPEAL .....66

INDICTMENTS .....82

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
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19  
20  
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STATE OF SOUTH CAROLINA	)	
COUNTY OF MARION	)	COURT OF GENERAL SESSIONS
	)	2017-GS-33-0416
	)	
	)	
State of South Carolina	)	TRANSCRIPT OF RECORD
vs.	)	
Larry Anthony White	)	
	)	
DEFENDANT	)	July 30, 2018
	)	Marion, South Carolina

B E F O R E:

THE HONORABLE WILLIAM H. SEALS, JR.

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

FITZLEE MCEACHIN, ASSISTANT SOLICITOR  
Attorney for the State

BRAD C. RICHARDSON, ESQ.  
Attorney for the Defendant

KESHIA REED  
Official Court Reporter

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I N D E X

(WHEREUPON, there were no witnesses called.)

1           THE COURT:  Everybody in the courtroom that's  
2 signed up to plead guilty or thinking about pleading  
3 guilty, I want to go over certain rights that you have and  
4 I want you to understand these rights.  The first thing I  
5 want to go over is that you don't have to plead guilty.  
6 Nobody can make you plead guilty.  If you would rather  
7 have a jury trial instead, all you have to do is ask me  
8 and I'll make sure you get one.  I want you to understand  
9 if you have a jury trial and you have nothing to prove,  
10 the burden of proof is on the State of South Carolina to  
11 prove you guilty beyond a reasonable doubt.

12           Furthermore, if you had a trial and you have a  
13 jury made up of 12 people, they would have to take all 12  
14 members of the jury to unanimously agree to convict you  
15 before the Court could sentence you.  Also if you had a  
16 trial, your lawyer would have the right to cross-examine  
17 and confront all of the State's witnesses.  Furthermore,  
18 if you like to testify, you can.  If you come over here  
19 and be sworn in, take the witness stand and tell your side  
20 of the story any way you and your lawyer see fit.  
21 However, it's important to understand that you don't have  
22 to because you have the Constitutional Right to remain  
23 silent.  If you choose to exercise that right, I want you  
24 to understand that I would tell the jury they cannot use  
25 that against you in any way.  I would tell the jury the

1 fact that you did not testify is to have absolutely no  
2 prejudice against you in your case. I would even tell the  
3 jury they can't talk about that fact in the jury room.

4 Furthermore, if you had a trial or if you plead  
5 guilty in front of me you not happy with something that  
6 takes place, you can appeal it, but you got to do so  
7 within ten days. You come before me and plead guilty or  
8 anything else and you have any questions about these  
9 rights no matter how minor, don't hesitate to ask me and  
10 I'll make sure they're cleared up for you. Solicitor, I'm  
11 ready when you are.

12 (WHEREUPON, this begins the guilty plea.)

13 THE CLERK: Place your left hand on the Bible  
14 and raise your right hand as much as possible. Do you  
15 solemnly swear or affirm to tell the truth, the whole  
16 truth, and nothing but the truth so help you God?

17 THE DEFENDANT: Yes, ma'am.

18 THE CLERK: Thank you.

19 MR. MCEACHIN: May it please the Court, Your  
20 Honor.

21 THE COURT: Certainly.

22 MR. MCEACHIN: Standing before you is Larry  
23 Anthony White, Jr. The defendant's pleading guilty on  
24 indictment number 2017-GS-33-416. He's pleading guilty to  
25 one count of burglary in the first degree and one count of

1 attempted murder. The State and the defense entered into  
2 a negotiations for a 15 year sentence to be run concurrent  
3 on both charges. There will also be two kidnapping  
4 charges one conspiracy charge and one armed robbery charge  
5 as well as a possession of a weapon during a violent crime  
6 that will be dismissed pursuant to his plea here today.  
7 He's represented by Brad Richardson.

8 THE COURT: The victim is okay with it?

9 MR. MCEACHIN: Your Honor, we did have an  
10 opportunity to meet with the victims, I guess, last term  
11 of court. We discussed range with them. This sentence  
12 falls within that range. I'm comfortable moving forward.  
13 We attempted to have the victims here today. I believe  
14 that the individual who was actually shot is working today  
15 is not able to attend, so I'm comfortable in moving  
16 forward with the plea, Judge.

17 THE COURT: Mr. White, you're pleading guilty to  
18 burglary first degree which carries a minimum of 15 and a  
19 maximum of life, is that correct?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And you are pleading guilty to  
22 attempted murder which carries up to 30 years in jail; is  
23 that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You understand this is a negotiated.

1 plea. And that if I accept the negotiations, you will  
2 receive 15 years in jail today. You understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Were you in the courtroom when I  
5 went over your rights to a trial?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did you understand those rights?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Do you want to waive your right to a  
10 trial and go ahead and plead guilty today?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You satisfied with your lawyer?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Has he answered all of your  
15 questions?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Has he done everything you've asked  
18 him to do?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Have you had enough time with your  
21 lawyer?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Has anybody promised you anything to  
24 get you to plead?

25 THE DEFENDANT: No, sir.

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THE COURT: Anybody threatening you in any way to make you plea?

THE DEFENDANT: No, sir.

THE COURT: Are you under the influence of any drugs or alcohol at this time?

THE DEFENDANT: No, sir.

THE COURT: Are you guilty?

THE DEFENDANT: Yes, sir.

THE COURT: Have you understood all of my questions?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Thank you.

MR. MCEACHIN: Thank you, Your Honor. Briefly this incident occurred here in Marion County on December the 22nd of 2016 at approximately 12:30 in the morning. This defendant along with two co-defendants went to ■■■ Beland Court, again here in Marion County. Once arriving at the residence, Your Honor, this defendant as well two other co-defendants forced entry into the residence. The State had this gone to trial which it was number one on my trial roster, Your Honor, would have shown that this defendant was in possession of a firearm at the time. Once making entry into the residence, he did shoot the victim, Mr. Terrence Williamson, in the abdomen. There was another individual in the residence as well,

1 that individual was taken from the residence and return to  
2 her home. Thus the basis why there were originally two  
3 kidnapping charges.

4 It does appear that the basis for the entry into  
5 the residence was to rob Mr. Williams and anyone else  
6 inside the residence. The other two co-defendants at this  
7 time are still awaiting trial, Your Honor. However, had  
8 we gone to trial, the evidence would have shown that  
9 Mr. White was in fact the shooter in the case. Thus the  
10 basis for both the burglary and the first degree charge as  
11 well as the attempted murder charge.

12 THE COURT: All right, yes, sir.

13 MR. RICHARDSON: Your Honor, Larry and I been  
14 working on this for sometime. I think I got appointed  
15 back in November. It's been a little bit difficult to  
16 communicate a lot via mail. Also came down in May and  
17 then I went up to visit him at Lee Correctional. He's up  
18 there on a probation violation. Larry's been incarcerated  
19 since January 26th 2017, never made bond, so he should get  
20 551 days credit.

21 Your Honor, we gone through the discovery and  
22 the only points in petition Larry has that a lot of the  
23 basis of the crime comes from one of co-defendant Ms.  
24 Ciara Grant, who's incarcerated about three weeks after  
25 she gave a statement where she mitigated her own

1 involvement. Speaking with Larry and by virtue of the  
2 victims in this case would appear that Ms. Grant, Ciara  
3 Grant was a lot more involved than she led on. She  
4 actually denied having a mask, both victims saw her with a  
5 mask. She the only reason the victim in the case would  
6 open the door per his own statement.

7 Mr. White doesn't discount his own actions.  
8 He's very apologetic for their actions in this. I think  
9 why his actions do speak of the crime, his failure to  
10 deliver any more shots in the first one. So that is not  
11 what he intended fully went in there to do, Your Honor,  
12 would have been very easy to make sure no witness was left  
13 behind.

14 And prior to that, he had signed with a record  
15 label as an entertainer doing rap music. He did have some  
16 promise. We're taking this knowing that we're on the plea  
17 roster -- trial roster for next week. I talk to Larry  
18 several times. We talked about how much credit he could  
19 get. He's a young man that's got some promise. And he's  
20 got a five year old, Your Honor. We talked about does he  
21 want to get out to see his daughter graduate. He loves  
22 his daughter. He was up at Lee whenever the riots went  
23 down. He actually protected his cousin who was up there  
24 at the same time. He does have some promise. He doesn't  
25 like being at Lee, but he doesn't like the prospects of

1 being up there for the rest of his life. He understand  
2 this. He accepts his role and his culpability. And we  
3 just ask that the Court go along with the negotiations.  
4 If I could have just one more moment.

5 (WHEREUPON, a pause in the proceedings.)

6 MR. RICHARDSON: I did speak with his mother and  
7 his sister today. His sister is working. His mother was  
8 trying to get here, but she couldn't find a ride, Your  
9 Honor. So he does have family ties. He's looking forward  
10 to one day being with his family and being a better role  
11 model for his daughter.

12 THE COURT: All right. I'll accept the  
13 negotiations and find that he did so freely,  
14 intelligently, advice of competent counsel. Fifteen years  
15 on each concurrent, 551 days credit.

16 MR. MCEACHIN: Your Honor, and I may not have  
17 been paying attention at the time. The Court review with  
18 the defendant the most serious offense? The fact that it  
19 falls under the two strike rules?

20 MR. RICHARDSON: And I didn't go over that with  
21 him, Your Honor.

22 (WHEREUPON, a pause in the proceedings.)

23 MR. RICHARDSON: Your Honor, that's always a  
24 difficult one. That's one thing I did neglect to talk  
25 about the nature of this being 85 percent. If, your

1 Honor, would like to educate him ---

2 THE COURT: You already went over that with him  
3 I assume. He understands it.

4 MR. RICHARDSON: Very briefly, Your Honor. It's  
5 just basically in the State of South Carolina you heard  
6 two strikes, three strikes law. This would fall under the  
7 two strikes law. So if you got out and you committed what  
8 is considered a most serious offense or actually two most  
9 serious offense -- if you committed a serious offense, you  
10 would be eligible for the possibility of a life sentence  
11 if convicted.

12 THE COURT: Thank you.

13 MR. RICHARDSON: Thank you, Your Honor.

14 MR. MCEACHIN: Thank you, Judge.

15 END OF REQUESTED TRANSCRIPT

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FORM 5

STATE OF SOUTH CAROLINA )

2019-CP-33-281  
IN THE COURT OF COMMON PLEAS

County of Marion )

Larry Anthony White # 371303 )  
Full name and prison number (if any) of Applicant )

v. )

APPLICATION FOR

State of South Carolina )

POST-CONVICTION RELIEF

2019 APR 22 AM 10:11

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 clear to which question any such continued answer refers.

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

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

1. Place of detention Lee Correction Institution  
990 Wilsack Hwy, Bishopville SC, 29010
2. Name and location of Court which imposed sentence Marion County Courthouse,  
North Main Street, Marion SC 29571
3. Name(s) of co-defendant(s) (if any) Cierra Shante Grant,  
Keith Terrell Charles
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) 2017-GS-33-00416
  - (b) \_\_\_\_\_

- (c) \_\_\_\_\_
- 5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) 7-30-18
  - (b) 15 years violent
  - (c) Charged as indicted
- 6. Check whether a finding of guilty was made:
  - (a) after a plea of guilty ✓
  - (b) after a plea of not guilty \_\_\_\_\_
  - (c) after a plea of nolo contendere \_\_\_\_\_
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?  
No
- 8. If you answered "yes" to (7), list:
  - (a) the name of each Court to which you appealed:
    - i. \_\_\_\_\_
    - 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. \_\_\_\_\_
- 9. If you answered "no" to (7), state your reasons for not so appealing:
  - (a) My Attorney was supposed to do so.
  - (b) \_\_\_\_\_

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

- (a) Ineffective Counseling
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) My Attorney didn't try to help me to my best ability.
- (b) My Attorney with held evidence.
- (c) \_\_\_\_\_

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

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

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

- (a) the specific nature thereof:
  - i. \_\_\_\_\_
  - 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. \_\_\_\_\_

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

No \_\_\_\_\_

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

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- (a) I was told to fill this application out first.
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) your arraignment and plea? Yes
- (b) your trial, if any? \_\_\_\_\_
- (c) your sentencing? Yes
- (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?  
\_\_\_\_\_

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

- (a) the name and address of each attorney who represented you:
  - i. Brad C. Richardson  
The Law Office of Brad C. Richardson LLC
  - ii. 1200 Main Street Conway SC, 29526
  - iii. \_\_\_\_\_
- (b) the proceedings at which each such attorney represented you:
  - i. Plea + Sentencing
  - ii. \_\_\_\_\_
  - iii. \_\_\_\_\_

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

New trial

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

Yes, Dillon SC.

Probation Violation

STATE OF SOUTH CAROLINA )  
County of Marion )

VERIFICATION

I, Larry White, 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.

Larry White

SWORN to and subscribed before me this 18 day of April, 2019.

[Signature] (L.S.)  
Notary Public

My Commission Expires: 3/7/2026

FILED  
2019 APR 22 AM 10:11

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

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

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

Larry White  
Applicant

SWORN or affirmed to and subscribed before me this

18 day of April, 2019.

Debra Eastwood  
Notary Public

My Commission Expires: 3/3/2024

FILED  
2019 APR 22 AM 10:11

FILED

STATE OF SOUTH CAROLINA )  
COUNTY OF MARION )

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

2019 JUL -8 ) AM 8:15

2019-CP-33-281

Larry Anthony White, # 371303 )

Applicant, )

v. )

RETURN )  
(COUNSEL APPOINTED) )

State of South Carolina, )

Respondent. )

In response to the post-conviction relief (PCR) action commenced by Larry Anthony White (Applicant) on April 22, 2019, the State makes this return:

**I. PROCEDURAL HISTORY**

Applicant is confined in the South Carolina Department of Corrections pursuant to the orders of commitment of the Marion County Clerk of Court. Applicant was indicted at the July 2017 term of the Marion County Grand Jury for: first-degree burglary; attempted murder; armed robbery; two counts of kidnapping; conspiracy; and possession of a weapon during the commission of a violent crime. (2017-GS-33-00416). Applicant was represented by Bradley C. Richardson, Esquire. Assistant Solicitor Fitzlee McEachin prosecuted the case.

On July 30, 2018, Applicant pleaded guilty to first-degree burglary and attempted murder before the Honorable William H. Seals, Jr. Applicant pleaded guilty with negotiated concurrent fifteen year sentences on both charges, and his remaining charges were dropped in exchange for his guilty plea. Judge Seals accepted Applicant's guilty plea and sentenced him to serve concurrent terms of fifteen years' imprisonment. Applicant did not appeal his plea or sentence.

Applicant timely commenced this PCR action on April 22, 2019.

## II. FACTS

On December 22, 2016, Applicant and two co-defendants broke into Terrence Williamson's residence around 12:30 am. Applicant and his co-defendants broke into the house attempting to rob the location. Upon entry, Applicant shot Williamson in the stomach. (Tr. 7–8).

## III. ALLEGATIONS

Applicant asserts he is unlawfully in custody, alleging:

1. Ineffective assistance of counsel;
  - a. Counsel did not help Applicant to the best of his ability; and
  - b. Counsel withheld evidence from Applicant.

Applicant requests relief in the form of a new trial.

For the purposes of this Return, the State incorporates the Clerk of Court records, the plea transcript, Applicant's SCDC records, and the PCR application. The State reserves the right to amend its return upon receipt of any relevant materials.

## IV. RESPONSE TO INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant's allegation of ineffective assistance of counsel is without merit. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984); *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985).

The test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." *Alford*, 400 U.S. at 31. Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and

circumstances of the case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). However, counsel is presumed to have adequately assisted and exercised reasonable professional judgment in making decisions in the case. *Edwards*, 392 S.C. at 456, 710 S.E.2d at 64. “[W]here counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Whitehead v. State*, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

“[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). Plea counsel is not deficient for advising a defendant to plead guilty based on what counsel believes the sentence would be if the defendant were convicted at trial. See *Bennett v. State*, 371 S.C. 198, 204–05, 638 S.E.2d 673, 676 (2006). To prove prejudice, the applicant must show a reasonable probability he would not have pleaded guilty and would have insisted on going to trial absent plea counsel’s alleged deficiency. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

The record does not directly disprove Applicant’s allegations of ineffective assistance of counsel; therefore, the State requests an evidentiary hearing to fully resolve the issues. See *Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

#### V. ANY FUTURE AMENDMENTS

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 the Uniform Post-Conviction Relief Act<sup>1</sup> and Rule 71.1 of the South Carolina Rules of Civil Procedure. *See also* Rules 15(a)–(b), SCRCP. 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. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRCP.

**VI. RESPONSE TO ANY AND ALL OTHER ALLEGATIONS**

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

**VII. REQUEST FOR AN EVIDENTIARY HEARING**

WHEREFORE, The State requests that an evidentiary hearing be held on Applicant's allegations.

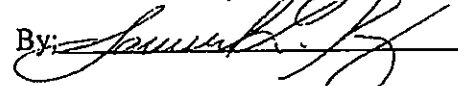
Respectfully submitted,

ALAN WILSON  
Attorney General

W. JEFFREY YOUNG  
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON  
Senior Assistant Deputy Attorney General

SAMUEL L. KEY  
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT  
Office of the Attorney General  
Post Office Box 11549  
Columbia, SC 29211

July 1, 2019

<sup>1</sup> S.C. Code Ann. §§ 17–27–10 to –160.

STATE OF SOUTH CAROLINA  
COUNTY OF MARION

Larry Anthony White, # 371303

Applicant,

v.

State of South Carolina

Respondent,

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


) Case No.: 2019-CP-33-291

) Affidavit of Service by Mail

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**  
**Waller Law Group, LLC**  
**1116 Blanding Street, Suite 2B**  
**Columbia, SC 29201**

DATED this 1<sup>st</sup> day of July, 2019.

  
Jennifer Jennison, Legal Assistant  
For Respondent



FILED

2019 JUL -8 AM 8:45

ALAN WILSON  
ATTORNEY GENERAL

July 1, 2019

Marion County Clerk of Court  
The Honorable Christy M. Gray  
PO Box 295  
Marion, SC 29571

Re: Larry Anthony White, # 371303 v. State of South Carolina  
2019-CP-33-281

Dear Ms. Gray:

Enclosed please find the original Return of the Respondent, in the above-captioned case, for filing in your office.

Sincerely,

Samuel L. Key  
Assistant Attorney General

SLK/jj  
Enclosure

cc: Jonathan D. Waller, Esquire

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS

COUNTY OF MARION ) 2019-CP-33-00281

LARRY ANTHONY WHITE, )

Applicant, )

Transcript of Record

vs. )

DECEMBER 17, 2019

STATE OF SOUTH CAROLINA )

Respondent. )

**B E F O R E:**

Honorable D. Craig Brown  
Florence County Courthouse  
Florence, South Carolina

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

Jonathan D. Waller, Esquire  
**Attorney for Applicant**

Samuel L. Key, Esquire  
**Attorneys for State**

Sallie Beth Todd  
**Circuit Court Reporter**



1           **THE COURT:** Yes, sir.

2           **MR. KEY:** May it please the Court? This is Larry Anthony  
3 White versus State of South Carolina, case number 2019-CP-33-  
4 281. Mr. White filed this PCR action on April 22nd, 2019. He  
5 is confined in the South Carolina Department of Corrections  
6 pursuant to orders of commitment of the Marion County Clerk of  
7 Court. He was indicted at the July 2017 term of the Marion  
8 County Grand Jury for first-degree burglary, attempted murder,  
9 armed robbery, two counts of kidnapping, conspiracy, and  
10 possession of a weapon during the commission of a violent  
11 crime. He was represented by Bradley C. Richardson, and  
12 assistant solicitor Fitzlee McEachin prosecuted the case. On  
13 July 30th, 2018 he pleaded guilty to first-degree burglary and  
14 attempted murder before the Honorable William H. Seals, Jr.  
15 He pleaded guilty with negotiated concurrent 15-year sentences  
16 on both charges and his remaining charges were dropped in  
17 exchange for his guilty plea. Judge Seals accepted his guilty  
18 plea and sentenced him to serve concurrent terms of 15 years.  
19 He did not appeal his plea or sentence.

20           In his original application he alleges ineffective  
21 assistance of counsel alleging counsel did not help him to the  
22 best of ability and counsel withheld evidence from him. I  
23 believe it was last Friday I got an e-mail from Mr. Waller  
24 adding amendments to the application. I believe it has been  
25 filed now. But in the amended application, or the amendment,

1 he alleges counsel was ineffective for failing to properly  
2 investigate the facts and circumstances surrounding the  
3 allegations against applicant thus rendering his plea  
4 unknowing and involuntary. Counsel was ineffective for  
5 failing to conduct an adequate amount of leading with  
6 applicant through the discovery so applicant would know the  
7 allegation against him this rendering his plea unknowing and  
8 involuntary. And counsel was ineffective for failing to  
9 properly file a notice of appeal as requested by applicant.

10 Mr. White is present today and represented by Mr.  
11 Jonathan Waller.

12 **THE COURT:** All right. Mr. Waller.

13 **MR. WALLER:** Thank you, Your Honor. May it please the  
14 Court? Judge, Mr. Key is correct. I did file some brief  
15 amendments last week. Do you have a copy of the amendments?

16 **THE COURT:** I do not.

17 **MR. WALLER:** May I approach?

18 **THE COURT:** Yes, sir.

19 **MR. WALLER:** May it please the Court? I would call Larry  
20 White.

21 **THE COURT:** All right.

22 **THE CLERK:** If you'll stop right there, sir. Place your  
23 left hand on the Bible and raise your right hand as best you  
24 can.

25 **LARRY A. WHITE, HAVING BEEN**

1 **FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

2 **THE COURT:** Okay.

3 **MR. WALLER:** Thank you, Your Honor.

4 **DIRECT EXAMINATION OF MR. WHITE BY MR. WALLER:**

5 Q: Good morning, Mr. White. How are you today?

6 A: I'm fine. How are you?

7 Q: I'm doing well. Thank you for asking. All right. Mr.  
8 White, when you were -- when you were first arrested do you  
9 recall what charges you had initially?

10 A: Attempted murder, armed robbery, burglary first, two  
11 kidnappings, conspiracy to commit kidnapping, and possession  
12 of a weapon during a violent crime.

13 Q: Okay. When you say conspiracy to commit kidnapping  
14 that's the specific charge, it carries the same penalty as  
15 kidnapping; is that your understanding?

16 A: No, sir. I wasn't aware.

17 Q: Okay. When you were first arrested were you on parole or  
18 probation for any previous charges?

19 A: Probation, third degree burglary.

20 Q: Okay. What happened with your probation?

21 A: It was violated. They violated my probation because of  
22 these charges really.

23 Q: Okay. Was it YOA probation, regular probation? What was  
24 it?

25 A: A YOA probation.

1 Q: Okay. So your probation was revoked; is that right?

2 A: Yes, sir.

3 Q: All right. Where were you housed while these charges  
4 were pending?

5 A: Lee Correctional.

6 Q: Okay. And you told the Judge what all the charges that  
7 you had when you were first arrested. You are aware that if  
8 we are successful in this PCR all of those charges come back  
9 as pending and you'll have to face those going forward; is  
10 that right?

11 A: Yes, sir.

12 Q: Okay. And you're aware of the potential penalties of all  
13 of those charges including the burglary first that carries  
14 potentially up to life; is that right?

15 A: Yes, sir.

16 Q: Okay. And you and I have talked and you still want to go  
17 forward today?

18 A: Yes, sir.

19 Q: Okay. All right. Who was your lawyer on these charges?

20 A: Brad C. Richardson.

21 Q: Okay. How did you -- how did he come to be your lawyer?

22 A: He's -- well I -- well he was appointed November 16th,  
23 2017. Really I was going to hire a lawyer but he was court  
24 appointed and he came to see me because at the time I couldn't  
25 afford -- well at the time I couldn't pay for the lawyer at

1 the time.

2 Q: Okay. Does he do some work with the Marion County Public  
3 Defender's Office?

4 A: Yes.

5 Q: Okay. So that's your understanding of how he got to be  
6 your lawyer is he was appointed because he does work for the  
7 public defender's office.

8 A: Yes, sir.

9 Q: Okay. How many times do you think you met with Mr.  
10 Richardson?

11 A: Three times.

12 Q: Okay. Do you remember the first time you met with him?

13 A: May 14th, 2018.

14 Q: All right. What -- were did y'all meet?

15 A: Marion County Courthouse for a continuance.

16 Q: Okay. Had you already been transferred to Lee at that  
17 point or ---

18 A: Yes, sir. I was transferred to Lee April 12th, 2017.

19 Q: Okay. So you've been -- you've been down at Lee for a  
20 little while.

21 A: Yes, sir.

22 Q: Okay. So you met with Mr. Richardson at the courthouse  
23 for, you said a continuance?

24 A: Yes, sir.

25 Q: Okay. What -- what did y'all talk about when you met?

- 1 A: When we talked he told me that -- well he sent me -- well  
2 I received my discovery on February 22nd, 2018. He told me --  
3 in my discovery it was an open plea for 20 years with all  
4 charges ran concurrent. He asked me did I want to accept the  
5 plea. Well he told me I was going up for a continuance, but  
6 then he asked me did I want to accept the plea, I mean take  
7 the plea. I told him no I didn't.
- 8 Q: Okay. When you say you received your discovery, how did  
9 you get it? Did he bring it to you?
- 10 A: By mail.
- 11 Q: Okay. He mailed it to you.
- 12 A: Yes, sir.
- 13 Q: Did he mail you everything that you know of? Was there  
14 things that you weren't allowed to have?
- 15 A: The like the pictures, like the pictures of like when  
16 they did the evidence, like fingerprinting and all that, the  
17 pictures, there was no pictures, it was all on a flash drive  
18 which I didn't see that until July.
- 19 Q: Okay. You're obviously not allowed to have a flash drive  
20 in the Department of Corrections, right?
- 21 A: Yes, sir.
- 22 Q: Okay. All right. So the first time you met with Mr.  
23 Richardson you all ready had your discovery at that point,  
24 right?
- 25 A: Yes, sir.

1 Q: Did y'all have a chance to talk about it at that first  
2 meeting?

3 A: No, sir. He was just telling me a brief summary of what  
4 my co-defendant was saying.

5 Q: Okay. You had two co-defendants; is that right?

6 A: Yes, sir.

7 Q: One male and one female.

8 A: Yes, sir.

9 Q: Okay. The female was the sister of one of the victims in  
10 the case?

11 A: Yes, sir.

12 Q: Okay. When you met with Mr. Richardson at the courthouse  
13 that time, how long did y'all have a chance to meet?

14 A: We talked for like five to ten minutes before we went up  
15 in front of the Judge.

16 Q: Okay. Were you in a room?

17 A: Holding cell.

18 Q: In a holding cell.

19 A: Yes, sir.

20 Q: All right. How about the next time y'all met?

21 A: It was July 11th, 2018.

22 Q: Okay. Where did you meet that time?

23 A: He came to Lee Correctional.

24 Q: Okay. How long did y'all meet then?

25 A: We had a -- it was a lengthy, a lengthy visit. We went

1 over the video statements because all of the statements was on  
2 video.

3 Q: Okay. Did you have a chance to view the pictures of any  
4 of the stuff that you said was on that flash drive?

5 A: Yes, sir.

6 Q: All right. How about the third time you met?

7 A: The third time we met he was taking me back to -- I was  
8 transported back to Marion County for -- well he didn't even -  
9 - I didn't even know what I was going back for. It was just  
10 out the blue I was transferred back to Marion County courtroom  
11 and he was telling me that the plea was dropped from -- all  
12 right, the first time we met he told me, he asked me did I  
13 want to accept the 20-year plea. The second time we met on  
14 July 11th he asked me did I want to -- and he told me that the  
15 plea was dropped from 20 years to 17 years, did I want to  
16 accept. I told him no. So the third time we met he told me  
17 he said the plea was 15. He asked did I want to take it.

18 Q: Okay. Before you took your plea, your warrants were  
19 presented to the grand jury; is that right? You were  
20 indicted.

21 A: Yes, sir.

22 Q: And did you and Mr. Richardson have a chance to discuss  
23 what being indicted means?

24 A: No, sir. Not, not, I mean not really. I asked him  
25 certain questions because I was looking up certain things in

1 the law library, so I was asking him certain questions. But  
2 basically the questions that I was asking he was basically  
3 telling me that there wasn't -- he was basically telling me my  
4 questions didn't -- the concerns that I had wasn't really an  
5 issue.

6 Q: Okay. All of your -- all of your charges were contained  
7 on one indictment; is that right?

8 A: Yes, sir.

9 Q: And did you have questions about that?

10 A: Yes, sir.

11 Q: Okay.

12 A: For one, I didn't -- I never -- well see this is my first  
13 time seeing an indictment. This was the first time seeing my  
14 indictment, but the problems that I had with my indictment was  
15 I didn't -- I didn't know about the multicount indictment, but  
16 he told me about the multicount indictment, then somebody else  
17 did. But the questions that I had about my indictment was it  
18 wasn't true billed or signed off, the copy that I had was not  
19 true billed or signed off, which I've got a copy of it now.

20 Q: Okay.

21 A: And also that I was charged with conspiracy to commit  
22 kidnapping, but on my indictment I was indicted for criminal  
23 conspiracy but the warrant number for the conspiracy -- the  
24 correct charge that I was charged with stayed the same on the  
25 indictment.

1 Q: Okay. And that was going to be my next question to you.  
2 So you were charged with conspiracy to commit kidnapping and  
3 you were indicted for just regular old criminal conspiracy.

4 A: Yes, sir.

5 Q: Did you and Mr. Richardson talk about the change and why  
6 that was different?

7 A: I asked him about it and he said that he was going to  
8 look into, but I never heard anything else about it.

9 Q: Okay. You said the warrant number was the same.

10 A: As the correct charge that I was charged with.

11 Q: Okay. Okay.

12 A: And that was ---

13 Q: When you say correct charge, what do you mean correct?

14 A: The charge that I was actually charged with was  
15 conspiracy to commit kidnapping, but when I was indicted they  
16 used the warrant number for the charge that I was charged with  
17 but they changed the charge on my indictment.

18 Q: So when you say correct, you mean the conspiracy to  
19 commit kidnapping?

20 A: Yes, sir.

21 Q: Okay. All right. Did you and Mr. Richardson have a  
22 chance to talk about the evidence against you? You mentioned  
23 video statements a few minutes ago. How about how you were  
24 identified?

25 A: Yeah, I questioned parts of how I was identified and I

1 mean really he didn't -- he didn't really, I mean he didn't  
2 really address it -- address the issues that I was really  
3 concerned about like in my -- in the evidence, the video  
4 statements I was identified by a co-defendant. But when she  
5 identified me she basically told basically a lie. She told a  
6 whole lot of lies in her statement and she threw herself all  
7 of the way out of the statement.

8 Q: Okay. So neither of the two victims in this case  
9 identified you or the other male co-defendant?

10 A: No, sir.

11 Q: So you were identified by your female co-defendant who  
12 had been identified by the victims?

13 A: Yes, sir.

14 Q: Okay. You said that she minimized her involvement?

15 A: Yes, sir.

16 Q: Did you and Mr. Richardson talk about ways to challenge  
17 her identification of you?

18 A: Yes. We somewhat a little bit. Basically when I talked  
19 to him about it and I asked questions about it he said a  
20 little bit about it and then he went on to a different  
21 subject.

22 Q: Okay. Did y'all talk about what -- what happened if you  
23 went to trial and I'm assuming she was going to testify  
24 against you. Did y'all discuss that?

25 A: Yes, sir. But I mean I understand that there's a

1 possibility that I could get a life sentence if I were  
2 convicted on the burglary first-degree, but he didn't tell me  
3 that it was a possibility. He was just saying no doubt about  
4 it I was going to get a life sentence.

5 Q: Okay. Did you and Mr. Richardson discuss your statement  
6 to law enforcement?

7 A: I told him -- I told him about it and I also -- I also  
8 brought to his attention about my Miranda rights.

9 Q: Okay. What about your Miranda rights?

10 A: I was never read my Miranda rights.

11 Q: Okay. All right. Did y'all discuss how that might  
12 affect the use of your statement at any trial?

13 A: No, sir.

14 Q: Okay. Did y'all discuss trial at all?

15 A: Yes, sir. I wanted to go to trial.

16 Q: Okay. What did y'all talk about, about going to trial?

17 A: Basically, I mean I told him that I wanted to go to  
18 trial, but he was telling me if I go to trial then I was just  
19 going to get a life sentence plain and simple, no way around  
20 it.

21 Q: Okay. Did you understand all of the evidence that the  
22 state said they had against you?

23 A: Well I didn't receive all evidence because it was  
24 evidence that he requested like I got a letter 18 days before  
25 I was sentenced, before the plea was accepted. He was still

1 requesting evidence.

2 Q: Okay. Do you know if that was ever received before you  
3 plead guilty?

4 A: I never, I never saw it.

5 Q: You never saw it. Okay. Do you know what was requested?  
6 Was any of the testing done as far as the weapons or anything  
7 like that?

8 A: There was -- all right, there was -- well see I didn't  
9 see this letter, the letter that he wrote. It was the day  
10 after the visit that me and him had. I didn't see the letter;  
11 I just received the letter this year. My sister went to the  
12 clerk of court office and got some evidence, well she went and  
13 got the discovery.

14 Q: Some things that were filed with the clerk of court?

15 A: Yes, sir.

16 Q: Okay. After your plead did you and Mr. Richardson  
17 discuss him filing an appeal for you?

18 A: Yes, sir. I told him I wanted him to file an appeal.

19 Q: Okay. Do you know whether that was done or not?

20 A: I have paperwork that my sister brought from the clerk of  
21 court office about my appeal, but it was never notarized, and  
22 I never received any copy of it from him, from his office.

23 Q: Okay. So you understand that he tried to file something  
24 but you don't know anything else.

25 A: No, I don't know nothing else.

1 Q: All right. At some point you -- just a minute ago you  
2 testified that you wanted to go to trial.

3 A: Yes, sir.

4 Q: At some point that changed, and you ended up obviously  
5 pleading guilty. What -- what changed?

6 A: He was telling me -- well one of the things he brought  
7 up, he asked me -- he knows that I have a daughter. He asked  
8 me did I love my daughter and I told him yes, I did. And he  
9 asked me, he said do I want to see her graduate? And I said  
10 yes, I did. And he said if I love my daughter and I want to  
11 see my daughter graduate then the best thing to do is take  
12 that plea.

13 Q: Okay. Did you -- was that pressuring you, threatening  
14 you, you thought?

15 A: Yes, sir. It brought chills to me not being able to see  
16 my daughter graduate.

17 Q: Okay. At that point do you know if the trial was coming  
18 up or had been scheduled? Do you know where you were in that  
19 process?

20 A: He said the trial would be -- I was on the trial roster  
21 for the next week.

22 Q: Okay. Had y'all prepared any for a trial next week?

23 A: No, sir.

24 Q: Okay. Do you know if he had done any preparation for the  
25 trial?

1 A: No, sir.

2 Q: Was there any information that you had requested that he  
3 investigate or follow-up on?

4 A: The indictment because I had never seen the true billed,  
5 a copy of the true billed indictment and he never seen -- well  
6 at the time, as far as I know, he had never seen a copy of the  
7 true billed indictment because the day after our visit he --  
8 that was another thing in the letter. He was requesting a  
9 copy of the true billed indictment.

10 Q: Okay. Do you think that, based on what you saw in  
11 meeting with him, do you think that he was prepared to go to a  
12 trial the next week?

13 A: No, sir.

14 Q: Okay. Was that part of your decision to plead guilty?

15 A: Yes, sir.

16 Q: Okay. Mr. White, I think I've asked you all of the  
17 questions that I have for you. Is there anything that you  
18 think I've left out or neglected to ask that the Judge needs  
19 to be aware of about Mr. Richardson's -- just his  
20 representation of you, not the facts of the case?

21 A: Yes. About my discovery, all right, he was still  
22 requesting evidence in my discovery. One thing that he  
23 requested from the solicitor, the prosecutor, was there a  
24 projectile recovered, if so was it analyzed? It's in my  
25 discovery, a copy of my discovery that he gave me it's in my

1 discovery where there was a projectile recovered January 4th,  
2 2017 and it was not analyzed.

3 Q: Okay. So you don't know if he ever received that  
4 information?

5 A: No, sir.

6 Q: Okay. And you said he requested it just before you plead  
7 guilty?

8 A: Yes, sir.

9 Q: Okay. I don't have anything further. Please answer any  
10 questions Mr. Key has.

11 **THE COURT:** Mr. Key.

12 **CROSS EXAMINATION OF MR. WHITE BY MR. KEY:**

13 Q: Mr. White, you testified that Mr. Richardson came and met  
14 with you three times?

15 A: Yes, sir.

16 Q: Okay. First time at the Marion County Courthouse?

17 A: Yes, sir.

18 Q: Second time at Lee?

19 A: Yes, sir.

20 Q: Third time at Marion again?

21 A: Yes, sir.

22 Q: Okay. And you testified when he came and met with you at  
23 Lee that was a lengthy visit.

24 A: Yes, sir.

25 Q: Okay. And at that meeting did he go over the discovery

1 with you?

2 A: Parts of the discovery, but mainly we just watched the  
3 videos of the statements.

4 Q: Okay. So you were able to watch the videos that were on  
5 the flash drive that you couldn't see before?

6 A: Yes, sir.

7 Q: Okay. So you saw the videos and you got, I guess paper  
8 copies of the rest of the discovery?

9 A: Yes, sir.

10 Q: And the first plea offer was an open plea for 20 years?

11 A: That's right.

12 Q: And he told you that?

13 A: Yes, sir.

14 Q: Okay. And then the second offer was for 17 years and you  
15 were aware of that?

16 A: Yes, sir.

17 Q: Okay. And then the, I guess the final offer was the 15  
18 years?

19 A: Yes, sir.

20 Q: Okay. And you testified that you wanted to go to trial  
21 in this case?

22 A: Yes, sir.

23 Q: Okay. And did that change when you got the 15-year plea  
24 offer?

25 A: The only reason that that changed, it changed but the

1 only reason why it changed was because basically he was --  
2 really what he told me was if I didn't take the plea I was  
3 going to trial that next week and I was going to get a life  
4 sentence. And he mentioned my daughter, and do I love my  
5 daughter, and do I want to see my daughter graduate so that's  
6 what ---

7 Q: Okay. So you were aware if you were convicted at trial  
8 of first-degree burglary you could receive a life sentence?

9 A: Yes, sir.

10 Q: Okay. You were just speaking or testifying a moment ago  
11 about the true billed indictment and you had asked Mr.  
12 Richardson about that. Do you recall at what meeting that  
13 was?

14 A: Yes, sir. That was the meeting at Lee Correctional.

15 Q: Okay. And do you recall the date of that meeting?

16 A: July 11th, 2018.

17 Q: July 11th. What year, I'm sorry?

18 A: 2018, last year, 2018.

19 Q: 2018. Okay. Have you -- have you seen an indictment  
20 with the true bill on it since your case or since you had  
21 questions about it?

22 A: I received -- the only time I received -- when I did  
23 receive a copy was when Mr. Waller was presented on my case.  
24 He sent me a copy of it.

25 Q: Okay. So you have seen a copy of the true billed

1 indictment?

2 A: Yes, sir.

3 Q: Okay. With the conspiracy to commit kidnapping or the  
4 other conspiracy charge that was on your indictment, did you  
5 plead guilty to those charges -- to that charge?

6 A: No, sir. I plead guilty to the attempted murder and  
7 burglary first and the rest of the charges were dismissed.

8 Q: And did you -- did you plead to kidnapping?

9 A: No, sir. I plead to attempted murder and burglary first.

10 Q: Okay. And I believe you testified that Mr. Richardson  
11 told you that one of your co-defendants had named you as one  
12 of the perpetrators, I guess.

13 A: Yes, sir.

14 Q: Okay. So you are aware that your co-defendant had named  
15 you?

16 A: Yes, sir.

17 Q: Okay. And you were also aware that none of the, I guess,  
18 victims in the house had named you before that?

19 A: Yes, I was.

20 Q: Mr. White, do you recall if you were sworn when you plead  
21 guilty in front of Judge Seals?

22 A: Can you define that? Can you say that ---

23 Q: Like when you came in today to testify and they swore you  
24 in. Did they swear you in when you plead guilty?

25 A: Yes, sir.

1 Q: Okay. Do you recall Judge Seals going over the charges  
2 with you? What you were pleading guilty to at least?

3 A: Yes, sir.

4 Q: Okay. And you told Judge Seals that you understood the  
5 charges?

6 A: Yes, sir.

7 Q: Do you recall Judge Seals asking if anybody had  
8 threatened you in any way into pleading guilty?

9 A: Yes, sir. I believe, I believe so.

10 Q: Okay. And you responded no, sir.

11 A: Yes, sir.

12 Q: Okay.

13 **MR. KEY:** No further questions, Your Honor.

14 **THE COURT:** Any redirect?

15 **MR. WALLER:** Nothing further from the applicant, Your  
16 Honor.

17 **THE COURT:** Mr. White, you may step down, sir.

18 **MR. WALLER:** Nothing further from the applicant, Your  
19 Honor.

20 **THE COURT:** Mr. Key.

21 **MR. KEY:** The state would call Bradley Richardson.

22 **BRADLEY C. RICHARDSON, HAVING BEEN**  
23 **FIRST DULY SWORN, TESTIFIED AS FOLLOWS:**

24 **DIRECT EXAMINATION OF MR. RICHARDSON BY MR. KEY:**

25 Q: Good morning, Mr. Richardson. Thank you for being here

1 today.

2 A: Certainly.

3 Q: How did you come to represent Mr. White?

4 A: I was appointed to represent Mr. White I believe in  
5 November 2017. Looking back at my records, it looks like I  
6 was appointed I want to say about November 17th, 2017. I sent  
7 a letter to Mr. White November 20th, 2017 indicating that I'd  
8 been appointed to represent him. I sent it up to Lee  
9 Correctional, November 20th, 2017 to the address that was  
10 listed on the Department of Corrections website stating I had  
11 not been provided with discovery at that point. However, I  
12 had submitted a motion for such and that I would be in touch  
13 with him just as soon as I got the discovery. I asked -- I  
14 sent him some documentation asking him to complete that so  
15 that I could learn a little more about him. I got discovery  
16 in on or about December 4th, 2017, then I started reviewing  
17 that.

18 Q: Okay. Do you recall how many times you met with Mr.  
19 White?

20 A: Initially I corresponded with him. I met with him for  
21 the first time I believe it was in May of 2018. The  
22 prosecutor on the case Fitzlee McEachin, now Judge McEachin,  
23 was representing the state in it and was trying to call the  
24 case for trial so I had filed for a motion for continuance.  
25 Efforts to meet with Mr. White prior to that, I'd intended on

1 meeting with him in March or April and there was a riot at Lee  
2 Correctional and therefore I wasn't able to go up. They were  
3 on lockdown for some time. So I sent a notice to him  
4 indicating that we would have a motion for continuance. I  
5 sent a letter to him May 3rd, 2018 indicating I apologize for  
6 not having come to see you. I was preparing to come see you  
7 most recently, the facility was placed on lockdown. The  
8 solicitor has placed you on the trial list for 2018. I've  
9 filed a motion for continuance due to inability to meet in  
10 person. I asked the solicitor to have you transported to  
11 Marion the week of May 11th, 2018 to be formally heard. I  
12 also indicted some items that I'd seen in the discovery at  
13 that point, what I saw in the discovery, it was a two-page  
14 letter. He was transported May 11th. I don't believe we met  
15 in the holding cell, as I recall. The public defenders have  
16 an office in the Marion Courthouse building. They let us  
17 utilize an office in there where we met for some time.

18 Q: Okay. Now, Mr. White testified that he had had a YOA  
19 probation revoked so he was in Lee Correctional. Does that --  
20 does that change how you would meet with a client that's -- a  
21 client who is out on bail or in the Marion County Courthouse?

22 A: A few more steps to go meet. One, you have to travel to  
23 whatever location they are at at that point. In this instance  
24 I had to notify the Department of Corrections when I was going  
25 up there. I did meet with him in July. I had to notify them

1 of what kind of media I was brining, of course, they'll let me  
2 bring in files, but to bring in a computer and a thumb drive  
3 you actually have to get that cleared. I did such and it was  
4 my intention to go through everything. I had provided all of  
5 the written discovery we had at that point. But my intention  
6 that day, even in our local jails, may times it's difficult to  
7 go in and review media whether it's a disk, a cassette tape in  
8 the old days, or a thumb drive in this case. But I reduced  
9 everything from the CDs down to the thumb drive, all the  
10 interviews and whatnot, the recorded stuff.

11 Q: So when you went to meet with him in July what you had  
12 not provided to him in written form on paper, you were able to  
13 show him the media discovery?

14 A: That's correct. Yeah. I went up there. I had made a  
15 lot of notes on the interviews, also indicating pros and cons  
16 I saw in the state's case. I left Myrtle Beach about 7:30  
17 that morning, arrived at Lee Correctional at 9:30 and I was  
18 there until shortly before 2:00 I believe. We met for some  
19 time. Initially, they had two corrections officers that were  
20 in the room with us. They were requested to leave, the  
21 captain ordered them to leave so that we could have the room  
22 to ourselves so that we wouldn't invalidate attorney/client  
23 confidentiality. We discussed the aspects of the case  
24 including the indictment, the fact that I did not have a true  
25 billed copy at that point. To my recollection, I informed him

1 as I inform everyone an indictment is nothing more than a  
2 ticket to ride in general sessions court. I typically inform  
3 clients that 12 out of 18 persons on a grand jury have to  
4 meet, they have to render that probable cause is found to meet  
5 the elements of each charge. In my experience, it's rare that  
6 I see a grand jury take no position and I told him -- or to no  
7 bill an indictment. Sometimes they'll take no action for it  
8 to be represented. That I would make sure, but that we could  
9 not appear before trial without a true billed indictment.  
10 When I did go back and look, it looked like there were no  
11 changes between the copy of the indictment I had and the one  
12 that was true billed. So there was no material changes in  
13 there.

14 Q: Did -- did he bring up or ask you to look into an issue  
15 of all of the charges being on the same indictment?

16 A: I don't recall if he did or did not. That's not the  
17 process, when I was a prosecutor for over in Horry that's not  
18 the process we used. I do understand the solicitor does that  
19 over here and the grand jury can return it or not. That was  
20 the process that was used for many years before I was ever a  
21 prosecutor.

22 Q: Okay.

23 A: They all rise out of one event and so I do believe it to  
24 be proper.

25 Q: Did -- did you explain to Mr. White the conspiracy to

1 commit kidnapping charge that was on his -- or the charge that  
2 was on his indictment?

3 A: Conspiracy, yes. I went through each and every charge  
4 and told him what the elements were on those. Attempted  
5 murder is cause of harm to another that could potentially be  
6 fatal with malice aforethought. In this case it was done  
7 under the theory of what would amount to felony murder.  
8 Burglary first, entering a dwelling, which this was a mobile  
9 home as I recall, with intent to commit a crime there in,  
10 occurs at night or someone is injured. In this case someone  
11 was shot. Kidnapping, rendering someone where they can't move  
12 freely, in this case there was the victim that was left on the  
13 floor after he was shot. And then I think the co-defendant in  
14 this case was Cierra Grant and her sister Terry Grant was  
15 actually in the house and she was taken in the house and  
16 driven away. They eventually dropped her off as I recall near  
17 Atlas Imports or the Marion Amphitheater where her mother came  
18 to retrieve her, but she was able to identify her sister and  
19 give a general description of the other two persons in the  
20 vehicle.

21 Q: Okay. Now hoe did Mr. White eventually get identified in  
22 this case? There was a general description. The victim in  
23 this case didn't know him. They gave a general description.  
24 They gave what's referred to as a six-pack line up to them.  
25 He indicated someone looked similar but could not make 100

1 percent positive identification. Cierra Grant was of course  
2 identified relatively quickly. Her sister knew who she was  
3 and said she seemed to be involved. Cierra was taken into  
4 custody and charged I believe after two, three, four weeks in  
5 jail she finally decided to talk. We discussed that as well  
6 how that might play out. But that is how he was identified  
7 through Cierra Grant. Also, there was a vehicle that was  
8 identified as being used in the description of the vehicle. I  
9 believe it was a red, orange Dodge Charger maybe, but there  
10 were fingerprints that belonged to Mr. White that were found  
11 on that vehicle. Subsequent investigation determined that  
12 someone who was a girlfriend of Mr. White had rented that  
13 vehicle which would have been used to show he had access to  
14 it.

15 Q: Okay. And did you ---

16 A: It was found like a day or two after the -- after the  
17 crime. I'm sorry.

18 Q: --- and did you explain all of this to Mr. White?

19 A: I did. I explained that the fingerprints that were found  
20 as I recall were on the exterior of the case. So it doesn't  
21 necessarily show that he was driving. But that Cierra Grant's  
22 testimony can certainly be challenged, but it does show that -  
23 - she has indicated some involvement in the crime. Her sister  
24 corroborates her involvement in the crime and the general  
25 descriptions were the same. Also, another co-defendant in the

1 case, Keith Charles, I believe his DNA was actually found  
2 inside the crime scene and it was my understanding from  
3 talking to Mr. McEachin that Keith Charles could be testifying  
4 as well and his DNA was found at the scene.

5 Q: Okay.

6 A: And we went through it and as I recall I mean this is as  
7 we're going down everything while we're at prison, as we go  
8 through that lengthy discussion. The original motion for  
9 continuance, the Judge agreed to continue it from May but  
10 indicated the case may come up in August as I recall. I had  
11 originally asked for both May and August to be moved. Mr.  
12 White was correct that I did send a letter out to Mr. McEachin  
13 shortly after our meeting, July 12th, wherein I asked for a  
14 copy of the true billed indictment, are there any photos of  
15 crime scene, were there any cell phone searches or Terry  
16 Grant, Cierra Grant, Terrance Williams, was there a projectile  
17 recovered? I asked them about photos and were there any  
18 proffers. I had indicated to him before that it would be the  
19 state's burden to prove anything, that we have nothing to  
20 show. I gave him everything that I received, and I told him  
21 that the state would have to turn over any evidence that they  
22 intended to use in their case in chief.

23 Q: Did you recommend to Mr. White that he should accept the  
24 state's 15-year plea offer?

25 A: We talked about different pleas while we were in prison.

1 Whenever he was brought back I asked, because they were trying  
2 to put him or they did put him on the trial roster for the  
3 August term of -- for the second week of the Marion term in  
4 August, 2018. And I had asked them, I asked that he be  
5 brought back so we could prepare for trial if we were going to  
6 be going to trial and they did bring him back. We sat down to  
7 talk, as I recall we talked briefly when he was in the holding  
8 cell, then I believe we talked again in that little room in  
9 the public defender's office. He had indicated before about  
10 concerns where he wanted to be able to see his daughter. I  
11 told him that if he was found not guilty, he walks free when  
12 he's done with his revocation, the sentence that he was  
13 already serving. I told him that if he entered a plea that I  
14 had gotten the state to offer 15 years concurrent on these,  
15 which is a no parole offense, which means that he would have  
16 to serve 85 percent of the sentence. That he'd be granted --  
17 because he had never made bond, he'd be granted credit for any  
18 time that he had served. And we had a long discussion as I  
19 recall. He brought up his daughter again, and I told him the  
20 difference is if you're found not guilty you go home. You get  
21 to see your daughter. I said if you're found guilty however a  
22 Judge could sentence you to life in prison. At the very least  
23 a Judge has to sentence you to 15 years. It's not been my  
24 sentence that someone that goes to trial receives the minimum  
25 sentence, particularly when they have a prior record. The

1 Judge could sentence him to life, which would mean service of  
2 -- a life sentence is just that. I always inform clients that  
3 there is a saving grace in there that if they make it to age  
4 65 and have served 30 years of a sentence or age 70 and have  
5 served 25 years that the parole board if they're in bad health  
6 can ask for them to be released. But I do try to talk in real  
7 world terms. I didn't threaten him that he would never see  
8 his daughter again. I told him that it would have to be his  
9 choice if he wanted to go to trial. That I was certainly  
10 ready, willing, and able to go to trial. I try to educate  
11 them on what the state would have to show and that if the  
12 trial went out way he walks. If the trial doesn't go our way  
13 that he could be found guilty of first-degree burglary, could  
14 have been found of kidnapping, could have been found guilty of  
15 attempted murder. A Judge could end up imposing a life  
16 sentence. But the option is always theirs. I don't try to  
17 twist arms. I've done too many trials to try and get out of  
18 one.

19 Q: Did you and Mr. White discuss his statement to law  
20 enforcement and how you can challenge that had the case gone  
21 to trial?

22 A: As I recall, I don't specifically recall, but I do  
23 typically go over that with clients, that if it's done without  
24 Miranda the aspects that you have to look at pursuant to all  
25 Miranda and it's progeny with regard to whether or not it's

1 voluntary, whether they're in custody or not, if they're under  
2 any duress, if they're under the influence. And then  
3 ultimately if a Judge allows it in, we get to bring it up to  
4 the jury and the jury makes that decision.

5 Q: But his statement to law enforcement, it wasn't the only  
6 thing law enforcement had against him?

7 A: No. I told him that in this case if Keith Charles  
8 testified, Keith Charles was no doubt in the house at some  
9 point or somebody had taken his DNA in there and he was a co-  
10 defendant. Cierra Grant was coming forward to testify against  
11 him was my understanding. Actually, Terry Grant the victim --  
12 one of the victims that was kidnapped but not harmed  
13 otherwise, had the opportunity to speak with her when she  
14 stopped in my office for something else. Once I realized who  
15 it was I said will you be testifying, she indicated yes. I  
16 did not speak with Keith Charles, did not speak with Cierra  
17 Grant as they were represented. It would have been improper  
18 for me to do that.

19 Q: And did Mr. White ask you to file an appeal?

20 A: He did. I filed a notice of appeal as I recall, but I  
21 don't know that I followed up with everything else. And that  
22 is an error on my part.

23 Q: Okay. So you filed a notice of appeal but the appeal was  
24 never perfected?

25 A: That's correct.

1 Q: Okay.

2 **MR. KEY:** No further questions, Your Honor.

3 **THE COURT:** Mr. Waller.

4 **MR. WALLER:** Just briefly.

5 **CROSS EXAMINATION OF MR. RICHARDSON BY MR. WALLER:**

6 Q: Mr. Richardson, when you had your lengthy meeting at Lee  
7 with Mr. White. Did you have everything in discovery at that  
8 point?

9 A: I had all of the written materials, all of the videos.  
10 As I indicated I sent a letter out the next day asking for a  
11 true billed indictment. That was something I asked about. He  
12 mentioned that he had been doing some research. I think one  
13 of the questions that came up, as is commonplace, is whether  
14 or not something has been put to the grand jury within 90  
15 days. And typically, when that question is asked, I tell them  
16 there's reems and reems of law about the 90-day rule on grand  
17 jury indictments.

18 Q: Okay.

19 A: I also requested some crime scene photos. I had photos  
20 from the search of the Dodge Charger that was conducted here  
21 in Florence.

22 Q: Did you have a chance after that meeting when you  
23 received -- first of all, did you ever receive all of that  
24 stuff?

25 A: I think we did get some crime scene photos in. One of

1 the things that I requested, were there any DNA coming back,  
2 there was nothing that came back with his DNA in it. Go ahead  
3 if you need to grab that.

4 Q: Thank you.

5 **THE COURT:** What are you wanting to do with that, Mr.  
6 Waller?

7 **MR. WALLER:** I was just trying to get it marked, Judge.  
8 I apologize.

9 **THE COURT:** You get it marked over here.

10 **MR. WALLER:** I am sorry. You switched courtrooms on me,  
11 Judge. I'm going to the wrong side.

12 **THE COURT:** No problem.

13 **BY MR. WALLER:**

14 Q: All right. Sorry about that. Did you ever -- the items  
15 you requested the day after your meeting, did you ever get a  
16 copy of all of those things?

17 A: I believe I did get a copy of the crime scene and cell  
18 phones. They sent some photographs of some things that  
19 weren't really pertinent. I couldn't make heads or tails. I  
20 think I did end up making copies and we discussed that when we  
21 met July 30th, the day of the plea.

22 Q: Okay. Did you have a chance, the stuff that you did  
23 receive after the fact, did you have a chance to go over that  
24 with Mr. White?

25 A: We went over it whenever we meet, like I said July 30th.

1 Q: Okay.

2 A: I think it was July 30th, the day that he plead.

3 Q: You said that you had been noticed for the second week of  
4 the Marion term, so within the next 30 days.

5 A: Well it would have been the following week. It was going  
6 to be August 7th.

7 Q: Okay.

8 A: And that's one reason I asked that he be brought back so  
9 that we could adequately prepare for trial if that's the  
10 direct he took.

11 Q: Okay. At that point before he decided to plead guilty,  
12 what preparations had you done to get ready for trial?

13 A: I had reviewed the statement exhaustively, taken  
14 extensive notes on it, reviewed what they did have. As I told  
15 him, it's the state's burden, not ours. Did research with  
16 regard with regard to -- in case there was an attempt to do a  
17 show up ID seeing as there was a six pack that was done where  
18 no one was picked out. I was researching it and as I recall I  
19 was preparing questions for the witnesses that I knew would be  
20 testifying.

21 Q: When you met with him on the 30th, did you have a chance  
22 to discuss with him the collateral consequences to his  
23 charges? The fact that it was a most serious offense, the  
24 burglary first, the fact that it was 85 percent. Did you  
25 discuss all of that with him?

1 A: I did.

2 Q: All right. All right.

3 **MR. WALLER:** Your Honor, may I approach the witness?

4 **THE COURT:** Yes, sir.

5 **MR. WALLER:** Thank you.

6 **BY MR. WALLER:**

7 Q: I'm going to hand you what's been marked as applicant's  
8 1.

9 A: Let me get all of this out of the way so I don't get it  
10 confused.

11 Q: I appreciate that. I'm going to ask you if you recognize  
12 that?

13 A: First, that does appear to be my signature. That does  
14 appear to be the notice of appeal.

15 Q: Okay.

16 A: As I indicated, I don't know that I followed up properly  
17 on the appeal.

18 Q: Okay. But is that -- that's what you, I guess attempted  
19 to file with the clerk of the Court of Appeals.

20 A: Yes. I think I ended up getting it clocked in Marion. I  
21 thought that's where I needed to get it done. I do know  
22 better now.

23 **MR. WALLER:** Your Honor, I would offer applicant's one.

24 **MR. KEY:** No objection, Your Honor.

25 **THE COURT:** All right. So admitted.

1                                   **(APPLICANT'S EXHIBIT NUMBER 1**  
2                                   **IS ADMITTED INTO EVIDENCE.)**

3           **MR. WALLER:** I beg the Court's indulgence.

4   **BY MR. WALLER:**

5   Q: Thank you, Mr. Richardson. No further questions.

6           **THE COURT:** Any redirect?

7           **MR. KEY:** No, sir, Your Honor.

8           **THE COURT:** Mr. Richardson, you may step down, sir.

9           **MR. RICHARDSON:** Thank you, Your Honor.

10          **MR. KEY:** Your Honor, may he be released from his  
11 subpoena?

12          **THE COURT:** Any objection, Mr. Waller?

13          **MR. WALLER:** No objection, Your Honor.

14          **THE COURT:** Yes. He may be released. You're released  
15 from your subpoena.

16          All right. Anything further?

17          **MR. KEY:** Nothing further from the state.

18          **THE COURT:** Anything by way of argument?

19          **MR. WALLER:** Judge, just briefly. You've obviously heard  
20 the testimony. You have the packet in front of you. It  
21 contains the records from the clerk of court as well as a  
22 transcript. Judge, I would just like to point out on Page 10  
23 and continuing to Page 11 of the transcript, Mr. Richardson is  
24 telling the Court that he did not discuss the two strikes most  
25 serious offense with Mr. White, so I would like to point that

1 out. Judge, I think the amendment that was filed was pretty  
2 clear. And I would ask the Court to consider that as well as  
3 the testimony here today.

4 **THE COURT:** Mr. Key.

5 **MR. KEY:** Your Honor, for the I believe it was the third  
6 allegations, the state will concede Mr. White is entitled to a  
7 belated direct appeal pursuant to *White versus State*. As for  
8 his other allegations of ineffective assistance of counsel  
9 though, I believe that Mr. Richardson testified that he did  
10 meet with Mr. White a number of times. He actually had to set  
11 up to go meet with Mr. White at Lee Correctional. He did. He  
12 reviewed all of the discovery with him and he was prepared to  
13 go to trial, but he left the decision up to his client and his  
14 client chose to plead guilty.

15 **THE COURT:** All right. Based upon what I've heard here  
16 today, as each of you know it's well established law that a  
17 defendant that pleads guilty under the advise of counsel may  
18 collaterally attached the plea only by showing: one, that  
19 counsel was ineffective; and two, that there is a reasonable  
20 probability that but for counsels errors the defendant would  
21 not have plead guilty. Based upon what I've heard here today,  
22 I find that the defendant has failed to establish that  
23 counsel: one, was ineffective. And two, that there's a  
24 reasonable probability that but for counsels errors the  
25 defendant would not have plead guilty. So I'm going to deny

1 the defendant's post conviction relief, but I am granting his  
2 right to appeal, which he's requested on the guilty plea. All  
3 right. Anything further?

4 **MR. WALLER:** Your Honor, just to clarify. You are  
5 denying the application, but separately granting ---

6 **THE COURT:** I'm going to grant his right to appeal from  
7 the guilty plea.

8 **MR. WALLER:** Thank you, Your Honor.

9 **MR. KEY:** Thank you, Judge.

10 **THE COURT:** If you'll get me an order to that affect.

11 **MR. KEY:** Yes, sir.

12 **THE COURT:** And I think the state acknowledges that he's  
13 entitled to that.

14 **MR. WALLER:** Thank you, Your Honor.


15 **(COURT IS ADJOURNED.)**

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## C E R T I F I C A T E

I, the undersigned, Sallie Beth Todd, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of the Transcript of Record of the hearing held in the interest of Larry A. White versus State of South Carolina in the Court of Common Pleas for Marion County, Florence County Courthouse, Florence, South Carolina, on December 17, 2019.

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



---

Sallie Beth Todd, CVR  
Official Reporter

February 14, 2021.

**FILED**

STATE OF SOUTH CAROLINA  
COUNTY OF MARION

) IN THE COURT OF COMMON PLEAS  
) FOR THE TWELFTH JUDICIAL CIRCUIT  
2020 OCT 26 AM 8:39

Larry Anthony White, # 371303

MARION COUNTY 2019-CP-33-0281

Applicant,

v.

**ORDER DENYING PCR BUT  
GRANTING BELATED APPEAL**

State of South Carolina,

Respondent.

**I. INTRODUCTION**

The matter before the Court is Larry Anthony White's (Applicant) action for post-conviction relief (PCR). Applicant commenced this PCR action on April 22, 2019. Applicant alleged ineffective assistance of counsel rendering his guilty plea unknowing and involuntary. The State made its return on July 8, 2019, requesting an evidentiary hearing be held on the issues. Thereafter, Applicant, through appointed counsel, amended his allegations and included ineffective assistance of counsel for failure to file an appeal on December 16, 2019.

An evidentiary hearing into the matter convened on December 17, 2019, at the Florence County Courthouse before the undersigned. Applicant, and Bradley C. Richardson, Esquire (Counsel) testified at the hearing. Also before the Court were the Marion County Clerk of Court's records of the underlying charges, Applicant's records from the South Carolina Department of Corrections (SCDC), the plea transcript, and the records of this PCR action.

After a full review of the record before the Court, and after observing the testimony presented, the Court finds, for the reasons discussed below, Counsel was not constitutionally ineffective; therefore, this PCR action is denied and dismissed with prejudice.

## **I. FACTS & PROCEDURAL HISTORY**

Applicant is confined in SCDC pursuant to the orders of commitment of the Marion County Clerk of Court. Applicant was indicted at the July 2017 term of the Marion County Grand Jury for first-degree burglary; attempted murder; armed robbery; two counts of kidnapping; conspiracy; and possession of a weapon during the commission of a violent crime. (2017-GS-33-00416). Applicant was represented by Bradly C. Richardson, Esquire (Counsel). Assistant Solicitor Fitzlee McEachin prosecuted the case.

Applicant's charges stem from a home invasion and shooting of Terrance Williams. On December 22, 2016, Applicant and two co-defendants broke into Williams's residence around 12:30 am. Applicant and his co-defendants broke into the house attempting to rob the location. Upon entry, Applicant shot Williams in the stomach. (Tr. 7-8).

On July 30, 2018, Applicant pleaded guilty to first-degree burglary and attempted murder before the Honorable William H. Seals, Jr. Applicant pleaded guilty with negotiated concurrent fifteen year sentences on both charges, and his remaining charges were dropped in exchange for his guilty plea. Judge Seals accepted Applicant's guilty plea and sentenced him to serve concurrent terms of fifteen years' imprisonment. Applicant did not appeal his plea or sentence.

## **II. ALLEGATIONS**

Applicant timely commenced this PCR action on April 22, 2019. In his original PCR application, Applicant alleged:

1. Ineffective assistance of Counsel;
  - a. Counsel did not help Applicant to the best of his ability; and
  - b. Counsel withheld evidence from Applicant.

On December 16, 2019, Applicant, through PCR counsel, amended his PCR application, alleging:

1. Involuntary guilty plea:
  - a. Failure to properly investigate the facts and circumstances surrounding the case;

- b. Failure to conduct an adequate amount of meetings with Applicant to review the discovery; and
- 2. Ineffective assistance of Counsel for failure to properly file a notice of appeal:
  - a. Applicant asserts he is entitled to a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974).

Applicant requests relief in the form of a new trial, or, alternatively, a belated appeal pursuant to *White v. State*.

### **III. PCR TESTIMONY**

Applicant testified he was on probation when he was arrested on the charges subject to this PCR action, his probation was revoked because of these charges, and he was incarcerated at Lee Correctional Institution (Lee) while these charges were pending. Applicant recalled that Counsel was appointed to represent him on these charges, and Applicant wanted to hire a private attorney to represent him; however, Applicant could not afford to retain counsel.

Applicant asserted he met with Counsel three times while his charges were pending. Applicant testified he first met Counsel on May 14, 2017, at the Marion County Courthouse for a continuance hearing. Applicant explained he was transferred to Lee in April 2017. Applicant testified that in February 2018, he received a flash drive with the discovery in the mail from Counsel. However, Applicant was unable to review the discovery until Counsel visited him in July 2018.

In their first meeting, Counsel informed Applicant of a twenty-year open plea offer. Applicant testified he rejected the initial plea offer. Applicant testified his first meeting with Counsel was in a holding cell and lasted about five-to-ten minutes. Applicant stated Counsel briefly described what his co-defendant was saying against Applicant. Applicant explained his co-defendant was the sister of one of the victims in the case. Applicant testified he was not allowed

to have pictures of the evidence, and the discovery was on a flash drive which he did not see until July 2018.

Applicant testified he and Counsel met for the second time on July 11, 2018. In their second meeting, Counsel visited him at Lee for an extended period of time, and during this meeting, Counsel and Applicant reviewed all the video statements, and the evidence from the flash drive together. Applicant testified that Counsel also informed him the State's plea offer had dropped from twenty-years to seventeen-years. Applicant again rejected the State's plea offer.

Applicant testified he met with Counsel a third time when he was transported back to Marion County. At the third meeting, Counsel informed Applicant the State had dropped the plea offer to fifteen-years. Applicant told Counsel he wanted to accept the State's offer.

Applicant testified he was indicted before he pleaded guilty, and the indictment was a multi-count indictment. Applicant stated he asked Counsel why his indictment was not true-billed or signed. Applicant also asked Counsel why he was charged with conspiracy to commit kidnapping, but the indictment was for criminal conspiracy. Applicant recalled the warrant numbers were the same, but the charge was changed on the indictment. Applicant asked Counsel about this issue, and Counsel told him he would look into it; however, Applicant never heard back from Counsel regarding this issue. However, Applicant only pleaded guilty to attempted murder and first-degree burglary, and his other charges were dismissed.

Applicant testified he asked Counsel how he was identified, and Counsel did not really address the issue. Applicant stated his co-defendant's statement implicated him, but his co-defendant lied in her statement and kept herself out of the statement. Applicant testified he was identified by his co-defendant, but not by the victims. Applicant testified Counsel advised him briefly about ways to challenge the identification and discussed his co-defendant testifying at trial.

Applicant testified he understands he could get life for first-degree burglary, but Counsel told him there was no doubt he would get life at trial.

Applicant testified he and Counsel discussed the statements he gave to law enforcement, but Counsel did not tell him how they could defend the statements at trial. Applicant testified he told Counsel he wanted to go to trial, but Counsel kept telling Applicant he would get a life sentence at trial.

Applicant asserted he never received all the discovery before he pleaded guilty. Applicant recalled Counsel sending him a letter eighteen days before the plea informing him that Counsel was still waiting to get all the discovery.

Applicant testified that Counsel told him if he wanted to see his daughter graduate, the best thing to do was to plead guilty. Counsel told Applicant the trial was set for the following week, and at that point, Applicant felt they were not ready for trial because he did not know if Counsel had prepared for trial. Applicant testified that part of his decision to plead guilty was because he did not know if Counsel was ready for trial. However, Applicant recalled telling the plea court, under oath, that no one had threatened him into pleading guilty.

Counsel testified he was appointed to represent Applicant in November 2017. Counsel stated he sent Applicant a letter on November 20, 2017, advising Applicant of the representation. Counsel testified that at that point, he had not received any discovery, so he filed a motion for the discovery. Counsel also told Applicant he would be in touch with him when the discovery came, and sent Applicant some forms to fill out. Counsel testified he received the discovery in December 2017, and started reviewing it.

Counsel recalled first meeting with Applicant in May of 2018. Counsel stated he moved for a continuance because the State was calling the case to trial. Counsel testified he had previously

attempted to visit Applicant at Lee, but there was a prison riot and Lee was on lockdown, so Counsel could not meet with him. Counsel stated he sent Applicant a letter on May 3, 2018, explaining why he had not met with him yet, that the case had been called for trial, and that Counsel had moved for a continuance. Additionally, Counsel informed Applicant he would be transported to Marion County for the continuance hearing. Counsel recalled Applicant was transported on May 11, 2018, and he was able to meet with Applicant in a solicitor's room in the courthouse to meet. Counsel testified he discussed his view of the discovery in this meeting.

Counsel testified that because Applicant's YOA sentence was revoked and he was in Lee, there were more steps to go through to meet with Applicant. Counsel testified he met with Applicant in July 2018, and had to get clearance from SCDC to bring a computer and thumb drive to review with Applicant. Counsel testified that he had already sent Applicant the written discovery he had, but that day, he went to review the media with Applicant. Counsel stated that in July, he was able to go over everything not provided on paper. Additionally, Counsel had notes on the interviews in the discovery, and the pros and cons of the State's case. Counsel testified he met with Applicant from 9:30 am until 2:00 pm.

Counsel informed Applicant that at that time, he did not have true-billed copy of the indictment. However, Counsel informed Applicant essentially the true-billed indictment was a "ticket to ride" in General Session, explained the Grand Jury process, and that in Counsel's experience, it is rare for a Grand Jury to take no position or no-bill an indictment. Further, Counsel told Applicant he could not appear at trial without a true-billed indictment. Further, Counsel explained there were no changes between the copy he had in their meeting had the one eventually true-billed.

Counsel could not recall looking into the multicount indictment issue. However, Counsel thought a multicount indictment in this case was proper because all the charges arose from the same event. Counsel did, however, go over each charges and elements of the charges with Applicant. Counsel recalled the State's theory was basically felony murder; first-degree burglary—unlawfully entered the home and shot someone; and kidnapping—the shot victim (Williams) was left on the floor, and the co-defendant's sister (Grant) was then taken from the home, driven away, and left near an amphitheater. Grant immediately identified her sister as one of the assailants, and gave a general description of the other two assailants. Counsel recalled Grant's sister, a co-defendant, and she decided to cooperate with law enforcement after being in jail a few weeks. She then implicated Applicant in the crimes. Counsel also recalled the vehicle used in the robbery had Applicant's fingerprints on the outside of the case, and he had access to the car because Applicant's girlfriend had rented the car. Counsel explained to Applicant his fingerprints were on the outside of the car so they could argue he was not in the car during the robbery. Counsel also explained to Applicant the co-defendant's statements could be challenged, but Grant's general description of Applicant corroborated the co-defendant's statements. Finally, Counsel informed Applicant that the other co-defendant's DNA was found at the scene, and Counsel was told he might testify against Applicant at trial.

Counsel recalled the May continuance was granted, but the court informed him the trial could go forward in August. Counsel originally asked for continuances in both terms. Counsel stated he requested the discovery of the projectile, cell phones, and any proffers on July 12, 2018. Further, Counsel explained to Applicant it would be the State's burden at trial, and it would have to turn over any evidence it intended to use.

Counsel testified the case was put on the August 2018 trial roster, and he requested for Applicant to be transferred back to Marion County to prepare for trial, which was done. Counsel stated he spoke to Applicant in the holding cell and at the Public Defender's Office, and Applicant wanted to see his daughter. Counsel explained to Applicant if he was found not guilty, he would be released after serving his probation revocation, and also told Applicant about the plea offer. Counsel recalled that Applicant brought up his daughter again. Counsel told Applicant that if convicted at trial the minimum he could get would be fifteen years. However, Counsel also told Applicant that in his experience, defendants do not get the minimum if they go to trial. Counsel also told Applicant he could get life if convicted at trial. Counsel told Applicant that it was Applicant's choice whether to go to trial or plead, but if Applicant wanted to go to trial he would be ready.

Counsel testified he explained to Applicant that Applicant would be parole eligible after serving eighty-five percent of his sentence and that the charges were considered most-serious offenses. Finally, Counsel testified he attempted to file an appeal for Applicant, but he failed to perfect the appeal.

#### IV. DISCUSSION

This Court has reviewed the entire record and evidence introduced at the hearing, and the Court has also observed the 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 (2014).

Applicant alleged his guilty plea was unknowing and involuntary due to ineffective assistance of Counsel for failure to investigate, and failure to adequately meet and review the

discovery with Applicant. Applicant also alleged Counsel was ineffective for failing to file a direct appeal of his guilty plea.

For the reasons discussed below, this Court finds Applicant knowingly and voluntarily pleaded guilty. The Court finds Counsel reasonably investigated the case, met with Applicant, and reviewed the discovery with Applicant. Further, Applicant has failed to show prejudice resulted because the Court is not convinced Applicant would have chosen to go to trial rather than plead guilty despite Counsel's alleged deficiencies. Therefore, the Court denies relief on the allegations regarding Counsel's performance before and during the guilty plea. However, this Court finds Applicant is entitled to a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35, (1974).

#### 1. Involuntary guilty plea

Applicant alleged his guilty plea was unknowing and involuntary due to ineffective assistance of Counsel for failure to investigate, and failure to adequately meet and review the discovery with Applicant. The Court disagrees.

To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984); *Cherry v. State*, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985).

The test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant."

*Alford*, 400 U.S. at 31. Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and circumstances of the case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). However, counsel is presumed to have adequately assisted and exercised reasonable professional judgment in making decisions in the case. *Edwards*, 392 S.C. at 456, 710 S.E.2d at 64. “[W]here counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Whitehead v. State*, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

“[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). Plea counsel is not deficient for advising a defendant to plead guilty based on what counsel believes the sentence would be if the defendant were convicted at trial. *See Bennett v. State*, 371 S.C. 198, 204–05, 638 S.E.2d 673, 676 (2006). To prove prejudice, the applicant must show a reasonable probability he would not have pleaded guilty and would have insisted on going to trial absent plea counsel’s alleged deficiency. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

#### *Investigation*

Applicant alleged Counsel was ineffective for failing to adequately investigate the facts and circumstances surrounding case. The Court disagrees.

Counsel must, at a minimum, make some effort to interview potential witnesses identified by the defendant, and make an independent investigation of the facts and circumstances of the case. *Edwards v. State*, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011); *Walker v. State*, 407 S.C. 400, 405, 756 S.E.2d 144, 147 (2014). To support a claim that trial counsel was ineffective for

failing to interview or call potential witnesses, a PCR applicant must produce the witnesses at the PCR hearing or otherwise introduce the witnesses' testimony in a manner consistent with the rules of evidence. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). The applicant's mere speculation about what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice. *Id.*

This Court finds that Counsel reasonably investigated the case. As an initial matter, Applicant has failed to testify or provide any evidence that Counsel could have discovered had Counsel more thoroughly investigated the case. Applicant has the burden of proving his allegations before the Court, and Applicant's failure to submit anything Counsel should have discovered during his investigation clearly does not meet that burden. Second, the Court's finding Counsel reasonably investigated the case is based on the following credible testimony from the PCR hearing.

Counsel received the bulk of the discovery in December 2017, and started reviewing the discovery. Counsel discussed the discovery with Applicant when he was able to meet with Applicant. Counsel provided Applicant with all the written discovery, and visited Applicant at Lee to review the discovery not on paper. Counsel reviewed Grant's statements and Grant was unable to identify Applicant. Counsel also reviewed the co-defendant's statements and advised Applicant of potential defenses and trial strategies for attacking the statements. Applicant's DNA was not found at the scene, but the other male co-defendant's DNA was. Counsel advised Applicant that Grant's sister was going to testify against him at trial, and the other co-defendant might testify against him at trial. Counsel reasonably felt it would be improper to attempt to interview the co-defendants because they were represented by counsel. Counsel attempted to get all the discovery before the trial, including the projectile, the cell phones, and any proffers in advance of trial.

Based on the credible testimony by Counsel, and lack of evidence or testimony that Counsel did not reasonably investigate, this Court finds Counsel reasonably investigated the case and, therefore, was not deficient.

Further, this Court finds Applicant has failed to show he would not have pleaded guilty despite Counsel's alleged failure to investigate. Applicant testified he pleaded guilty because he wanted to see his daughter graduate, and because Counsel advised him he could get a life sentence if convicted at trial. Indeed, Applicant could have received a life sentence for a first-degree burglary conviction alone; however, Applicant also faced the serious charges of kidnapping and first-degree burglary. Applicant pleaded to first-degree burglary and attempted murder with a negotiated sentence for the minimum exposure he faced. This Court is not convinced Applicant would have chosen otherwise had Counsel more fully investigated. The Court finds credible Applicant's testimony he pleaded guilty because he did not want to get a life sentence, and he wanted to see his daughter graduate. Therefore, Applicant has failed to show prejudice resulted from Counsel's alleged deficient investigation.

Based on the foregoing, Applicant's allegation Counsel was ineffective for failing to investigate is denied and dismissed with prejudice.

#### *Meeting and Reviewing Discovery*

Applicant alleged Counsel was ineffective for failing to conduct an adequate amount of meetings with Applicant to review the discovery. The Court disagrees.

"[T]here is no established 'minimum number of meetings between counsel and client prior to trial necessary to prepare an attorney to provide effective assistance of counsel.'" *Moody v. Polk*, 408 F.3d 141, 148 (4th Cir. 2005) (quoting *U.S. v. Olson*, 846 F.3d 1103, 1108 (7th Cir. 1988)).

As noted above, Applicant testified he was on probation when he was arrested on the charges subject to this PCR action, his probation was revoked because of these charges, and he was incarcerated at Lee while these charges were pending. Counsel also testified it was difficult to meet with Applicant while he was at Lee; however, he was able to visit Applicant at Lee for an extended period of time on July 11, 2018, and reviewed all the non-written discovery with Applicant. Counsel advised Applicant of potential defenses regarding his identification, and potential defenses regarding his finger prints being on the outside of the car used in the crime. Counsel also arranged for Applicant to be transferred to Marion County leading up to trial to prepare the case more fully.

This Court finds Counsel was not deficient for failing to adequately meet with Applicant and explain the discovery to him. The Court finds, given the specific circumstances of the case, that Counsel met with Applicant a reasonable amount of time to prepare the case for trial. While the circumstances did present some difficulty in meeting, the Court finds Applicant was fully aware of the evidence against him, and he knowingly pleaded guilty to the charges.

The Court also finds credible Counsel's testimony he told Applicant he would be ready for trial, he told Applicant he could get a life sentence if convicted at trial, and that the State's plea offer was the minimum Applicant could get if convicted at trial. The Court finds not credible Applicant's testimony Counsel told him he would get a life sentence if convicted at trial. Further, the Court is not convinced Applicant pleaded guilty because he was unsure Counsel was ready for trial. The Court is convinced, however, that Applicant pleaded guilty to get the minimum sentence he was exposed to, rather than the life plus he could have received at trial. Therefore, Applicant has failed to show Counsel was deficient in the number of meetings he had with Applicant, and

has failed to show prejudice resulted from Counsel's alleged deficiency. Accordingly, this allegation is denied and dismissed with prejudice.

Finally, even though Counsel informed the plea court he failed to explain to Applicant the charges he pleaded to were no-parole (eighty-five percent) and most serious offenses, Counsel had no constitutionally imposed duty to explain that information to Applicant for Applicant's guilty plea to be knowing and voluntary. *See Pittman v. State*, 337 S.C. at 599, 524 S.E.2d at 624 ("[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.").

Defendants must be advised of the direct consequences of their plea, but not the collateral consequences. *Smith v. State*, 329 S.C. 280, 283, 494 S.E.2d 626, 628 (1997). "The distinction between 'direct' and 'collateral' consequences of a plea, while sometimes shaded in the relevant decisions, turns on whether the result represents a definite, immediate and largely automatic effect on the range of the defendant's punishment." *Cuthrell v. Dir., Patuxent Inst.*, 475 D.2d 1364, 1366 (4th Cir. 1973). "The imposition of a sentence may have a number of collateral consequences, however, and a plea of guilty is not rendered involuntary in a constitutional sense if the defendant is not informed of the collateral consequences." *Brown v. State*, 306 S.C. 381, 382-83, 412 S.E.2d 399, 400 (1991). However, if counsel chooses to advise the defendant of collateral consequences, he must provide correct advice. *Smith*, 329 S.C. at 283, 494 S.E.2d at 628.

Parole eligibility and the consequences of the charges being most serious offenses are collateral consequences. Therefore, Counsel is not deficient for failing to advise Applicant of those collateral consequences. Further, nothing has been presented before this Court to indicate that

Counsel erroneously advised Applicant of those collateral consequences. Therefore, Applicant has failed to show Counsel was deficient in this respect.

Further, the Court finds Applicant was aware of the nature and crucial elements of the charges against him based on Counsel's credible testimony he explained the charges and elements to Applicant. The Court finds Applicant was aware of the maximum and mandatory minimum penalties he faced based on Applicant's and Counsel's testimony that Counsel explained the sentencing exposure to Applicant. And, Applicant was aware of the nature of the constitutional rights he waived by pleading guilty as evinced by the plea colloquy with the trial court. Tr. 6. Therefore, Applicant knowingly and voluntarily pleaded guilty, and these allegations are denied and dismissed with prejudice.

## 2. Belated appeal

Applicant alleged Counsel failed to file an appeal of his guilty plea after Applicant requested Counsel to do so. Counsel testified he attempted to file an appeal, but failed to perfect the appeal on Applicant's behalf. Further, the State consented to Applicant receiving a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35, (1974). Therefore, based on the foregoing, this Court finds Applicant is entitled to a belated direct appeal pursuant to *White*, and grants relief in the form of a belated appeal only.

## V. CONCLUSION

Based on all the foregoing, the Court finds Counsel was not constitutionally ineffective for failure to investigate, and failure to adequately meet with Applicant to review the discovery. This Court finds Counsel reasonably investigated the case, met with Applicant, and reviewed the discovery with him. Further, Counsel was not deficient in failing to explain to applicant the charges were classified as no-parole offenses and were considered most-serious as these are considered collateral consequences of sentencing. Finally, Applicant has failed to show he was prejudiced by


any of Counsel's alleged deficiencies regarding the guilty plea as the Court believes Applicant pleaded guilty to receive a guaranteed minimum sentence. However, this Court finds Applicant is entitled to a belated appeal pursuant to *White v. State*.

The Court notes 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. 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 PCR. 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 appropriate procedures for appeal.

**THEREFORE:**

1. The Court denies relief and dismisses the allegations relating to Applicant's guilty plea with prejudice;
2. Grants Applicant a belated appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35, (1974); and
3. Applicant shall be remanded to the custody of the State.

**AND IT IS SO ORDERED.**

  
 D. CRAIG BROWN  
 Presiding Judge  
 Twelfth Judicial Circuit

Florence, South Carolina

10-14, 2020.

WITNESSES

Dewayne Rogers Marion County Sheriff

Fitzlee H McEachin

ARREST WARRANT NUMBER

2017A3310100071	2017A3310100073
2017A3310100072	
2017A3310100070	2017A3310100067
2017A3310100068	2017A3310100069

ACTION OF GRAND JURY

TRUE BILL

*Britney D. Games*

Foreperson of Grand Jury  
Date: 7/27/2017

VERDICT

Foreperson of Petit Jury Date:

DOCKET NO. 2017-GS-33-00416

The State of South Carolina

County of

MARION

COURT OF GENERAL SESSIONS

JULY TERM 2017

THE STATE

vs.

LARRY ANTHONY WHITE JR

Indictment for

BURGLARY, FIRST DEGREE,  
 POSSESSION OF A WEAPON  
 DURING A VIOLENT CRIME,  
 ATTEMPT MURDER,  
 ARMED ROBBERY,  
 KIDNAPPING (TWO COUNTS)  
 AND  
 CONSPIRACY

FILED  
 2017 JUL 27 PM 2:11  
 MARION COUNTY SC  
 CHRISTY M GRAY  
 CLERK OF COURT

STATE OF SOUTH CAROLINA )  
COUNTY OF MARION )

INDICTMENT FOR  
BURGLARY, FIRST DEGREE,  
POSSESSION OF A WEAPON DURING  
A VIOLENT CRIME,  
ATTEMPT MURDER,  
ARMED ROBBERY,  
KIDNAPPING (TWO COUNTS)  
AND  
CONSPIRACY

At a Court of General Sessions, convened on JULY 27, 2017 the Grand Jurors of MARION County present upon their oath:

COUNT ONE- BURGLARY, FIRST DEGREE

That LARRY ANTHONY WHITE JR., did in Marion County on or about December 22, 2016, willfully and unlawfully attempt to enter the dwelling of Terrance Williams, located at [redacted] Belin Court, without consent and with the intent to commit a crime therein, and the defendant was armed with a deadly weapon, in violation of the Common Law and Section 16-11-311, S. C. Code of Laws, 1976, as amended.

COUNT TWO- POSSESSION OF A WEAPON DURING A VIOLENT CRIME

That LARRY ANTHONY WHITE JR., did in Marion County, on or about December 22, 2016, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

COUNT THREE - ATTEMPT MURDER

That LARRY ANTHONY WHITE JR., did in Marion County, on or about December 22, 2016, with malice aforethought attempt to murder Terrance Williams by shooting him with a firearm, causing great bodily injury and substantial risk of death; in violation of Section 16-03-0029, S.C. Code of Laws, 1976, as amended.

COUNT FOUR- ARMED ROBBERY

That Larry Anthony White Jr did in Marion County on or about December 22, 2016, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Terrance Williams from or in the immediate presence of with intent to deprive of possession by use of force, threats or intimidation, in violation of Section 16-11-0330, S. C. Code of Laws, 1976, as amended.

COUNT FIVE- KIDNAPPING

That LARRY ANTHONY WHITE JR did in Marion County on or about December 22, 2016, hold at gunpoint Terrance Williams, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

and in the State of South Carolina

2017

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR BURGLARY FIRST DEGREE, POSSESSION OF A WEAPON DURING A VIOLENT CRIME, ATTEMPT MURDER, ARMED ROBBERY, KIDNAPPING (TWO COUNTS) AND CONSPIRACY WITH THE AFORESAID NAMES(S) OF LARRY ANTHONY WHITE JR., SHOWN THEREON:

COUNT SIX- KIDNAPPING ✓

That LARRY ANTHONY WHITE JR did in Marion County on or about December 22, 2016, hold at gunpoint, Terri Grant, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

COUNT SEVEN- CONSPIRACY ✓

That LARRY ANTHONY WHITE JR., did on or about December 22, 2016, unlawfully, willfully, knowingly, wickedly and feloniously unite, combine, conspire, confederate, agree between and among themselves and have tacit understanding with each other and with divers other persons, to wit: Cierra Grant, for the purpose of committing the crime of burglary; in violation of Section 16-17-0410, 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.



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E.L. Clements, III  
TWELFTH CIRCUIT SOLICITOR