

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

\_\_\_\_\_

Certiorari to Florence County

Honorable William H. Seals, Circuit Court Judge

\_\_\_\_\_

JASON BARNHILL,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-000404

\_\_\_\_\_

APPENDIX

\_\_\_\_\_

WANDA H. CARTER  
Deputy Chief Appellate Defender

ALAN WILSON  
Attorney General

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

MICHAEL D. DAVIDSON  
Assistant Attorney General  
1000 Assembly Street  
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

ATTORNEY FOR PETITIONER

**RECEIVED**

**Aug 09 2021**

S.C. SUPREME COURT

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**THE FOLLOWING EXHIBTS ARE ON FILE WITH THIS COURT:  
APPLICANT’S EXHIBIT NO. 1 (DVD)**

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE	)	2018-GS-21-00668
	)	
	)	
	)	
State of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Jason Kyle Barnhill	)	)
<u>DEFENDANT</u>	)	April 11, 2018
		Florence, South Carolina

B E F O R E:

THE HONORABLE THOMAS A. RUSSO, JUDGE.

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

RYAN WHITE, ASSISTANT SOLICITOR  
Attorney for the State

SCOTT P. FLOYD, CHIEF PUBLIC DEFENDER  
Attorney for the Defendant

KESHIA REED  
Official Court Reporter

I N D E X

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(WHEREUPON, no witnesses were called.)

1           THE COURT: All right. Ladies and gentlemen,  
2 if I can have your attention, those of you who were here  
3 this morning and heard me go over the rights, if you all  
4 just please bear with me. We've got some new folks here  
5 that I need to go over the rights with. If you were not  
6 here this morning and you think you might be entering a  
7 guilty plea, I need to have your attention. I'm going to  
8 go over your constitutional rights with you because if you  
9 do decide to plead guilty, then you need to understand  
10 these rights because for purposes of your plea if you go  
11 forward with a guilty plea, you waive or you give up these  
12 rights. So it's important you understand what they are.  
13 I'm going to go over these rights with you as a group, so  
14 that I don't have to repeat it, you know, 15 times because  
15 these rights are the same for all of us. We all have the  
16 same rights. It doesn't change, doesn't matter who you  
17 are or what you're charged with or whether you're even  
18 charged with anything. We all have these rights. So  
19 rather than repeat it 15 times, I'm just going to go over  
20 it with you once.

21           If you have any questions about anything I go  
22 over, I will give you whatever time you need to talk to  
23 your lawyer and have those questions answered. Also, the  
24 fact that I'm going over these rights with you as a group,  
25 it does not bind you or commit you to do anything. In

1 other words, if after I go over these rights the State  
2 calls your case and you've changed your mind and you do  
3 not want to go forward, that's your decision. No one's  
4 going to force you to do anything against your will, but  
5 if you do decide that you want to go forward, it's  
6 important that you understand these rights.

7 All of us have the right to remain silent. We  
8 all have a right to a jury trial. If you decide to go  
9 forward with a guilty plea, then for purposes of your  
10 plea, you waive or give up those two important  
11 constitutional rights. And when you give up your right to  
12 a jury trial, you give up all the other rights that are  
13 connected to it or associated with it. For example, if  
14 you were to have a jury trial, you be presumed innocent of  
15 the charge or charges that you're facing. That  
16 presumption of innocence places the burden of proof on the  
17 State to prove guilt. The way they would try to do that  
18 is during that jury trial they would call witnesses to the  
19 stand. Those witnesses would be placed under oath and  
20 they would testify more than likely against your best  
21 interest.

22 The Constitution of the United States say that  
23 any person charged with a criminal offense has the right  
24 face their accusers or to confront their accusers. What  
25 that means is during that jury trial through your

1 attorney, you would have the right to question the State's  
2 witnesses or cross-examine them as to their testimony.  
3 That's your right of confrontation under the constitution.  
4 But when you plead guilty by entering that plea of guilt,  
5 you waive or you give up that presumption of innocence and  
6 you relieve the State of their burden of proof. And since  
7 they don't have to prove your guilt, they don't have to  
8 bring their witnesses into court. And so you give up the  
9 right to confront those witnesses.

10 Now, the State's not the only one that can call  
11 witnesses in a trial. You could call witnesses in your  
12 defense or you could take the witness stand and testify  
13 yourself. You could do either one of those things or you  
14 could do both of those things. But the important thing to  
15 understand is is that you don't have to do anything. In  
16 this country, a person charged with a criminal offense is  
17 never required to prove themselves innocent. The burden  
18 of proof is on the State to prove guilt. You could remain  
19 silent. And if you chose to remain silent, I would tell  
20 the members of the jury that that is your constitutional  
21 right. And I would instruct them that the fact that you  
22 chose to remain silent could not be considered by the jury  
23 at all as to your guilt or innocence. As a matter fact, I  
24 would tell them that the fact that you chose to remain  
25 silent could not even be discussed in the jury room. They

1 are not to give it any consideration at all.

2 As I said earlier, the State has the burden of  
3 proof. They have to prove guilt to a unanimous decision.  
4 In other words, they have to convince all 12 members of  
5 the jury that you are guilty or they could not convict  
6 you. But if you did have a jury trial and if you were  
7 convicted, you could appeal that conviction to a higher  
8 court if you felt that was appropriate. We all have these  
9 rights, but if you decide to go forward with a guilty  
10 plea, then for purposes of your plea you waive or you give  
11 up these rights. You will not have a jury trial and your  
12 case will be resolved pursuant to your plea.

13 Now, you do have an appellate right with regards  
14 to your plea. If you decide to go forward with a guilty  
15 plea, if you wish to appeal this court's decision, you may  
16 do that, but you would have to file a notice of intent to  
17 appeal within ten days of today's date. Now, as I said  
18 earlier, these are the rights that we all have. If you  
19 have any questions about these rights at all, I'll give  
20 you whatever time you need to talk to your lawyer and have  
21 those questions answered. All right. So we're going to  
22 take them one at a time, so guys if you'll follow them and  
23 we'll bring you out one at a time.

24 (WHEREUPON, this begins the guilty plea.)

25 THE COURT: Yes, sir.

1 MR. WHITE: Thank you, Judge. And may it please  
2 the Court, standing before you is Jason Kyle Barnhill on  
3 indictment 2018-GS-21-00668. This is a waiver of  
4 presentment to the grand jury, Your Honor. Mr. Barnhill  
5 is pleading guilty to one count of strong arm robbery.  
6 This comes without negotiation or recommendation from the  
7 State. He is represented by Mr. Scott Floyd.

8 THE COURT: Thank you, sir.

9 THE CLERK: Sir, if you'll please raise your  
10 right hand. Do you swear to tell the truth, the whole  
11 truth, and nothing but the truth so help you God?

12 THE DEFENDANT: I do.

13 THE COURT: Sir, you are Jason Kyle Barnhill?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Barnhill, indictment  
16 2018-GS-21-00668 is an indictment charging you with the  
17 offense of common law robbery or what is often times  
18 referred to as strong arm robbery. That is a nonviolent  
19 offense which carries a maximum penalty of up to 15  
20 years. Do you understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Understanding the nature of the  
23 charge against you as well as the possible punishment, how  
24 do you plead to that charge, sir, guilty or not guilty?

25 THE DEFENDANT: Guilty.

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THE COURT: Thank you, sir.

Mr. Floyd, you represent Mr. Barnhill?

MR. FLOYD: I do, Your Honor.

THE COURT: Have you discussed with him this charge, his constitutional rights to a trial and his rights with regard to the grand jury presentment?

MR. FLOYD: I have, Your Honor.

THE COURT: Thank you, sir.

Mr. Barnhill, sir, are you 35 years of age; is that correct?

THE DEFENDANT: Yes, sir.

THE COURT: How long have you been in jail on this charge, sir?

THE DEFENDANT: 98 days.

THE COURT: 98, okay.

THE DEFENDANT: Yes, sir.

THE COURT: Went I went over the constitutional rights earlier, were you out here for that, sir?

THE DEFENDANT: Yes, sir.

THE COURT: Did you understand those rights?

THE DEFENDANT: Yes, sir.

THE COURT: Do you have any questions about those rights?

THE DEFENDANT: No, sir.

THE COURT: Now, this is one of the cases that I

1 had referred to at the beginning that has not been before  
2 the grand jury. You understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You talk with Mr. Floyd about that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. It's indicated here that you  
7 wish to waive presentment to the grand jury and have your  
8 case heard today; is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Mr. Barnhill, has anyone forced you  
11 or coerced in any way to make that decision?

12 THE DEFENDANT: No, sir.

13 THE COURT: Has that been the decision that  
14 you've made of your own freewill, sir?

15 THE DEFENDANT: I ask for it, yes, sir.

16 THE COURT: Okay. All right. Now, has the --  
17 has anyone promised you anything, held out any hope of  
18 reward or threaten you in any way to get you to enter into  
19 this plea?

20 THE DEFENDANT: No, sir.

21 THE COURT: Are you satisfied with the  
22 representation that Mr. Floyd has provided?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you have any complaints against  
25 him or any member of his office?

1 THE DEFENDANT: No, sir.

2 THE COURT: Sir, as you stand before the Court  
3 today, are you under the influence of any substance that  
4 would affect your ability to understand what you're doing?

5 THE DEFENDANT: No, sir.

6 THE COURT: Are you pleading guilty on this  
7 charge of your own freewill, sir?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And are you guilty of this matter?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Okay. I'm going to ask Mr. White to  
12 go over the facts for me briefly. If you'll listen  
13 carefully, I'll get back with you shortly.

14 Mr. White.

15 MR. WHITE: Thank you, Judge. This incident  
16 occurred back on December 28th 2017. At that time the  
17 victim in this case Violet Poston she was at Pat's Grocery  
18 at the corner of Highway 341 excuse me, Judge -- and South  
19 Fire Station Road which is here in Florence County. While  
20 she was there, she ran into an individual who later turned  
21 out to be Mr. Barnhill. Mr. Barnhill asked if she would  
22 please give him a ride to the fire department. Fire  
23 department is only about a quarter mile down the road,  
24 Judge, so she agreed.

25 They get to the fire department. At that time he

1 gets out of the car. He goes around to the driver side,  
2 he orders Ms. Poston out of the vehicle. You know, being  
3 the tough lady that she is, she refuses. He then reaches  
4 into the vehicle, Judge, and tries to pull the keys.  
5 There's a struggle. The key is actually bent and broke in  
6 the ignition. At that point once he realize he's not  
7 getting the vehicle, he then tries to get some of her  
8 possessions, Judge. He's able to make away with Ms.  
9 Poston's wallet, which she informs me just earlier today  
10 that it contained some pictures of her mother who is since  
11 deceased. She really like to recover that wallet, Judge,  
12 but in that wallet it also contained her driver's license,  
13 insurance cards, social security card, her conceal  
14 weapon's permit, debit and credit cards and \$300 cash.  
15 Your Honor, somewhere in the struggle, he, being  
16 Mr. Barnhill, grabs ahold of her wrist does -- cause a  
17 laceration on her wrist. At some point he flees the  
18 scene, but for luckily for Ms. Poston and the State in  
19 this case that the fire department was equipped with video  
20 surveillance and the entirety of the event was captured on  
21 that video surveillance.

22 Judge, he does have an extensive record and I  
23 like to go over it when you deem it appropriate. But I  
24 would like to point out that Ms. Poston she is in the  
25 courtroom. She does not want to address Your Honor.

1     Shortly after this incident, she was diagnosed severe  
2     anxiety. She told me she doesn't mind me telling you that  
3     today, but she has anxiety and she's very nervous. And  
4     she doesn't want to address the Court, but she did want to  
5     be here. And I thank her for it.

6             THE COURT: Sure.

7             MR. WHITE: Judge, in 2000 it looks Mr. Barnhill  
8     was convicted of disorderly conduct. In 2002, he received  
9     a probationary sentence on burglary second nonviolent --  
10    actually two counts burglary second nonviolent and a grand  
11    larceny. 2003 he was received in the department of  
12    corrections on a common law robbery. He received a seven  
13    year sentence, run concurrent with that was a count of  
14    burglary second degree, grand larceny, burglary second  
15    degree, burglary second degree, grand larceny, and another  
16    count of burglary second degree, Judge. In 2002, it looks  
17    like he received a five-year sentence for a burglary  
18    third. He was then received in the department of  
19    corrections in 2006 for burglary second degree two counts  
20    and the burglary third I just mention and actually another  
21    count of burglary second. 2011 he was again received into  
22    the department of corrections this time he was sentenced  
23    to eight years for a burglary second degree as well as a  
24    burglary third. And then in 2016 he is convicted of a  
25    grand larceny and he's received in the department of

1 corrections on a three year sentence. And, Judge, that's  
2 the entirety of his record.

3 THE COURT: Okay. All right. Thank you, Mr.  
4 White.

5 Mr. Barnhill, the facts that Mr. White gave to  
6 the Court as it relates to the common law robbery are  
7 those facts essentially correct, sir?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Okay. I find that the State has  
10 provided a substantial factual basis to support the  
11 charge, that Mr. Barnhill has pled guilty to. I believe  
12 his decision to enter this plea has been done freely,  
13 voluntarily and intelligently. He's had the advice and  
14 counsel of an outstanding attorney in Mr. Floyd and  
15 Mr. Barnhill has indicated to the Court that he is  
16 satisfied with that representation and advice that  
17 Mr. Floyd has provided. I've discussed with him the fact  
18 that this case has not been before the grand jury. I  
19 believe he understands his rights regarding grand jury  
20 presentment. And I believe that his waiver of that right  
21 is knowing and voluntary waiver and I am going to accept  
22 his plea.

23 Mr. Floyd, be happy to hear from you, sir.

24 MR. FLOYD: Thank you, Your Honor. Mr. Barnhill  
25 is 35 years old. He lives over in the Vox community near

1 Johnsonville, Your Honor. As he said, he has been in the  
2 detention center for 98 days now. He had been working  
3 over at like a deer meat processing plant near  
4 Johnsonville when all this occurred, that was his  
5 employment at the time.

6 Your Honor, you heard Mr. Barnhill's record. I  
7 think he certain has had an extensive history of drug use  
8 and abuse. I think that's certainly contributed to that  
9 record that we heard. And I in fact -- what I gathered  
10 here today in my prior conversation ---

11 THE COURT: Is he on probation for that last  
12 one?

13 PROBATION AGENT: He is, Your Honor.

14 MR. FLOYD: They have a warrant from  
15 Williamsburg County.

16 PROBATION AGENT: There's an active warrant for  
17 him.

18 THE COURT: Is that on the grand larceny?

19 MR. FLOYD: Correct.

20 THE COURT: From '16?

21 PROBATION AGENT: We have it listed as a  
22 forgery. The sentence active time was five years  
23 suspended to ten months service and one year probation.  
24 When he got out of SCDC, he never showed up.

25 THE COURT: Okay. And that's out of

1 Williamsburg?

2 PROBATION AGENT: Yes, sir. And this offense  
3 was committed while he was out this last time.

4 THE COURT: Okay. So he actually got an active  
5 sentence on the grand larceny finish that and suppose to  
6 report to Williamsburg. And did not report to  
7 Williamsburg and then committed this offense while out?

8 PROBATION AGENT: Yes, sir.

9 THE COURT: All right. Just trying to get all  
10 that squared away. I'm going to hear from you, Mr.  
11 Barnhill. If Mr. Floyd ---

12 MR. FLOYD: Your Honor, I was addressing his  
13 history of drug use. He's had a long history of it. From  
14 what I gather from our conversations, Your Honor, he was  
15 actually using I think Ambien and some -- a combination of  
16 Ambien and some other drugs. And, of course, Ambien is  
17 suppose to make you sleep, but if you don't take it right,  
18 I think it can have the opposite affect. It actually  
19 keeps you awake. And he said at the time this happened he  
20 had been awake for about two days. There's a lot of it he  
21 doesn't recall the details on and that sort of thing.  
22 But, you know, it's like I told him voluntary intoxication  
23 and taking drugs certainly is no defense to a criminal  
24 offense like this and he understands that. But, you know,  
25 in my conversations with him speaking with him he's a very

1 reasonable fellow, Your Honor. He just easy to get along  
2 with, pleasant as can be, you know. I don't think he  
3 would do these things if he weren't indulging in this drug  
4 habit. I just don't believe he would, but unfortunately  
5 he has done that and here we are.

6           And so, Your Honor, this case is actually fairly  
7 new in the system. It happened in January -- well, I  
8 guess, actually happened in December. He was arrested in  
9 January. His initial appearance wasn't scheduled until  
10 May, docket appearance in June. And certainly I told  
11 Mr. Barnhill we can take plenty of time and work on this  
12 case. We don't have to do this today, but he made the  
13 decision that he wanted to waive any participation in  
14 those preliminary hearings and that sort of thing and also  
15 his grand jury presentment. And he's here doing that  
16 because that was his decision and that's what he wants to  
17 do and certainly he has the right to do that.

18           I have reviewed the discovery with him, Your  
19 Honor. I received in the police reports and that sort  
20 of thing from the Solicitor's office and everything on  
21 paper and all the photographs and that sort of thing. I  
22 printed off of a disk and I gave him those. I think the  
23 only thing that I have that he hasn't actually seen is the  
24 video that was captured at the fire department that sort  
25 of shows the struggle that occurred. He has not seen

1 that, but, I mean, he is aware of its existence. But  
2 everything else I believe he seen and I provided him with  
3 that.

4 And like I said after reviewing all this  
5 information and in speaking to me, certainly he made the  
6 decision to this plea today. He doesn't want to, you  
7 know, jerk the system around just because he can. He  
8 wants to get this over with. And, I mean, he understands  
9 certainly that this plea is going to result in the  
10 department of corrections sentence given his past history.  
11 He has no illusions about that, Your Honor. And also  
12 there's a matter out of Williamsburg County and there's  
13 some type of warrant down there that he is aware of,  
14 that's outstanding. Your Honor, he has certainly  
15 expressed remorse for what happened here. Your Honor, we  
16 just ask you if you can be as merciful as you can. And I  
17 would ask if you listen to anything that Mr. Barnhill has  
18 to say whenever you think it's appropriate.

19 THE COURT: Sure. I'm happy to hear from  
20 Mr. Barnhill.

21 THE DEFENDANT: Dealing with the probation that  
22 I receive in Williamsburg County, I made a deal with  
23 Kimberly Barr, the Solicitor, and it was suspended if I  
24 could pay it off before my incarceration had ended. It  
25 was terminated. I paid that off, that can be verified

1 through the Solicitor's office. I cut checks from the  
2 prison mail room and paid off that. Your Honor, I want to  
3 say I'm sorry. I got a problem. It's mess my whole life  
4 up. I just need some help with it because I can't keep  
5 doing this. It's getting old. Please whatever mercy on  
6 me you can.

7 THE COURT: All right, sir. You know, I  
8 appreciate Mr. Floyd that you shared with me regarding  
9 the -- maybe, I guess, out of character because of the  
10 drug problem and stuff. Here's the thing that it's just  
11 hard, it's just sad as well, Ms. Poston it doesn't help  
12 her that reasoning. And I know you're not saying it does,  
13 but, you know, Ms. Poston is truly a victim in this matter  
14 and a victim of someone who she was trying to bless by  
15 giving them a ride. And I don't know the reasoning behind  
16 it or the reasoning for it really makes any difference to  
17 her. She's a victim and has certainly suffered the trauma  
18 of that.

19 And I know Mr. Barnhill you make reference to  
20 you getting too old for all this. I agree that this needs  
21 to stop, but you're such a young man here. You're 35  
22 years old. You're not old at all. And you spent a lot of  
23 your time you spent incarcerated. I mean, I can order  
24 addictions treatment, but that's really no good unless you  
25 want to get off whatever it is you're on. All of that

1 is -- me ordering people into drug treatment sometimes I  
2 just question the value of that because the person has to  
3 really want it. You seem to want it and so I'm going to  
4 order that as part of this sentence, but I hope you do  
5 want it because I don't think it'll do you any good if you  
6 don't. It's got to come from you obviously. But this has  
7 gotten to the point that I perceive that you are a real  
8 threat to the community and certainly the folks like Ms.  
9 Poston.

10 On indictment 2018-GS-21-668 as to the offense  
11 of strong arm robbery, the sentence is that you be  
12 committed to the state department of corrections for a  
13 period of 12 years, give you credit for the 98 days that  
14 you have served. I am going to order addictions treatment  
15 unit while incarcerated. Good luck to you, sir.

16 END OF REQUESTED TRANSCRIPT

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FORM 5

20 18 CP 21 3024

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Florence )  
 )  
 )  
 Full name and prison number (if any) of Applicant. )  
Jason Kyle Barnhill #292731 )  
 v. )  
 )  
 State of South Carolina )  
 )

IN THE COURT OF COMMON PLEAS

2018 NOV 16 PM 1:11  
 BORIS POULOS, CLERK  
 CCCP & CP  
 FLORENCE COUNTY, SC

FILED

APPLICATION FOR

POST-CONVICTION RELIEF

**INSTRUCTIONS - READ CAREFULLY**

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

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

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

1. Place of detention Wateree River Correctional Institution
2. Name and location of Court which imposed sentence Florence County; General Sessions.
3. Name(s) of co-defendant(s) (if any) X
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
  - (a) Waived right to indictment.
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_
5. The date upon which sentence was imposed and the terms of the sentence:
  - (a) April 11th, 2018.
  - (b) 12 years Non-Violent

- (c) \_\_\_\_\_
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty  \_\_\_\_\_
- (b) after a plea of not guilty \_\_\_\_\_
- (c) after a plea of nolo contendere \_\_\_\_\_
7. Did you appeal from the judgment of conviction or the imposition of sentence?  
NO
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. ~~\_\_\_\_\_~~
- 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) I did not understand the court processes, my lawyer did not
- (b) fully explain this to me.
- (c) \_\_\_\_\_
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) False information was presented in court at sentencing before the Judge  
 (b) Ineffective Assistance of Counsel.  
 (c)
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) Answer Given on an extra attached Paper.  
 (b) Answer Given on an extra attached Paper.  
 (c) Evidence for claim enclosed (4-Pages)
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 did not understand the Court Processes.

(b) Ineffective assistance of counsel.

(c) \_\_\_\_\_

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



STATE OF SOUTH CAROLINA )

County of ~~Florence~~ Sumter )

VERIFICATION

I, Jason Barnhill, 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.

Jason Barnhill  
Jason B  
Jason Barnhill

SWORN to and subscribed before me this 13th  
day of November, 2018.

Pamela Hatfield (L.S.)  
Notary Public

My Commission Expires: 2/15/2021

**FILED**  
2018 NOV 16 PM 1:21  
DORIS FOULOS O'HARA  
CCCP & GS  
FLORENCE COUNTY, SC

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

I, Jason Bamhill, 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.

Jason Bamhill

Applicant  
Jason Bamhill

SWORN or affirmed to and subscribed before me this 13<sup>th</sup> day of November, 2018.

Ramek Dhatfield

Notary Public

My Commission Expires: 3/15/2021

**FILED**

2018 NOV 16 PM 1:21

DORIS POULOS O'BARA  
CCCP & GS  
FLORENCE COUNTY, SC

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

A.) During Sentencing the Judge specifically asked if I were on any type of probation or parole at the time of this offense. The officer from the Probation, Parole and Pardon Services told the Judge that, Yes, I was in fact on Probation at the time and date of the offense but when I was released from prison on a prior conviction that I never reported to the probation office, so therefore I was in violation of the Probation. The Judge made note of this and took this into consideration during my sentencing. Special Conditions of my Probation was that if I paid my restitution in full prior to completion of Incarceration then probation was unnecessary. I had in fact paid the whole restitution before my release from prison, and completed the terms set forth in my sentence for Probation successfully. I have proof of this with receipts and the sentencing sheet from the Probation Sentence. The information presented to the Judge during my sentencing was false and was taken into consideration when I was sentenced, which I feel affected the outcome of the sentence handed down, because the Judge specifically asked a question and was given an answer that was not true.

B.) When I tried to explain to my Lawyer that the information that was being given to the court was false he became visibly agitated and told me that it doesn't matter and that I needed to hush and stop talking, and did not relay the information I was trying to explain to him. He also did not explain things to me in a way I could understand. one example being the Appeals process.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE	)	FOR THE TWELFTH JUDICIAL CIRCUIT
	)	
Jason Kyle Barnhill, # 292731,	)	2018-CP-21-3024
Applicant,	)	
v.	)	<b>RETURN</b>
State of South Carolina,	)	
Respondent.	)	

---

In response to the post-conviction relief (PCR) action commenced by Jason Barnhill (Applicant) November 16, 2018, the State makes this return:

**I. Procedural History**

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Florence County Clerk of Court. Applicant waived presentment to the Florence County Grand Jury and was indicted for common law robbery (2018-GS-21-00668). Chief Public Defender Scott Floyd represented Applicant. Assistant Solicitor Ryan White prosecuted the case.

On April 11, 2018, Applicant pled guilty to common law robbery before the Honorable Thomas A. Russo. Applicant's plea was entered without negotiations or recommendations—straight-up. Judge Russo accepted Applicant's guilty plea and sentenced him to serve twelve years imprisonment for common law robbery. Applicant did not appeal his plea or sentence.

**II. Facts**

On December 28, 2017, Applicant asked Violent Poston for a ride from Pat's Grocery to the fire department. The fire department is approximately a quarter of a mile away from Pat's Grocery. Poston agreed to give Applicant a ride. (Plea Tr. 10).

Once they arrived at the fire department, Applicant exited the car. Applicant walked around to the driver side of the car and demanded that Poston exit the vehicle. Poston refused. Applicant reached through driver's side window, which was rolled down, and attempted to remove the keys from the ignition. A struggle ensued and the key broke off in the ignition. (Plea Tr. 10–11). Applicant abandoned his attempt to take the car, and, instead took Poston's wallet. (Plea Tr. 11). The incident was captured on the fire department's security camera. (Plea Tr. 11).

### III. Allegations

Applicant alleges he is in custody unlawfully due to ineffective assistance of counsel.

Specifically, Applicant alleges:

1. Plea counsel failed to explain his right to appeal; and
2. False information was presented to the court.

Applicant requests relief as follows, “[V]acate sentence or reconsideration of sentence imposed.”

Attached to this return and incorporated herein are the Florence County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, and the records of this current PCR action.

### 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).

A defendant who entered a guilty plea with the advice of counsel, may only attack the voluntary and intelligent nature of the plea. *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). A defendant “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). To prove prejudice, the applicant must show a reasonable probability he would not have pled guilty and would have insisted on going to trial absent plea counsel’s alleged deficiency. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either: (1) that a rational defendant would want to appeal; or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. *Roe v. Flores-Ortega*, 528 U.S. 470 (2000). Applicant cannot satisfy either requirement set forth in the *Roe* test.

The record does not directly dispute 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).

#### 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 Procedure Act 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 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 the claims of ineffective assistance of plea counsel.

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:

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

March 6, 2019

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF FLORENCE )  
 )  
 )  
 JASON KYLE BARNHILL, #292731 )  
 )  
 Applicant, )  
 )  
 vs )  
 )  
 STATE OF SOUTH CAROLINA, )  
 )  
 Respondent. )

---

IN THE COURT OF COMMON PLEAS

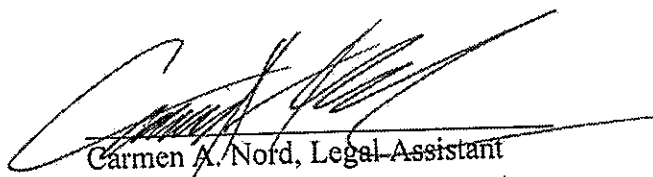
2018-CP-21-3024

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

DATED this the 6<sup>th</sup> day of March, 2019.



Carmen A. Nord, Legal Assistant  
 For Respondent



	<u>I N D E X</u>				
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1					
2					
3	Jason Barnhill				
4	Mr. Waller	5			
5	Mr. Key		20		
6					
7	Scott Floyd				
8	Mr. Waller	26			
9	Mr. Key		34		
10					
11	Certificate of Reporter	41			
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E X H I B I T S

<u>NO.</u>		<u>ID.</u>	<u>EVD.</u>
Applicant 1	DVD		29

1 MR. KEY: May it please the Court.

2 THE COURT: Sure.

3 MR. KEY: This is Jason Kyle Barnhill vs. the  
4 State of South Carolina case number 2018-CP-21-3024.  
5 Mr. Barnhill file his PCR on November 16th of 2018. He is  
6 confined in South Carolina Department of Corrections  
7 pursuant to orders of commitment of the Florence County  
8 Clerk of Court. Mr. Barnhill waived presentment to the  
9 Florence County grand jury and was indicted for common law  
10 robbery. And he was represented by Chief Public Defender  
11 Scott Floyd. And Assistant Solicitor Ryan White  
12 prosecuted the case.

13 On April 11th 2018, he pled guilty to common law  
14 robbery before the Honorable Thomas A. Russo. He pled  
15 guilty without negotiations or recommendations. And Judge  
16 Russo accepted the applicant's plea and sentenced him to  
17 serve 12 years in prison for common law robbery. He did  
18 not appeal his plea or sentence.

19 In his PCR application, he alleged ineffective  
20 assistance of counsel for plea counsel fail to explain his  
21 right to appeal and he alleged there was false information  
22 presented to the Court. He is present today and  
23 represented by Mr. Jonathan Waller. At this time I'll  
24 hand it over to Mr. Waller.

25 THE COURT: All right. Mr. Waller.

1 MR. WALLER: Thank you, Your Honor. May it  
2 please the Court.

3 THE COURT: Yes, sir.

4 MR. WALLER: Judge, Mr. Barnhill did file a  
5 timely application, Judge. He had some specific  
6 allegations that were kind of attached to the back of the  
7 form. Your Honor should have a copy of that. Your Honor  
8 we're ready to proceed. I will call Jason Barnhill.

9 THE COURT: All right.

10 THE CLERK: Mr. Barnhill, place your left hand  
11 on the Bible and raise your right hand as much as you can.  
12 Do you swear to tell the truth, the whole truth, and  
13 nothing but the truth so help you God?

14 THE DEFENDANT: Yes, ma'am.

15 WHEREUPON,

16 Jason Barnhill,  
17 after first having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. WALLER:

20 Q Good morning, Mr. Barnhill. How are you today?

21 A I'm doing all right. Thank you.

22 Q All right. Mr. Barnhill, have you ever filed a PCR  
23 application before?

24 A No, sir.

25 Q You been in the criminal system before though, is

1 that right?

2 A Yes, sir.

3 Q Okay. This is the first time you've ever filed it?

4 A Yes, sir, I never.

5 Q You a little nervous today?

6 A Yes, sir.

7 Q All right. We're going to go slow, okay. All right.

8 Mr. Barnhill, you were -- what were you originally

9 charged with?

10 A Robbery.

11 Q Okay. Strong arm robbery, common law robbery all

12 kind of the same thing?

13 A Robbery, yes, sir.

14 Q And when you were arrested for that charge, did you

15 have a bond hearing?

16 A I think so. I'm not sure because it happened time I

17 got arrested and I was still -- I don't remember.

18 Q Okay. When you were arrested, were you under the

19 influence of anything?

20 A Yes, sir.

21 Q Okay. Would that have -- maybe affected your memory

22 as to the bond hearing?

23 A A lot.

24 Q Okay. Were you -- did you get a lawyer at some

25 point?

1 A Yes, sir.

2 Q Okay. Who was your first lawyer?

3 A Mr. Floyd.

4 Q Mr. Floyd is your only lawyer?

5 A Yes, sir.

6 Q Okay. About how long after you were arrested did  
7 Mr. Floyd get, I guess, appointed to represent you? He  
8 was appointed?

9 A Yes, sir.

10 Q Okay. Because he's a public defender?

11 A Yes, sir.

12 Q Okay. About how long after you was arrested was he  
13 appointed to represent you?

14 A I'm not sure maybe month, month and a half.

15 Q Okay. Is that about the first time you met with him?

16 A Around that area somewhere. I don't recall. It was  
17 somewhere in that area between a month or two.

18 Q Okay. When you and Mr. Floyd first met, what did  
19 y'all talk about?

20 A He asked me what happened and I explain to him what  
21 happened. And he said he was seeing if he could try to  
22 get it drop down to purse snatching. And I glanced -- he  
23 had my motion my Rule 5 and he let me look through it real  
24 quick and then he left.

25 Q Okay. When you say he had your motion, what all did

1 he have with him? Did he have everything that day?

2 A No, sir.

3 Q Do you not have everything because he couldn't bring  
4 it or he didn't have -- you just don't know?

5 A I don't know. He just had some papers.

6 Q Do you recall what he had?

7 A He had my rap sheet, the incident report from the  
8 sheriff's office. No, I can't -- I didn't really study, I  
9 just glanced at it.

10 Q Okay. Let me back up.

11 A Yes, sir.

12 Q So the very general allegations were that a lady was  
13 giving you a ride?

14 A Yes, sir.

15 Q And then at some point you got out and the  
16 allegations were that you stole her wallet, is that right?

17 A Yes, sir.

18 Q Purse and the wallet?

19 A Yes, sir.

20 Q That's kind of in a very general term, is that right?

21 A Yes.

22 Q What did you and Mr. Floyd -- what did y'all talk  
23 about that first meeting about the allegations?

24 A I told him what happened versus what was said  
25 happened and he said that sounds more like a purse

1     snatching or a petty larceny then a strong armed robbery  
2     and he would talk to the solicitor and see if he could get  
3     it drop down and then I never heard anything else after  
4     that.

5     Q     Okay. At the time y'all met then did he have any  
6     pictures that were taken?

7     A     I think there were some pictures in there of the  
8     vehicle.

9     Q     Okay. How about did he have a recording of the 9-1-1  
10    call?

11    A     No, sir.

12    Q     Okay. Did he have any surveillance video or anything  
13    like that?

14    A     No, sir.

15    Q     Okay. Did he have a copy of the statement of the  
16    lady?

17    A     I'm not sure. I don't know.

18    Q     Okay. After that first meeting, did y'all meet  
19    again?

20    A     Before at court when I went to plead.

21    Q     Okay. So you met here at the courthouse?

22    A     Yes, sir.

23    Q     When y'all met again, was it the same day you pled or  
24    was it the same week?

25    A     Same day.

1 Q Same day. Okay. So you met with Mr. Floyd once at  
2 the jail and then once in the courthouse but before you  
3 came into actual court?

4 A Within about ten minutes of pleading guilty.

5 Q Okay. And you pled guilty not even four months after  
6 you were arrested?

7 A Yes, sir.

8 Q Okay. Did you and Mr. Floyd talk about the speed of  
9 your plea?

10 A No.

11 Q Okay.

12 A I mean, no, sir.

13 Q Okay. You been in trouble before you said. Was less  
14 than four months quicker or longer than cases you've had  
15 in the past?

16 A Six months was the longest.

17 Q Okay. So not much quicker. Okay. Also ask you  
18 earlier about being in trouble before, have you ever been  
19 put on probation?

20 A Yes, sir.

21 Q Okay. Were you on probation at the time of this  
22 incident?

23 A No, sir.

24 Q Okay. Did you and Mr. Floyd talk about your  
25 probation status?

1 A I tried to bring it up in the courtroom, but the  
2 judge was talking and I didn't go nowhere. I didn't -- I  
3 didn't never get a chance to really express it.

4 Q Okay. During your plea, the probation agent that was  
5 in the courtroom told the judge you were on probation at  
6 the time, is that right?

7 A Yes, sir. Yes, sir.

8 Q Okay. You're here today saying that's not accurate,  
9 is that right?

10 A That's completely false.

11 Q Your previous conviction for which you were on  
12 probation for once you were previously convicted was for a  
13 forgery charge, is that right?

14 A Yes, sir.

15 Q Okay. And what if you recall did the judge order as  
16 far as restitution?

17 A To pay \$190.

18 Q Okay. And you paid that restitution and what would  
19 happen to the probation that he ordered?

20 A I got my sentencing sheet from that sentencing and it  
21 says restitution may be paid to Solicitor's office who can  
22 certify that the restitution has been paid and probation  
23 unnecessary. If restitution is paid in full prior to  
24 completion of incarceration, then probation is terminated  
25 upon payment. What they done was we come up with a deal

1 I told him I could pay it. And they let me send checks  
2 from the prison to the Solicitor's office through the  
3 bank. And they said if I do that before I'm released,  
4 then there is no probation.

5 Q Okay. And you were actually given receipts or  
6 records of those payments, is that right?

7 A I paid it all.

8 Q Okay.

9 MR. WALLER: Judge, these are in your pocket.  
10 His prior sentencing sheet as well as those receipts.

11 BY MR. WALLER:

12 Q Did you -- when you were released on that forgery,  
13 did you ever have to report to probation?

14 A No, I was incarcerated and went to court for the  
15 forgery and went back to the prison I was at and I paid  
16 off the \$190 for the check and then I got out. There was  
17 no probation to report to.

18 Q Okay. So when you got out you were not on probation?

19 A No, not at all.

20 Q Okay. Nobody ever tried to contact you or anything  
21 like that from probation?

22 A No. No, sir.

23 Q Did you and Mr. Floyd talk about that?

24 A No, it come up in the courtroom right when I was --  
25 right before I got sentenced.

1 Q Okay, because you weren't on probation?

2 A No, I didn't.

3 Q Okay. When that came up, did you say anything to  
4 Mr. Floyd about it?

5 A I tried to.

6 Q Okay. What did you try to tell him?

7 A Well, I tried to tell him that was wrong, that I  
8 wasn't on any type of probation whatsoever and I tried to  
9 explain. He just -- he seem to get kind of irritated  
10 because I kept talking trying to talk to him.

11 Q Okay. All right. There was a surveillance video  
12 that kind of caught at least part of the incident, is that  
13 your understanding?

14 A That's what it says in the paperwork, but I never  
15 seen it.

16 Q Okay. Did you have a chance to see that video before  
17 you went to court?

18 A No, sir.

19 Q Have you seen it now?

20 A No, sir.

21 Q Okay. Did you and Mr. Floyd have a chance to talk  
22 about it?

23 A We didn't discuss it. He said he had it, but he  
24 didn't -- we never talk, we never looked at it. We never  
25 watched it or never anything.

1 Q Did y'all ever talk about what the video contained,  
2 what was taking place?

3 A No, sir.

4 Q Did he come to see you and say, hey, I've watched the  
5 video and these are the different things that take place?

6 A No, sir.

7 Q Okay. All right. To your knowledge had Mr. Floyd  
8 ever watched the video?

9 A Not from my knowledge, I don't ---

10 Q You don't know?

11 A He never told me he did.

12 Q Okay. All right.

13 A He just said he had the disk.

14 Q When you were arrested and you were proved some  
15 discovery, you testified that you briefly were able to  
16 look at it. Have you since obtained a copy of some  
17 discovery materials in your case?

18 A I got my discovery when I pled guilty and was  
19 sentenced to 12 years, I asked Mr. Floyd before I leave  
20 the courthouse can I have a copy of it and he made me a  
21 copy before I went back to the jail.

22 Q Okay. Have you had a chance to review that since you  
23 been incarcerated?

24 A Yes, sir.

25 Q Okay. The -- have you had a chance to review the

1 incident report?

2 A Yes, sir.

3 Q Okay. Did you and Mr. Floyd ever talk about the  
4 incident report?

5 A No, sir.

6 Q Did y'all ever talk about how you were identified?

7 A No, sir.

8 Q Okay. What is your understanding as far as what  
9 information law enforcement had before they went and  
10 talked to the victim of the case?

11 A I read in the incident report that when an  
12 investigator went to the house to speak with the woman,  
13 that he had a picture of me. He had printed off a picture  
14 from the DMV and took it to her house and showed it to  
15 her.

16 Q Okay. And you've learned that since being  
17 incarcerated?

18 A Yes, sir.

19 Q Did you and Mr. Floyd ever talk about that?

20 A No, sir.

21 Q Okay. Did you and Mr. Floyd ever talk about going to  
22 trial on this charge?

23 A If we talked about it, it wasn't no in depth  
24 conversation. It was either plead guilty or take a trial.

25 Q Okay. You testified that Mr. Floyd told you thought

1 the incident sound like a purse snatching?

2 A Yeah, petty larceny.

3 Q Did you give him your version of what happened?

4 A Yes, sir.

5 Q Okay. What did you tell him took place?

6 A I asked a woman for a ride. And I was under the  
7 influence, I was up for two days taking Ambien and Xanax.  
8 It's kind of blurry, but I did ask the lady for a ride and  
9 about half way there we pulled over at a fire station.  
10 And she said this is as far as I'm taking you. And I  
11 said, well, can you just please finish taking me where I  
12 asked you. And she said I'm not going any further I'm  
13 stopping here and turning this way. And I said, well, can  
14 you take me back to where you got me from and she said,  
15 no, this is as far as I'm going. So she pretty much  
16 leaving me in the middle. So I did get angry and out of  
17 anger, I tried -- I just went to take her keys out. I  
18 went to snatch her keys out of the vehicle and at that  
19 time she opened her car door. And I didn't know and she  
20 didn't know it, but her leg knocked her pocketbook out on  
21 the ground. And when I got out of the vehicle, I walked  
22 around to the driver side and I said here's -- I took the  
23 keys out of the ignition and I walked around to the driver  
24 side and I said here's your keys I'm sorry. She rolled  
25 her window -- she cracked her window and I put them in the

1 top of the window. And I looked down and the pocketbook  
2 was there. She put it in reverse and she was backing out  
3 of the parking lot. And when she had her head turn, I  
4 reach down and I took her wallet out of her pocketbook and  
5 I stuck it under my shirt in my pants. And I grabbed the  
6 pocketbook I said, hey, ma'am. And I run across the  
7 parking lot and I said, hey, and I stopped her as she was  
8 leaving and I said here's your pocketbook back. And I  
9 left and she left.

10 Q Okay. So to your understanding, that was caught on  
11 video?

12 A That's on video.

13 Q Okay. Did you and Mr. Floyd ever talk about the  
14 elements of common law robbery or strong armory and what  
15 the State has to prove in order for you to be convicted?

16 A No, sir.

17 Q Okay. Did y'all ever talk about any potential  
18 defenses that you might have?

19 A No, sir.

20 Q Okay. When you meet with Mr. Floyd the second time  
21 up at the courthouse, what did y'all talk about?

22 A The Solicitor offered me ten years.

23 Q Okay.

24 A And I told him that was too much because I didn't rob  
25 anybody.

1 Q What did y'all -- what was y'all's conversation that  
2 led to you pleading guilty?

3 A What do you mean like?

4 Q What did y'all talk about that you went from saying  
5 from rejecting a plea offer and y'all talking about, you  
6 know, going to trial even if it was briefly what changed  
7 where you plead guilty?

8 A Well, they said -- well, how about going in front of  
9 the judge with no recommendations just an open plea. And  
10 I said that's fair, you know, when I get in front of the  
11 judge and they read out what happened and it should be a  
12 whole lot less than ten because it's not what they said  
13 and that's not what happened at all.

14 Q Okay. Did you and Mr. Floyd ever talk about what  
15 would happen if you went to trial and how the procedures  
16 of the trial and how the trial would go, did he ever give  
17 you any advice on what he thought the potential outcome  
18 would be at a trial?

19 A No, sir.

20 Q Okay. Did you ask him?

21 A (Whereupon, no response.)

22 Q Mr. Barnhill, I don't have any further questions for  
23 you. Is there anything you think I've left out or  
24 neglected to ask that Judge Seals needs to be aware of  
25 Mr. Floyd's representation of you in this case?

1 A Can I speak freely?

2 Q Yes, sir.

3 A I mean, I don't know.

4 Q Yes sir.

5 A The probation -- when probation was brought up in the  
6 courtroom, your Honor, the judge specifically asked was I  
7 on probation or anything like that. And I tried to tell  
8 my lawyer that I wasn't because he was asking it for a  
9 reason. And it made it seem like when I got out of prison  
10 I had probation and I never reported it. So I was just  
11 disobedient off the top and then I committed another crime  
12 while I was running or violated from this probation and  
13 that's not what happened. I completed it successfully and  
14 then I got caught up with this crime here. But the judge  
15 was -- the judge said so he actually got an active  
16 sentence on the grand larceny, finish that and was suppose  
17 to report to Williamsburg County and did not report to  
18 Williamsburg County and then committed this offense while  
19 he was out. The probation agent said, yes, sir. And he  
20 said okay just trying to get that squared away. And he  
21 wrote that down and he used that in his sentencing, your  
22 Honor. And I strongly feel -- I may be wrong, but I  
23 strongly feel that affected the sentence he gave me  
24 because there was restitution owed. And if he had know  
25 that I might was not on probation I finished it

1 successfully, I could have gotten a split sentence. He  
2 could have gave me ten years with two years probation and  
3 ordered restitution to be paid and it was just incorrect.  
4 As far as the strong arm robbery goes, I didn't rob. I  
5 picked something up off the ground and stole it and I told  
6 him this. I never seen the video. I don't know what the  
7 video has in it, but I know what happened. I still  
8 haven't watched the video to this day. I have no idea  
9 what's on it. There's a lot of things as far as an  
10 appeal. I never discussed putting in for an appeal. I  
11 don't know anything about an appeal, have no clue  
12 whatsoever. I just don't know. There was just no  
13 conversation between us. There was may be ten minutes at  
14 the county jail, 15 minutes and five minutes prior to  
15 going in the courtroom, it was just discussed that there  
16 was going to be an open plea of one to 15. I was gone go  
17 in front of the judge and let the judge decide and that  
18 was it.

19 MR. WALLER: Thank you, Mr. Barnhill. Please  
20 answer any questions Ms. McCallister or excuse me --  
21 Mr. Key has for you.

22 CROSS-EXAMINATION

23 BY MR. KEY:

24 Q Mr. Barnhill, do you recall Judge Russo explaining to  
25 a large group of people your constitutional rights before

1 you pled guilty?

2 A Yes, sir.

3 Q And you told Judge Russo that you were present and  
4 you understand those constitutional rights?

5 A Yes, sir.

6 Q Okay. Do you recall during that explanation of your  
7 constitutional rights Judge Russo saying that you had a  
8 right to appeal your guilty plea?

9 A Uh-huh.

10 Q Is that a yes?

11 A Yes, sir.

12 Q Okay. So Judge Russo explain to you you had the  
13 right to appeal?

14 A Yes, sir.

15 Q Okay. Did you ever ask your attorney to appeal your  
16 guilty plea?

17 A No, sir.

18 Q Okay. Now, you said your attorney went over some of  
19 the discovery with you?

20 A We didn't really go over it. We sit down at a table  
21 and he handed it to me and I flipped through it while I  
22 was telling him my version of what happened. And when I  
23 finish, I gave it back and he left.

24 Q Okay. So you looked through it briefly and you  
25 discussed with Mr. Floyd your version of the events?

- 1 A That's it, yes, sir.
- 2 Q Okay. Were you aware there was a video?
- 3 A Yes. Well, he told me there was, yes, sir.
- 4 Q Okay. But you're saying that you just never saw the  
5 video?
- 6 A Never watched it, no, sir.
- 7 Q Did you ever ask to see the video?
- 8 A Definitely, I wanted to watch it. He said they  
9 didn't have the stuff to watch it right then at the  
10 jailhouse. He said we had to watch it at a later time.
- 11 Q Okay. Did you ask him to describe to you what the  
12 video showed?
- 13 A No. He said he hadn't watched it himself at that  
14 time. And as far as the appeal you ask me about, I was  
15 assuming that the lawyer would ask for the appeal. I  
16 didn't know I had to do it because he was representing me.  
17 I have no clue. I don't know.
- 18 Q But you were aware from Judge Russo's -- from Judge  
19 Russo telling you that there was a right to appeal?
- 20 A Yes, I heard of an appeal before, yes, sir. I don't  
21 necessarily know what it was but...
- 22 Q But you did not ask Mr. Floyd to file an appeal?
- 23 A No, sir, I didn't.
- 24 Q Okay. Did you understand what an open plea was or  
25 is?

1 A He said I could get anything in between one year and  
2 15 years.

3 Q Okay. And it was previously a ten year offer?

4 A Yes, sir.

5 Q Okay, but you rejected that?

6 A Yes, sir.

7 Q And you chose to enter an open plea?

8 A Yes, sir.

9 Q Okay. Did you ever want to go to trial?

10 A I don't think anybody wants to go to trial. Is there  
11 a different way you can word that?

12 Q Did you ever tell your attorney I don't want to plead  
13 guilty I rather go to trial?

14 A No, sir.

15 Q Okay. On your direct testimony, you testified the  
16 probation agent said that you were currently on probation  
17 when you pled guilty?

18 A Yes, sir.

19 Q Okay. Do you recall telling Judge Russo that that  
20 was incorrect that you had paid all of your restitution?

21 A Yes, sir, definitely.

22 Q Okay. You did tell Judge Russo that you were no  
23 longer on probation?

24 A Yes, but it was a probation agent versus my talking.  
25 There was no proof. I didn't have not -- it was spur of

1 the moment. I didn't have the receipts and the sentencing  
2 sheet to prove it like I do now. Nobody paid me  
3 attention.

4 Q But you did bring that up to the Court's attention?

5 A Yes, sir, yes, sir, as much as I could. I tried.

6 MR. KEY: Your Honor, that's page 17 and 18 of  
7 the transcript.

8 BY MR. KEY:

9 Q And during your direct testimony, you testified to  
10 your version of events you were given a ride and she  
11 wanted to drop you off at the fire station, correct?

12 A Midway, yes, sir.

13 Q Okay. And you wanted her to either take you back to  
14 where you came from or where you asked her to go?

15 A Yes, sir.

16 Q Okay. And you don't deny that you tried to take her  
17 keys?

18 A No, I don't deny that at all. I didn't try to steal  
19 them. I just took it out, so I just snatched them out the  
20 ignition I tried to.

21 Q Okay. Did she resist?

22 A Yes, sir.

23 Q Okay. And then eventually you got out of the car and  
24 walked around and there was something laying on the  
25 ground?

1 A And I handed her her keys back.

2 Q You handed her her keys back.

3 A Uh-huh.

4 Q So you actually got the keys away from her?

5 A The key was still in the ignition. The other keys  
6 that come off -- there was more than one key on the key  
7 ring. Those keys came off, but the vehicle key was still  
8 in the ignition, that's how she was backing up and  
9 leaving.

10 Q Okay, so you just had her other keys?

11 A The other keys come off the key chain, yes, sir.

12 Q Okay. And you testified that you tried to give her  
13 her purse back?

14 A No, I did give her her purse back.

15 Q Okay. You gave her her purse back, but you took her  
16 wallet?

17 A Yes, sir.

18 Q Okay.

19 MR. KEY: No further questions, your Honor.

20 THE COURT: Any follow up?

21 MR. WALLER: Nothing further, your Honor.

22 THE COURT: You may step down.

23 (WHEREUPON, the witness leaves the witness  
24 stand.)

25 THE COURT: Call your next witness.

1 MR. WALLER: I call Scott Floyd.

2 THE CLERK: Do you swear to tell the truth, the  
3 whole truth, and nothing but the truth so help you God?

4 THE WITNESS: Yes, ma'am.

5 WHEREUPON,

6 Scott Floyd,  
7 after first having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. WALLER:

10 Q Good morning, Mr. Floyd.

11 A Good morning, how are you?

12 Q I'm doing well. Thank you for asking. How are you  
13 today?

14 A I'm fine. Thank you.

15 Q Mr. Floyd, how did you come to represent Jason  
16 Barnhill?

17 A He was appointed to our office when he had his bond  
18 hearing. He was screened by the magistrate and appointed  
19 to our office.

20 Q Okay. Was he given a bound and just wasn't able to  
21 make it, was he denied bond, what do you recall?

22 A The first time I met with him was on January the 19th  
23 which was within, I guess, a couple weeks of his arrest  
24 maybe ten days maybe after his arrest. And my initial  
25 notes he told me he had a \$30,000 bond.

1 Q Okay. So he did have bond he just wasn't able to  
2 make it. So he was in the detention center the entirety  
3 of your representation of him, is that right?

4 A That is correct.

5 Q Okay. He pled guilty not even four months after he  
6 was arrested?

7 A He did.

8 Q Is that common in your experience?

9 A I mean, it's not uncommon depends on what the  
10 defendant wants to do.

11 Q Okay.

12 A And he insisted on pleading guilty within four  
13 months, so that's why he did it.

14 Q Okay. What did you and Mr. Barnhill discuss about  
15 his plea?

16 A Well, which time? I mean, the first time I talk to  
17 him in January, of course, at that point I didn't have any  
18 Rule 5 material because he just been appointed to our  
19 office the ten days before. He kind gave me -- well, he  
20 told me about his bond situation. And the notes that I  
21 have he said he couldn't make his bond. He told me he was  
22 on Ambien and Xanax at the time and couldn't remember much  
23 about what happened as far as the details, but he did say  
24 he ask someone for a ride and ended up getting into an  
25 altercation. And then I had note here he snatched the

1 wallet and ran. And then he told me at that time they say  
2 that have on camera, which I'm assuming when the  
3 investigator talk to him he told him it was on camera  
4 because I certainly wouldn't have known that at the time.

5 Q Okay.

6 A Because I didn't have the Rule 5. He knew it I  
7 didn't.

8 Q Okay. At what point were you provided with Rule 5  
9 materials?

10 A Well, let's see the third -- well, I'm sorry that was  
11 an additional. Let me see the original receipt for it.  
12 The receipt in our office says it was delivered to our  
13 office on February the 19th of 2018, that was the initial  
14 batch. And then on the 3rd of April the copy of the DVD  
15 with the store video was given to us, so it's two  
16 separate.

17 Q Okay. So initially you would have had incident  
18 reports?

19 A Right.

20 Q There were some photographs taken of the victim. Did  
21 you have those in the initial batch?

22 A Yes.

23 Q The CAD report from the 9-1-1 tape?

24 A Yes.

25 Q And then in the very early part of April you got the

1 video, is that right?

2 A Right, according to the receipt, the April the 3rd  
3 delivery was only the store video nothing else.

4 Q Okay.

5 MR. WALLER: Your Honor, may I approach?

6 THE COURT: Yes.

7 BY MR. WALLER:

8 Q Mr. Floyd, is this a copy of the video?

9 A I believe it is. I think this is actually the video  
10 that I was given by the Solicitor's office.

11 Q Okay. Does that look like the video that you  
12 yourself turn around and gave to me?

13 A It does.

14 MR. WALLER: Your Honor, at this time I would  
15 offer Applicant's Number 1. I think it's without  
16 objection.

17 MR. KEY: Without objection.

18 (WHEREUPON, Applicant Exhibit No. 1 was admitted  
19 into evidence.)

20 MR. WALLER: Your Honor, there's no jury we  
21 don't need to publish it, but I would certainly ask you to  
22 consider that.

23 BY MR. WALLER:

24 Q Mr. Floyd, when you said April 3rd is when you  
25 received it?

1 A It's when -- yes, when they delivered it to my  
2 office.

3 Q Okay. So about eight days before he pled. Do you  
4 have any notes about when you were able to view that  
5 video?

6 A Let's see if I have -- the only notes that I made was  
7 when I actually talked to the defendant. I didn't make  
8 the notes of when I actually, you know, did like read the  
9 reports and that sort of thing. I only made notes of when  
10 I talk to him Mr. Barnhill. After the January 19th  
11 meeting, I met with him on the 26th of March down at the  
12 detention center. Again, I reviewed his Rule 5 material  
13 which would have been what I had at the time obviously not  
14 the -- because I didn't have the video in. And he told me  
15 that he wanted to go ahead and resolve the case and enter  
16 a plea. He told me he had a charge pending in  
17 Williamsburg County at the time which was a grand larceny  
18 in the zero to ten range.

19 Q Okay.

20 A And then the next time I met with him was here on the  
21 11th of April, which was the day he actually entered the  
22 plea.

23 Q Okay. Did y'all during your April 11th meeting prior  
24 to, I guess, coming into the courtroom, did y'all have a  
25 chance to discuss the video?

1 A Yes. I mean, we talked about it. I mean, he knew it  
2 was there. I told him he could see it if he wanted.

3 Q Okay. Getting back to the initial batch of Rule 5  
4 materials, did you have a chance to discuss with  
5 Mr. Barnhill how he was identified?

6 A Okay. I don't remember exactly if we talked about  
7 that or not, but, I mean, I gave him the report and we  
8 read it together.

9 Q Okay. I mean, do you know how he was identified?  
10 The lady didn't know who he was, is that right?

11 A Yeah, I don't think she knew who he was at the time.  
12 I'll have to look back. I can't remember exactly how he  
13 was identified. I didn't look at this before I came in.

14 MR. WALLER: Beg the Court's indulgence please.

15 (WHEREUPON, a pause in the proceedings.)

16 A Okay, it appears that the clerk at the grocery where  
17 he was picked up is the one who initially gave his name.

18 Q Okay. Did you and Mr. Barnhill ever talk about going  
19 to trial?

20 A Yes, we did. And he was always very adamant he was  
21 not going to trial.

22 Q Okay.

23 A And I mean, you know, I told him he certainly had a  
24 right to and that we could make any kind of arguments that  
25 he wanted. And so as far as the video or anything else,

1 but he said, no, I don't want to go to trial. So he  
2 wanted to plead and he made it very clear that he wanted  
3 to do it as soon as possible. The day that he pled on  
4 April the 11th 2018, I advised him that the victim was  
5 present in the courtroom. And my understanding was she  
6 was still very upset. And I told him I did not think it  
7 was a good idea to plead that day. That he would probably  
8 be better off giving it sometime and letting emotions die  
9 down, but he told me he was going to plead or wanted to  
10 plead. I mean, it's his decision not mine.

11 Q Were y'all on any sort of trial roster or anything  
12 like that?

13 A Nope, we were not. We didn't -- there was no urgency  
14 in pleading. They could not have forced him into a trial  
15 that day and I told him that.

16 Q Okay. Did y'all discuss any potential defenses that  
17 he might have?

18 A Well, I mean, I certainly told him, you know, that he  
19 could argue that that there was no intent to steal or take  
20 anything from her. That it was just a basically a scuffle  
21 and the falling out of the purse was just inadvertent.  
22 But, of course, from what I recall her -- I'm talking  
23 about the victim saying was was that they actually had a  
24 tussle inside of the car over the pocketbook itself in  
25 addition to the key and that certainly the jury could take

1 her testimony to account as well, but that's why you have  
2 trials. I mean, it would be up to a jury to decide who  
3 they believe and who they didn't.

4 Q Okay. Did you look into him being on probation  
5 before you he pled guilty?

6 A No, I didn't think he was. I mean, I asked him about  
7 it and I looked at his NCIC. And -- but when you do a  
8 plea sheet, of course, they always give it to probation  
9 first and let them run it through their system. And they  
10 said at that point that he was still showing as having an  
11 active probation case out of Williamsburg County.

12 Q Had he been served or you had you received any  
13 probation warrant or anything like that?

14 A No.

15 Q Okay.

16 A I did not.

17 Q Okay.

18 A Okay. And I was not aware that he had receive one  
19 before.

20 Q Okay.

21 A He didn't tell me he had.

22 Q Okay.

23 MR. WALLER: Beg the Court's indulgence please.

24 (WHEREUPON, a pause in the proceedings.)

25 MR. WALLER: Thank you, Mr. Floyd. No further

1 questions.

2

CROSS-EXAMINATION

3 BY MR. KEY:

4 Q Mr. Floyd, I believe on direct you said that your  
5 client brought the video to your attention during y'all's  
6 first meeting?

7 A Yes, I have a note and, of course, at the time I did  
8 not have discovery. I just have a note and it says they  
9 say they have on camera picked up from Cam's Grocery and  
10 Prospect. And so Mr. Barnhill would have been the one to  
11 tell me that.

12 Q Okay.

13 A And I'm assuming that investigator probably told him.

14 Q And eventually you did receive the video?

15 A Right, in April.

16 Q Okay. And you discussed what was on the video with  
17 Mr. Barnhill?

18 A I mean, in general terms I mean.

19 Q Did you offer to let Mr. Barnhill see the video?

20 A Yeah.

21 Q Did he want to see the video?

22 A He told me didn't want to see it. I mean, you know,  
23 we discussed it the day of his plea here. You know, I  
24 told him he could take his time, you know, decide whether  
25 or not he really wanted to, you know, to enter that plea

1 or not. We could, you know, get ready for a trial if he  
2 wanted one, but or not or my advice to him was look even  
3 if you don't want a trial, you probably will be better off  
4 delaying the plea.

5 Q So he was aware he did not have to plead that day?

6 A Oh, absolutely. He was not on a trial list. I mean,  
7 he couldn't be forced to go to trial.

8 Q And he was aware that he was pleading to common law  
9 robbery?

10 A Yes, sir.

11 Q Did you explain to him the elements of common law  
12 robbery?

13 A I'm sure we went over what common law robbery is.

14 Q Okay. And did you explain to him the sentencing  
15 exposure he faced?

16 A Yes, sir.

17 Q But ultimately he just wanted to plead guilty and get  
18 it over with?

19 A Correct.

20 Q Okay. Did you explain to Mr. Barnhill he had the  
21 right to appeal?

22 A Yes, sir.

23 Q Did he ever ask you to file an appeal?

24 A No, sir.

25 Q Okay. Would you have filed an appeal if he had asked

1     you?

2     A     If he had asked me, I certainly would have.

3     Q     Do you recall Mr. Barnhill informing or telling you  
4     that he was not on probation?

5     A     Yes, sir, I mean, I would have asked him if he had  
6     anything on probation only thing he told me that was hang  
7     out there so to speak was a pending charge out of  
8     Williamsburg County.

9     Q     Okay. Was that pending charge in Williamsburg County  
10    separate from the probation in Williamsburg County?

11    A     That's what I understood, yes. I mean, it was -- I  
12    have here a grand larceny in the zero to ten range.

13    Q     Okay. When the probation agent said he was still on  
14    probation, Mr. Barnhill informed the Court that that was  
15    incorrect?

16    A     Right. He had paid some amount of restitution in  
17    prison and that he should not have been on probation. I  
18    mean, I don't recall there being any sort of revocation of  
19    any time on a probation violation during this plea.

20    Q     Was that the first time you became aware that he was  
21    on probation or potentially was on probation was at the  
22    plea?

23    A     It was the day of the plea right. At some point  
24    before the probation office would have screened his plea  
25    sheet, run his name through their system and they would

1 have told me, hey, we still got an open case on him or  
2 whatever.

3 Q Okay. But Mr. Barnhill insisted on pleading guilty  
4 that day?

5 A Correct.

6 Q Okay. So you didn't become aware of that until the  
7 day of the guilty plea?

8 A Right, I didn't know, no. And like I said, they  
9 didn't try to, you know, move forward in any sort of  
10 revocation or anything. I don't know that they ever said  
11 how much time he had hanging over his head on probation  
12 they just said he's on probation or he never reported.

13 Q But he wasn't revoked?

14 A Right, no.

15 Q Okay.

16 MR. KEY: No further questions.

17 THE COURT: Yes, sir.

18 MR. WALLER: Nothing further, your Honor.

19 THE COURT: All right. You may step down.

20 (WHEREUPON, the witness leaves the witness  
21 stand.)

22 THE COURT: Any other witnesses?

23 MR. WALLER: Judge, I have no further witnesses  
24 just some brief argument at the appropriate time.

25 THE COURT: Any witnesses from the State?

1 MR. KEY: No, Your Honor.

2 THE COURT: All right. I'm ready to hear from  
3 you, Mr. Waller.

4 MR. WALLER: Judge, very briefly. The video's  
5 been placed into evidence or admitted into evidence.  
6 Judge, I would ask that you consider that. And I also ask  
7 that you consider the testimony and the documents that are  
8 in the packet regarding the probation. Judge, I think  
9 each one of those -- each one of those issues, you know,  
10 by itself and certainly taken together could have  
11 substantially affected the outcome of this case. The  
12 video I think certainly we contend shows a different set  
13 of facts that took place. So certainly I think that could  
14 have changed the outcome as far as Mr. Barnhill even  
15 deciding whether to plead guilty or go to trial, which is  
16 certainly a decision he has to make and certainly  
17 something we have to show here.

18 And regarding the probation, Judge, it's clear  
19 to me at least from the plea colloquy that Judge Russo was  
20 very concerned about that. Judge, I think it is important  
21 to get those facts straight and everybody be clear as to  
22 what was really happening. I do think that influence the  
23 sentence. And so I just ask you to consider those things  
24 before reaching your decision.

25 THE COURT: All right. Anything you want to put

1 on the record?

2 MR. KEY: Your Honor, even with the version of  
3 events that Mr. Barnhill testified to today, if you watch  
4 the video, they somewhat line up as to what he testified  
5 to. It's not exactly clear where the purse fell out.  
6 It's clear there was a struggle. He did get out of the  
7 car. He walked around the car to the driver side, looked  
8 at the driver and then they went their separate ways. It  
9 does not show whether they were struggling over the keys  
10 or the purse. That would have ultimately come down to the  
11 credibility of the victim and the credibility of  
12 Mr. Barnhill had they gone to trial.

13 However, today Mr. Barnhill even said he never  
14 asked to go to trial. He didn't think he would go to  
15 trial. Mr. Floyd said Mr. Barnhill never wanted to go to  
16 trial. He wanted to plead guilty get it over with.

17 As for the -- his right to appeal, he admitted  
18 today that Judge Russo and it's in the transcript, Judge  
19 Russo explain to him his right to appeal. He acknowledged  
20 that. He said he never asked Mr. Floyd to file an appeal  
21 of the guilty plea. Filing an appeal of a guilty plea is  
22 not an automatic. It's got to be knowingly and  
23 voluntarily waived. He knew he had the right to appeal.  
24 He never asked Mr. Floyd to file the appeal. He waived  
25 his right to appeal. On the probation allegation,

1 Mr. Barnhill was allowed to speak to Judge Russo and bring  
2 up that he was no longer on probation that he was -- that  
3 he had paid all of the restitution and that he had, I  
4 guess, served his time so to speak for that charge.

5 Judge Russo sentencing was within the range of  
6 strong arm robbery or common law robbery, which  
7 Mr. Barnhill knew that he was pleading to and he knew he  
8 was pleading to it straight up. So the State's position  
9 is he did not show any prejudice even if there was some  
10 deficiency on the probation allegation. And that's all,  
11 your Honor.

12 THE COURT: I'll take it under advisement and  
13 let you know something by Friday.

14 MR. WALLER: Thank you, your Honor.

15 THE COURT: Thank you.

16 END OF REQUESTED TRANSCRIPT

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STATE OF SOUTH CAROLINA  
 COUNTY OF FLORENCE

Jason Barnhill, #292731,

Applicant,

v.

State of South Carolina,

Respondent.

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

) Case No.: 2018-CP-21-3024

) **ORDER OF DISMISSAL**

2021 MAR 30 AM 11:40  
 DORIS FOLLOWS O'HARA  
 C.C.P. & G.S.  
 FLORENCE COUNTY, SC

FILED

This matter comes before the Court by way of Jason Barnhill's (Applicant) application for post-conviction relief (PCR) filed November 16, 2018. Respondent submitted its return on March 6, 2019. An evidentiary hearing convened at the Florence County Courthouse on September 4, 2019, at which time Applicant was present and represented by Jonathan D. Waller, Esquire. Assistant Attorney General Samuel L. Key of the South Carolina Attorney General's Office represented the Respondent. At the hearing, Applicant testified on his own behalf. Respondent presented testimony from Scott P. Floyd, Esquire ("Plea Counsel").

Following a thorough review of the record in its entirety, and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to meet his requisite burden of establishing any constitutional violations and denies this application.

**PROCEDURAL HISTORY**

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections. On April 11, 2018, Applicant appeared before the Honorable Thomas A. Russo and waived presentment of indictment 2018-GS-21-00668, one count of strong-arm robbery, to the grand jury, instead entering a guilty plea without negotiation or recommendation from the State (Tr. 7). Chief Public Defender Scott P. Floyd of the Florence

CERTIFIED A TRUE COPY  
*Doris Follovs O'Hara*  
 CLERK OF COURT, C.P. & G.S.  
 FLORENCE COUNTY, S.C.

County Public Defender's office represented Applicant, and Assistant Solicitor Ryan White prosecuted the case.

The charges stem from an incident that occurred December 28, 2017, when Applicant asked Violet Poston for a ride from Pat's Grocery store to the fire department. Poston agreed and gave Applicant a ride (Tr. 10). When they arrived at the fire department, Applicant exited the vehicle and walked around to the driver's side before ordering Poston to exit, which she refused to do (Tr. 11). Applicant reached into the driver side window and attempted to remove the keys from the ignition, and Applicant and Poston struggled, causing the key to break off into the ignition (Tr. 11). Applicant then fled with Poston's wallet (Tr. 11). The event was captured on the fire department's video surveillance (Tr. 11). Applicant pled guilty to strong-arm robbery, and Judge Russo sentenced Applicant to twelve years' imprisonment. Applicant did not appeal his guilty plea or sentence.

### **ALLEGATIONS**

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

1. Ineffective Assistance of Counsel
  - a. "Failed to explain right to appeal"
2. False information presented to court.

### **SUMMARY OF RELEVANT TESTIMONY**

#### *Applicant's testimony*

At the evidentiary hearing, Applicant testified Plea Counsel was his first and only attorney. Plea Counsel was an appointed public defender whom Applicant stated he first met approximately a month after his arrest. He stated Plea Counsel asked him to explain his version of the incident and testified that Plea Counsel mentioned he would speak to the solicitor to see

about getting the charges reduced to purse snatching or petit larceny, but Applicant did not know if that conversation occurred. Applicant testified he had two other meetings with Plea Counsel before the plea - once at the jail and once at the courthouse ten minutes before the proceeding. He testified he had previous criminal convictions, and he had been on probation before, but he stated he was not on probation at the time the subject incident occurred. According to Applicant, this was an error stated by the probation agent during the plea hearing.

Applicant claimed Plea Counsel told him at their second meeting that the State was offering ten years, which he told Plea Counsel was too much. Applicant testified the State then offered to allow him to plead without a recommendation, and he agreed because he believed that after explaining the incident, his sentence would be shorter than ten years. Applicant claimed he never spoke to Plea Counsel about the procedures of a trial or the potential outcome. Applicant testified he believed the error in discussing his probation during the plea hearing made him look disobedient and strongly affected the sentence given. He admitted he never watched the video of the incident.

Applicant admitted to having the knowledge of the right to appeal and answering in the affirmative when Judge Russo asked him if he understood his appellate rights during the hearing. He stated he did not ask Plea Counsel to file an appeal. He testified he understood what an open plea was, that he could be sentenced to any term between one and fifteen years, and he declined a previous deal for ten years. Applicant testified he also declined going to trial, and he never told Plea Counsel he would rather have a trial. Applicant recalled clarifying the status of his probation when he spoke to Judge Russo directly during the plea hearing, explaining the payment agreement entered into with the Williamsburg County Solicitor. He acknowledged that

clarification on the probation was brought to the court's attention, but the Applicant stated he did not have proof of payment at the time of the plea hearing.

*Plea Counsel's testimony*

At the evidentiary hearing, Plea Counsel testified he first met with Applicant within ten days of Applicant's arrest, and Applicant told Plea Counsel he was on Ambien and Xanax at the time of the incident and could not remember many details. Plea Counsel testified Applicant said he asked someone for a ride, got into an altercation, snatched a wallet and ran. Applicant also told Plea Counsel law enforcement had the incident on camera. Plea Counsel received evidence in two batches that included the incident reports, victim photographs, and report from the 911 tape. Plea Counsel indicated the video was received later. Plea Counsel testified during their first meeting he and Applicant reviewed the evidence received thus far, and Applicant stated he wanted to enter a plea as he had a pending grand larceny charge in Winnsboro. Plea Counsel met with Applicant again to review evidence, and he and Applicant read the incident report together and discussed the video evidence. Plea Counsel testified he offered the video to Applicant, who declined to watch it. Plea Counsel indicated he and Applicant discussed how a clerk at the grocery store identified Applicant. Plea Counsel testified he discussed trial procedure with Applicant, but Applicant was adamant he did not want to go to trial.

Plea Counsel informed Applicant of his right to a trial, possible arguments and defenses, and explained how the jury would decide the verdict. Plea Counsel testified Applicant declined and again expressed how he did not want to pursue a trial. Plea Counsel indicated Applicant expressed a wish to plead guilty and do so as soon as possible. Plea Counsel testified he advised Applicant that the victim would be present on the day of the plea and was still very upset. He

suggested delaying the plea to allow "emotions to die down." Plea Counsel stated Applicant wanted to go ahead with the plea, and it was his decision.

Plea Counsel testified the day of Applicant's plea, they discussed how Applicant could take time and decide whether he wanted to plea or prepare for trial. Plea Counsel additionally told Applicant he was not on the trial roster and so the State could not force Applicant's case to go forward, but Applicant insisted on moving forward with a plea that day. Plea Counsel confirmed Applicant informed the Court that the statement by the probation agent was incorrect and clarified that he had paid the restitution owed while in jail. Plea Counsel testified he asked Applicant if he was on probation, and Applicant indicated he was not. Plea Counsel further testified the only thing Applicant told him was pending were the charges against him in Winnsboro. Plea Counsel stated the day of the plea hearing was the first time he heard about the probation issue and payments. Plea Counsel also testified he did not know when Applicant would plead guilty until Applicant insisted on pleading the day of his hearing. Plea Counsel further testified he explained the right to an appeal to Applicant and stated he would have filed an appeal if Applicant had requested it, but Applicant never did.

#### APPLICABLE LAW

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984). To prove prejudice, the applicant must show that there is a reasonable

probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52 (1985).

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Petitioner, like all other defendants, the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984); *Taylor v. State*, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Petitioner has the burden of proving the allegations in his post-conviction relief action, and when alleging counsel was constitutionally ineffective, he must prove "counsel's conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result." *Id.* at 686. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. *Id.* at 690. First, the applicant must prove counsel's performance was deficient. *Id.*; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 815. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). Petitioner must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel's deficient performance must have prejudiced Petitioner such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart* extended the two-part Strickland

test to challenge guilty pleas based on ineffective assistance of counsel. 474 U.S. 52 (1985); *cf. Padilla*, 559 U.S. at 373 (recognizing the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel).

When reviewing a guilty plea, the analysis of counsel’s performance under the first prong of *Strickland* remains unchanged—the applicant must show counsel’s representation fell below the objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59. The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” *Id.* at 58–59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” *Id.* at 59. This inquiry “focuses on a defendant’s decision-making” and does not turn on the outcome of a defendant’s actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, 582 U.S. \_\_\_, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372.

Surmounting *Strickland*’s high bar is never an easy task, and the strong societal interest in finality has “special force with respect to convictions based on guilty pleas.” *Lee*, 582 U.S. \_\_\_, 137 S. Ct. at 1967 (internal citations and quotation marks omitted); *cf. Hill*, 474 U.S. at 58 (“[R]equiring a ‘prejudice’ showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel ‘will serve the fundamental interest in the finality of guilty pleas.’”). Reviewing “[c]ourts should not upset a plea solely because of post hoc assertions from a defendant about how he would have pleaded but for his

attorney's deficiencies." *Lee*, 582 U.S. \_\_\_, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences." *Id.* In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the PCR hearing. *Harres*, 282 S.C. at 134, 318 S.E.2d at 361.

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

Moreover, *Strickland* does not require a finding of ineffectiveness merely for deviation from a rigid rule of representation. Rather, *Strickland* requires the applicant to prove "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." *Id.* at 697. Therefore, the function of the post-conviction relief court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney. *Id.* At 690.

"A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74(1977)). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." *Garren v. State*, 423 S.C. 1, 12, 813

S.E.2d 704, 710 (2018); see *Jamison v. State*, 410 S.C. 456, 469-71, 765 S.E.2d 456 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instruction that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”). To prove prejudice, the applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52 (1985).

### **DISCUSSION**

This Court viewed the evidence presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony and evidence accordingly in its discussion below. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the trial transcript, Applicant’s appellate records, and the legal arguments made by the attorneys. This Court finds the combined record of the trial transcript and the testimony from the evidentiary hearing establishes Applicant received effective assistance of counsel, and this application should be denied. Set forth below are the relevant findings of fact and conclusion of law as required by section 17-27-80 of the South Carolina Code of Laws.

#### ***Right to Appeal***

First, Applicant alleges Plea Counsel was ineffective in his representation surrounding his guilty plea. Specifically, Applicant claims Plea Counsel failed to explain the appeals process such that Applicant did not knowingly and voluntarily waive his right to an appeal. For the reasons stated below, this Court finds that trial counsel was not ineffective for failing to file an appeal.

The United States Supreme Court has rejected a “bright-line rule that counsel must always consult with the defendant regarding an appeal.” *Roe v. Flores-Ortega*, 528 U.S. 470, 480, 120 S. Ct. 1029, 1036, 145 L. Ed. 2d 985 (2000). They instead held that “counsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing.” *Id.* “[A]lthough not determinative, a highly relevant factor in this inquiry will be whether the conviction follows a trial or a guilty plea, both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings.” *Id.*

This Court finds this allegation is without merit, and Applicant has failed to carry his burden of proving that he did not knowingly and voluntarily waive his right to an appeal. This Court finds credible Plea Counsel’s testimony that Applicant repeatedly and clearly expressed a desire to plea and did not wish to pursue a trial. This Court also finds trial counsel gave credible testimony that he conferred with Applicant about his right to appeal, and had Applicant requested it, Plea Counsel would have filed one, but Applicant never indicated he wanted to pursue an appeal. The record also reflects Applicant was advised of his right to appeal by Judge Russo during the plea colloquy (Tr. 6), and when asked by Judge Russo whether he understood those rights, Applicant answered that he did (Tr. 8). Moreover, Applicant and Plea Counsel agree Applicant never asked Plea Counsel to file an appeal.

In determining guilty plea issues, “it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing.” *Harres v. Leeke*, 282 S.C. 131 (1984). The transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel

was cured by the information conveyed at the plea hearing. *Wolfe v. State*, 326 S.C. 158, 165 (1997). Thus, even if plea counsel's testimony was not credible, Applicant's testimony in his plea hearing refutes his claim that he received ineffective assistance of counsel. As discussed above, Applicant testified Judge Russo discussed his constitutional rights during the plea hearing, and Applicant stated he understood those rights. Specifically, Applicant acknowledged he was advised of his right to an appeal. As such, any possible deficiency on the part of Plea Counsel was cured by the plea colloquy.

Based on the record and the testimony of both Plea Counsel and Applicant, this Court finds Applicant understood he had a right to appeal from his guilty plea and sentence, but Applicant chose not to do so. Applicant admitted he never asked Plea Counsel to file an appeal, and given his insistence on pursuing an expedited guilty plea, this Court finds there was no evidence from which Plea Counsel could conclude that Applicant would want to appeal. Applicant admits he never told Plea Counsel he wanted to appeal. This Court therefore denies relief as to this allegation.

***Incorrect information presented at sentencing***

Second, Applicant alleges counsel was constitutionally ineffective for failing to correct false information presented to the court regarding his probation at the time of the incident, which Applicant felt prejudiced him and resulted in a longer sentence. However, this Court's review of the record and testimony demonstrates Applicant was offered, and seized, the opportunity to testify and clarify the incorrect statements regarding his probation during his plea hearing (Tr. 17-18). This Court finds credible Plea Counsel's testimony he asked Applicant about outstanding charges and probation, and Applicant disclosed only pending charges from Winnsboro. Further, this Court also finds credible Plea Counsel's testimony that the first time Plea Counsel became

aware of the probation and restitution discrepancy was the day of the plea hearing, which Applicant insisted take place that day. Moreover, this Court finds credible Applicant's testimony that he understood he was submitting an open plea and could be sentenced anywhere within the one-to-fifteen year range. This acknowledgement is further corroborated by Applicant's agreement to the sentencing range of up to fifteen years during his plea colloquy (Tr. 7). Ultimately, Applicant was sentenced to a term of twelve years. Applicant has provided no evidence other than his own assumptions and beliefs that the incorrect facts were impermissibly considered and affected Judge Russo's sentencing decision. As such, Applicant cannot establish that any prejudice resulted from these events, particularly when he clarified the allegedly incorrect information with the plea court, and he was lawfully sentenced within the possible range for his charge.

The Court finds Applicant failed to establish deficiency of Counsel or any resulting prejudice. Specifically, the Court finds Applicant failed to overcome the presumption that his attorney provided adequate assistance and exercised reasonable professional judgment in making all significant decisions in his case pursuant to *Strickland*. 466 U.S. at 690. This Court further finds Applicant failed to show that, absent his attorney's alleged deficiency, he would not have plead guilty and would have insisted on going to trial pursuant to *Hill*. 474 U.S. at 59. Testimony confirms that Applicant consistently and repeatedly insisted on pursuing an expedited plea and rejected the option of going to trial. Ultimately, the plea transcript reflects Applicant understood the proceedings, interacted intelligently with the plea court, and entered his guilty plea knowingly and voluntarily. Moreover, Applicant's twelve-year sentence is within the sentencing range Applicant acknowledges he understood would be possible. This Court therefore denies relief as to this allegation.

**CONCLUSION**

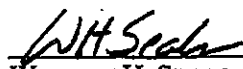
Based on all the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 306 S.C. 453, 40 S.E.2d 395 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

**IT IS THEREFORE ORDERED:**

1. The application for post-conviction relief be dismissed with prejudice; and
2. Applicant be remanded to the custody of the State.


AND IT IS SO ORDERED this 24 day of MARCH, 2021.

  
 WILLIAM H. SEALS, JR.  
 Presiding Judge  
 Twelfth Judicial Circuit

DOE'S POU... O'HARA  
 CCCP & GS  
 FLORENCE COUNTY, SC

2021 MAR 30 AM 11:40

FILED

CERTIFIED A TRUE COPY  
  
 CLERK OF COURT C.P. & G.S.  
 FLORENCE COUNTY, S.C.  
 2018-CP-21-3024

**FILED**

FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF FLORENCE

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2018CP2103024

IN THE COURT OF COMMON PLEAS **AN 11: 43**

Jason Kyle Barnhill

DORIS POULOS O'HARA

South Carolina State Of

PLAINTIFF(S)

FLORENCE COUNTY, SC

DEFENDANT(S)

Submitted by:

Attorney for:  Plaintiff  Defendant  
 Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order; (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

**INFORMATION FOR THE JUDGMENT INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

3/30/2021

Date

**For Clerk of Court Office Use Only**

This judgment was entered on **March 30, 2021**, and a copy mailed first class or placed in the appropriate attorney's box on **March 30, 2021**, to attorneys of record or to parties (when appearing pro se) as follows:

RECEIVED: A TRUE COPY  
CLERK OF COURT  
FLORENCE COUNTY, S.C.

**WITNESSES**

Roger W. Tilton                      Florence County Sheriff

Ryan White

**ARREST WARRANT NUMBER**

2017A2110201154

**ACTION OF GRAND JURY**

*Foreperson of Grand Jury*

*Date:*

**VERDICT**

*Foreperson of Petit Jury*

*Date:*

**DOCKET NO. 2018-GS-21-00668**

The State of South Carolina

County of

FLORENCE

**COURT OF GENERAL SESSIONS**

APRIL      TERM      2018

**THE STATE**

vs.

**JASON KYLE BARNHILL**

Indictment for

**COMMON LAW ROBBERY**

**FILED**

2018 APR 11 PM 5:28

DORIS POULOS O'HARA  
CCCP & GS  
FLORENCE COUNTY, SC

