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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Greenville County

Honorable R. Scott Sprouse, Circuit Court Judge

JASON ALLEN LARSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-000764

APPENDIX

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STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS) COURT OF GENERAL SESSIONS

State of South Carolina,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 15-GS-47-0008
	)	(Group Plea)
Jason Allen Larson, <i>et. al.</i>	)	
	)	
Defendants.	)	

TRANSCRIPT OF GUILTY PLEA

The within HEARING in the above-captioned matter was held January 25, 2017, before The Honorable Perry H. Gravely in Courtroom 2 of the Pickens County Courthouse in Pickens, South Carolina; attended by counsel as follows:

APPEARANCES:

Joshua Underwood, Assistant Attorney General
S.C. ATTORNEY GENERAL
Columbia, South Carolina 29201
...Appearing for State of South Carolina

Scott Robinson, Esq.
... Appearing for Defendant Jason Larson

Barney Giese, Esq.
... Appearing for Defendant Jose Carrillo

Derek Shoemaker, Esq.
... Appearing for Defendant Aubrey Trammell

Curtis Thompson, Esq.
...Appearing for Defendant Hollingsworth

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Case No. 15-GS-47-0008

Guilty Plea of January 25, 2017

Before The Honorable Perry H. Gravely

1 CLERK: Can each of you raise your
2 right hand?

3 (DEFENDANTS COMPLY)

4 (WHEREUPON DEFENDANTS SWORN)

5 THE COURT: All right, let's keep it
6 down so that we can hear, please.

7 We have?

8 CLERK: Jose Carrillo, **Jason Larson**,
9 Aubrey Trammell and Stephanie Hollingsworth,
10 Your Honor.

11 THE COURT: Thank you. I'll be glad to
12 hear from you, Mr. Underwood.

13 MR. UNDERWOOD: May it please the
14 Court, Your Honor, first before you is the
15 State versus Jose Manuel Carrillo.

16 He is here today represented by his
17 attorney, Mr. Barney Giese of Columbia.

18 Mr. Carrillo was charged under Indictment
19 2015-GS-47-07, Counts 1, 52, 53 and 54.

20 He has entered into a written plea
21 agreement with the State. Pursuant to that
22 plea agreement, he has agreed to plead guilty
23 and waive his appellate and post-conviction
24 relief rights.

25 In exchange for the pleas, the State is

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1 reducing Count 1 of the indictment from
2 trafficking methamphetamine 400 grams or more
3 to trafficking methamphetamine ten to 28
4 grams, first offense.

5 He is also pleading as indicted to Counts
6 52, 53 and 54. That is two counts of
7 distribution of methamphetamine and one count
8 of possession of methamphetamine.

9 The State is recommending a sentence cap
10 of ten (10) years, all charges to run
11 concurrent.

12 Next, Your Honor, is the State versus
13 Jason Allen Larson. He is here represented
14 by Scott Robinson.

15 He is charged under Indictment 2015-GS-
16 47-08: Count 1, Trafficking methamphetamine
17 400 grams or more by conspiracy.

18 And in Indictment 2015-GS-47-10, Counts
19 1 and 2, for possession with intent to
20 distribute methamphetamine and possession of
21 a Schedule I through V controlled substance.

22 He has also entered into a written plea
23 agreement with the State. Pursuant to that
24 agreement, he's agreed to plead guilty to the
25 lesser-included offense of trafficking

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1 methamphetamine 28 to 100 grams.

2 He is pleading as indicted to the
3 remaining charges.

4 The State is recommending an overall
5 sentence cap of fifteen (15) years, to run
6 concurrently with each other as well as his
7 current sentence in the Department of
8 Corrections for an unrelated charge.

9 Next, Your Honor, is Aubrey Trammell.
10 She is here today represented by her
11 attorney, Mr. Derek Shoemake of Columbia.

12 She is charged under Indictment 2015-GS-
13 47-08: Count 1, trafficking methamphetamine
14 of 400 grams or more.

15 She has agreed to enter into a plea
16 agreement with the State. Pursuant to that
17 agreement, she is waiving her appellate and
18 post-conviction relief rights. She is
19 pleading to the lesser-included offense of
20 trafficking methamphetamine ten to 28 grams,
21 second offense.

22 Also, to note for the Court, Your Honor,
23 she is also charged under a separate State
24 Grand Jury case being handled by Judge Hall.
25 The agreement addresses both cases and all

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1 charges will be run concurrent; however, the
2 other matters will have to be heard by Judge
3 Hall at a later date.

4 THE COURT: Let me ask you this, so I'm
5 only accepting the plea on ---

6 MR. UNDERWOOD: Only on Indictment 15-
7 GS-47-08, Count 1.

8 THE COURT: Okay.

9 MR. UNDERWOOD: But it is one joint
10 plea agreement involving both cases.

11 THE COURT: Okay.

12 MR. UNDERWOOD: She also waives her
13 appellate and post-conviction relief rights,
14 Your Honor.

15 THE COURT: Okay.

16 MR. UNDERWOOD: Finally, Your Honor,
17 is Stephanie Joelle (phonetic) Hollingsworth.

18 She is here today represented by her
19 attorney, Mr. Chris Thompson of Spartanburg.

20 Ms. Hollingsworth is charged under
21 Indictment 15-GS-47-08, Count 1. She is
22 charged with conspiracy to traffic
23 methamphetamine 400 grams or more.

24 She has entered into a written plea
25 agreement with the State. Pursuant to that

1 plea agreement, she waives her appellate and
2 post-conviction relief rights. And she is
3 pleading to the lesser-included offense of
4 possession with intent to distribute meth-
5 amphetamine.

6 THE COURT: All right, folks. Are you
7 Jose Manuel Carrillo?

8 DEFENDANT CARRILLO: Yes, Your Honor.

9 THE COURT: How old are you?

10 DEFENDANT CARRILLO: Forty-eight (48).

11 THE COURT: And how far did you go in
12 school?

13 DEFENDANT CARRILLO: I graduated high
14 school.

15 THE COURT: And you are Jason Allen
16 Larson?

17 DEFENDANT LARSON: Yes, sir.

18 THE COURT: How old are you?

19 DEFENDANT LARSON: Thirty-five (35).

20 THE COURT: And how far did you go in
21 school?

22 DEFENDANT LARSON: Some college.

23 THE COURT: All right. And you are
24 Aubrey Tamara Trammell?

25 DEFENDANT TRAMMELL: Yes, sir.

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1 THE COURT: How old are you?

2 DEFENDANT TRAMMELL: I'm thirty (30).

3 THE COURT: How far did you go in
4 school?

5 DEFENDANT TRAMMELL: I went to the
6 tenth grade but I'm currently enrolled into
7 the, uh, ---

8 THE COURT: All right. And you are
9 Stephanie Joelle Hollingsworth?

10 DEFENDANT HOLLINGSWORTH: Yes, sir.

11 THE COURT: And how old are you?

12 DEFENDANT HOLLINGSWORTH: Forty-seven
13 (47).

14 THE COURT: And how far did you go in
15 school?

16 DEFENDANT HOLLINGSWORTH: Two years of
17 college.

18 THE COURT: All right. Is anybody
19 under the influence of any alcohol, drugs or
20 medication of any type which would make you
21 impaired today? Mr. Carrillo?

22 DEFENDANT CARRILLO: No, sir.

23 THE COURT: Mr. Larson?

24 DEFENDANT LARSON: No, sir.

25 THE COURT: Ms. Trammell?

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1 DEFENDANT TRAMMELL: No, sir.

2 THE COURT: And Ms. Hollingsworth?

3 DEFENDANT HOLLINGSWORTH: No, sir.

4 THE COURT: Does anybody have any
5 health or mental issues which would keep
6 them from understanding what is going on here
7 today? Mr. Carrillo?

8 DEFENDANT CARRILLO: No, sir.

9 THE COURT: Mr. Larson?

10 DEFENDANT LARSON: No, sir.

11 THE COURT: Ms. Trammell?

12 DEFENDANT TRAMMELL: No, sir.

13 THE COURT: And Ms. Hollingsworth?

14 DEFENDANT HOLLINGSWORTH: No, sir.

15 THE COURT: All right. Mr. Carrillo,
16 you are represented by Mr. Giese; Mr. Larson,
17 you are represented by Mr. Robinson; Ms.
18 Trammell, you are represented by Mr.
19 Shoemake; and Ms. Hollingsworth, you're
20 represented by Mr. Thompson.

21 Have you all had sufficient time to talk
22 with your attorney about your case; have they
23 answered all the questions that you had; done
24 all the investigation that you felt was
25 appropriate? Mr. Carrillo?

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1 DEFENDANT CARRILLO: Yes, sir.

2 THE COURT: Mr. Larson?

3 DEFENDANT LARSON: Yes, sir.

4 THE COURT: Ms. Trammell?

5 DEFENDANT TRAMMELL: Yes, sir.

6 THE COURT: And Ms. Hollingsworth?

7 DEFENDANT HOLLINGSWORTH: Yes, sir.

8 THE COURT: Are you fully satisfied
9 with the representation of your attorney, Mr.
10 Carrillo?

11 DEFENDANT CARRILLO: Yes, sir.

12 THE COURT: Mr. Larson?

13 DEFENDANT LARSON: Yes, sir.

14 THE COURT: Ms. Trammell?

15 DEFENDANT TRAMMELL: Yes, sir.

16 THE COURT: And Ms. Hollingsworth?

17 DEFENDANT HOLLINGSWORTH: Yes, sir.

18 THE COURT: Do you have any complaints
19 against your attorney or anybody in their
20 office? Mr. Carrillo?

21 DEFENDANT CARRILLO: No, sir.

22 THE COURT: Mr. Larson?

23 DEFENDANT LARSON: No.

24 THE COURT: Ms. Trammell?

25 DEFENDANT TRAMMELL: No, sir.

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1 THE COURT: And Ms. Hollingsworth?

2 DEFENDANT HOLLINGSWORTH: No, sir.

3 THE COURT: All right. Mr. Carrillo,
4 you are here on charges of trafficking
5 methamphetamine ten to twenty-eight grams,
6 conspiracy, first offense; which carries a
7 sentence of ten (10) years and/or a fine of
8 twenty-five thousand dollars (\$25,000).

9 Also a charge of distribution of
10 methamphetamine, which carries fifteen (15)
11 years and/or a fine of twenty-five thousand
12 dollars (\$25,000).

13 A charge of distribution of meth-
14 amphetamine, which carries a sentence of up
15 to fifteen (15) years and/or a fine of
16 twenty-five thousand dollars (\$25,000).

17 Possession of methamphetamine, which
18 carries up to three years and a fine of up
19 to five thousand dollars (\$5,000).

20 Do you understand those charges?

21 DEFENDANT CARRILLO: Yes, sir.

22 THE COURT: How do you wish to plead?

23 DEFENDANT CARRILLO: Guilty.

24 THE COURT: To all four charges?

25 DEFENDANT CARRILLO: Yes, sir.

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1 THE COURT: All right. Mr. Larson,
2 you're here for trafficking methamphetamine,
3 28 to 100 grams conspiracy, first offense;
4 possession with intent to distribute
5 methamphetamine, first offense, which carries
6 fifteen to twenty-five thousand; -- I'm
7 sorry, the previous -- let me start over.

8 Trafficking methamphetamine twenty-eight
9 to a hundred grams, conspiracy first offense;
10 which carries between seven and twenty-five
11 years and a fine of fifty thousand dollars
12 (\$50,000).

13 Possession with intent to distribute
14 methamphetamine, first offense; which carries
15 a sentence of fifteen years and/or a fine of
16 twenty-five thousand dollars (\$25,000).

17 Possession of a Schedule I through V
18 controlled substance, first offense; which
19 carries six months and/or a fine of one
20 thousand dollars (\$1,000).

21 Do you understand each of those charges?

22 DEFENDANT LARSON: Yes, sir.

23 THE COURT: How do you wish to plead?

24 DEFENDANT LARSON: Guilty.

25 THE COURT: To all three charges?

1 DEFENDANT LARSON: Yes, sir.

2 THE COURT: Ms. Trammell, you are here
3 as far as Indictment 2015-GS-47-08, with a
4 charge of trafficking methamphetamine ten to
5 twenty-eight grams, conspiracy second
6 offense; which carries a sentence of five to
7 thirty years and a fine of fifty thousand
8 dollars (\$50,000). Do you understand that
9 charge?

10 DEFENDANT TRAMMELL: Yes, sir.

11 THE COURT: And how do you wish to
12 plead?

13 DEFENDANT TRAMMELL: Ms. Hollingsworth,
14 you are here for a charge of possession with
15 intent to distribute methamphetamine, first
16 offense; which carries a sentence of fifteen
17 years and/or a fine of twenty-five thousand
18 dollars (\$25,000). Do you understand that
19 charge?

20 DEFENDANT HOLLINGSWORTH: (Pause).

21 MR. THOMPSON: Your Honor, up to
22 fifteen years.

23 THE COURT: Right. I'm sorry, did I --
24 up to fifteen years.

25 DEFENDANT HOLLINGSWORTH: Yes, sir.

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1 THE COURT: All right. And/or a fine
2 of up to twenty-five thousand dollars.

3 DEFENDANT HOLLINGSWORTH: Yes, sir.

4 THE COURT: All right. Do you
5 understand that charge?

6 DEFENDANT HOLLINGSWORTH: Yes, sir.

7 THE COURT: And how do you wish to
8 plead?

9 DEFENDANT HOLLINGSWORTH: Guilty.

10 THE COURT: All right, folks. You
11 realize that even though the State may have a
12 recommendation on your charge that I am not
13 bound by that recommendation in that I could
14 still sentence you to the maximum amount on
15 each of these charges. Do you understand
16 that, Mr. Carrillo?

17 DEFENDANT CARRILLO: Yes, sir.

18 THE COURT: Mr. Larson?

19 DEFENDANT LARSON: Yes, sir.

20 THE COURT: Ms. Trammell?

21 DEFENDANT TRAMMELL: Yes, sir.

22 THE COURT: And Ms. Hollingsworth?

23 DEFENDANT HOLLINGSWORTH: Yes, sir.

24 THE COURT: All right. Each of y'all
25 have entered into a plea agreement dated

1 today. Have you all had a sufficient time
2 to talk to your attorney about the plea
3 agreement; do you understand all the terms of
4 that agreement; and have you entered that
5 plea agreement freely and voluntarily? Mr.
6 Carrillo?

7 DEFENDANT CARRILLO: Yes, sir.

8 THE COURT: Mr. Larson?

9 DEFENDANT LARSON: Yes, sir.

10 THE COURT: Ms. Trammell?

11 DEFENDANT TRAMMELL: Yes, sir.

12 THE COURT: And Ms. Hollingsworth?

13 DEFENDANT HOLLINGSWORTH: Yes, sir.

14 THE COURT: All right. Has anybody --
15 other than what is set forth in the plea
16 agreement, has anybody promised you anything?
17 Mr. Carrillo?

18 DEFENDANT CARRILLO: No, sir.

19 THE COURT: Mr. Larson?

20 DEFENDANT LARSON: No, sir.

21 THE COURT: Ms. Trammell?

22 DEFENDANT TRAMMELL: No, sir.

23 THE COURT: And Ms. Hollingsworth?

24 DEFENDANT HOLLINGSWORTH: No, sir.

25 THE COURT: Has anybody threatened you

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1 to plead guilty? Mr. Carrillo?

2 DEFENDANT CARRILLO: No, sir.

3 THE COURT: Mr. Larson?

4 DEFENDANT LARSON: No, sir.

5 THE COURT: Ms. Trammell?

6 DEFENDANT TRAMMELL: No, sir.

7 THE COURT: And Ms. Hollingsworth?

8 DEFENDANT HOLLINGSWORTH: No, sir.

9 THE COURT: Are you pleading guilty
10 freely and voluntarily, Mr. Carrillo?

11 DEFENDANT CARRILLO: Yes, sir.

12 THE COURT: Mr. Larson?

13 DEFENDANT LARSON: Yes, sir.

14 THE COURT: Ms. Trammell?

15 DEFENDANT TRAMMELL: Yes, sir.

16 THE COURT: And Ms. Hollingsworth?

17 DEFENDANT HOLLINGSWORTH: Yes, sir.

18 THE COURT: All right. All of these
19 matters have been indicted by the State Grand
20 Jury.

21 I'm going to go through certain
22 Constitutional rights that you are giving up
23 by pleading guilty. All right? You need to
24 make sure that you understand those.

25 If you don't understand any of them,

1 please ask me to repeat them.

2 You have a right to a jury trial where
3 twelve people would hear your case and
4 determine whether you are innocent or guilty.

5 You have a right to confront all of the
6 State's witnesses.

7 You have a right to examine all the
8 evidence that they have against you.

9 You have a right to make the State prove
10 its case against you beyond a reasonable
11 doubt. You are presumed innocent up to that
12 point.

13 You also have a right to remain silent at
14 every stage of the proceedings. You cannot
15 be forced to give a statement.

16 If you went to trial, you could not be
17 forced to testify. That cannot be used
18 against you in any way. If you went to trial
19 and decided not to testify, I would instruct
20 the jury that they cannot consider that in
21 any way, that the State would still have a
22 burden of proving you guilty beyond a
23 reasonable doubt.

24 Do you understand these rights and
25 realize that you are giving these rights up

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1 by pleading guilty, Mr. Carrillo?

2 DEFENDANT CARRILLO: Yes, sir.

3 THE COURT: Mr. Larson?

4 DEFENDANT LARSON: Yes, sir.

5 THE COURT: Ms. Trammell?

6 DEFENDANT TRAMMELL: Yes, sir.

7 THE COURT: And Ms. Hollingsworth?

8 DEFENDANT HOLLINGSWORTH: Yes, sir.

9 THE COURT: You also -- normally you
10 would have a right to an appeal within ten
11 days from the date of your sentence. But you
12 realize that you're waiving that right based
13 on the plea agreement that you have entered.
14 Mr. Carrillo?

15 DEFENDANT CARRILLO: Yes, sir.

16 THE COURT: Mr. Larson?

17 DEFENDANT LARSON: Yes, sir.

18 THE COURT: Ms. Trammell?

19 DEFENDANT TRAMMELL: Yes, sir.

20 THE COURT: And Ms. Hollingsworth?

21 DEFENDANT HOLLINGSWORTH: Yes, sir.

22 THE COURT: All right. Mr. Carrillo,
23 your charge of trafficking methamphetamine
24 has been designated Violent and Serious.

25 Mr. Larson, your charge of trafficking

1 methamphetamine has been designated as
2 Violent and Serious.

3 Ms. Trammell, your charge of trafficking
4 methamphetamine has been designated as
5 Violent and Serious.

6 This does not apply to you, Ms. Hollings-
7 worth.

8 To the three of y'all, do you all realize
9 by these designations of Violent and Serious,
10 it means that you will serve a greater
11 percentage of your sentence than otherwise?
12 It will also affect your ability -- or it
13 would affect your eligibility on parole,
14 meaning it would be a much longer period of
15 time before you'd be eligible for parole.

16 In addition to the fact that it is
17 designated Serious, you realize that it is a
18 strike against you. If you have three
19 strikes under Serious charges, you could be
20 subject to life without the possibility of
21 parole. Do you understand that, Mr. Carrillo?

22 DEFENDANT CARRILLO: Yes, sir.

23 THE COURT: Mr. Larson?

24 DEFENDANT LARSON: Yes, sir.

25 THE COURT: Ms. Trammell?

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1 DEFENDANT TRAMMELL: Yes, sir.

2 THE COURT: All right. This is to
3 the attorneys -- Mr. Giese, Mr. Robinson, Mr.
4 Shoemake and Mr. Thompson -- have you all had
5 sufficient time to talk with your client
6 about their charges and any defenses or
7 issues that they have? Mr. Giese?

8 MR. GIESE: Yes, sir.

9 THE COURT: Mr. Robinson?

10 MR. ROBINSON: Yes, sir.

11 THE COURT: Mr. Shoemake?

12 MR. SHOEMAKE: Yes, Your Honor.

13 THE COURT: And Mr. Thompson?

14 MR. THOMPSON: Yes, sir.

15 THE COURT: Have you discussed with
16 them their rights; do you believe that they
17 understand those rights and are giving those
18 rights up freely and voluntarily? Mr. Giese?

19 MR. GIESE: Yes, sir.

20 THE COURT: Mr. Robinson?

21 MR. ROBINSON: Yes, sir.

22 THE COURT: Mr. Shoemake?

23 MR. SHOEMAKE: Yes, Your Honor.

24 THE COURT: And Mr. Thompson?

25 MR. THOMPSON: Yes, sir.

1 THE COURT: All right. I am going to
2 -- and you can read them together, as much as
3 possible. I am going to listen to the facts
4 of the case from the Assistant Attorney
5 General, so listen carefully. I will ask you
6 if you agree with those facts.

7 MR. UNDERWOOD: Thank you, Your Honor,
8 may it please the Court.

9 First, as to Jose Carrillo. Count 1 of
10 Indictment 2015-GS-47-07, this is a
11 trafficking conspiracy that involved a drug
12 trafficking organization operating primarily
13 out of Greenville, but bleeding over into
14 other counties such as Pickens County, Your
15 Honor.

16 This operation took place between January
17 2011 until 2015. This drug trafficking
18 organization involved a codefendant, Jorge
19 David Martinez, who was responsible for
20 importing methamphetamine into South Carolina
21 from the Atlanta, Georgia area.

22 He would then distribute that to other
23 dealers. One of those dealers was a co-
24 defendant who has already pled guilty, Larry
25 Coleman. Mr. Coleman would then sell

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1 multiple-ounce amounts of methamphetamine to
2 Jose Carrillo; which he would then break down
3 to smaller amounts and sell to lower level
4 dealers and users, Your Honor.

5 As to Indictment -- the same Indictment,
6 Count 52, on May 21st, 2014, agents of the
7 Greenville County Sheriff's Office used an
8 undercover police officer to make a
9 controlled purchase of 3.47 grams of
10 methamphetamine from Jose Carrillo. That
11 took place at his residence located on
12 Crestfield Road in Greenville, Greenville
13 County.

14 As to Count 53, on June 11th, 2014, again
15 agents with the Greenville County Sheriff's
16 Office used an undercover police officer to
17 make another controlled purchase from Jose
18 Carrillo. This time the amount of meth-
19 amphetamine purchased was 1.73 grams. That
20 transaction occurred at his new residence at
21 9 Mayflower Avenue in Greenville, Greenville
22 County, South Carolina.

23 As to Count 54, on June 20th, 2014,
24 officers with the Greenville County Sheriff's
25 Office executed a lawful search warrant at

1 the residence of 9 Mayflower Avenue in
2 Greenville, South Carolina, Greenville
3 County. During that search they located
4 .46 grams of methamphetamine.

5 THE COURT: All right. Mr. Carrillo,
6 do you -- is all of that true as it relates
7 to you?

8 DEFENDANT CARRILLO: Yes, sir.

9 THE COURT: Do you agree with those
10 facts and still wish to plead guilty?

11 DEFENDANT CARRILLO: Yes, sir.

12 THE COURT: All right. I'll accept
13 your plea. I find that it has been knowing-
14 ly, intelligently and voluntarily made with
15 the advice of competent legal counsel with
16 whom you've indicated that you're satisfied
17 with his representation of you, and that
18 there is a substantial factual basis for the
19 plea.

20 This will be a deferred sentence. In
21 other words, you will be notified when the
22 actual sentence is to take place.

23 I remind you that you need to abide by
24 the terms of the plea agreement.

25 DEFENDANT CARRILLO: Yes, sir.

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1 THE COURT: Anything further on Mr.
2 Carrillo?

3 MR. UNDERWOOD: Nothing, Your Honor.

4 THE COURT: All right. Good luck to
5 you, sir.

6 Mr. Larson. I'll be happy to hear ---

7 MR. UNDERWOOD: Your Honor, if I may,
8 Count 1 of Indictment 15-GS-47-08 will apply
9 to all three defendants. If you would like,
10 I can go through that Count as it pertains to
11 all three remaining defendants.

12 THE COURT: All right.

13 MR. UNDERWOOD: Your Honor, that Count
14 involved a drug trafficking organization
15 operating out of Greenville County, as well
16 as several other counties including Pickens
17 County, Spartanburg, Laurens, Charleston and
18 Berkeley counties.

19 Your Honor, as part of this organization,
20 a number of Mexican nationals were involved
21 in importing large amounts of methampheta-
22 mine, multiple kilograms at a time from the
23 Atlanta, Georgia area in South Carolina.

24 Early-on this conspiracy -- the contact
25 person in South Carolina who was bringing

1 this methamphetamine in was a defendant,
2 Christopher David Smith, who has already pled
3 guilty before the Court. Mr. Smith was
4 importing, again, large amounts of
5 methamphetamine which he would then break
6 down and sell to other dealers.

7 During his involvement with the
8 conspiracy he was involved in a relationship
9 with Aubrey Trammell. She would accompany
10 him during drug transactions and assist him
11 in those transactions.

12 After Christopher David Smith when to
13 prison on the revocation of Federal charges,
14 his mother, Sandra Duncan, took over his role
15 in the drug trafficking organization. She
16 would then sell large amounts of methampheta-
17 mine to other dealers.

18 Jason Larson was one of the dealers who
19 was selling directly for Sandra Duncan. She
20 would sell multiple-ounce amounts, a minimum
21 of six ounces at a time, to Mr. Larson over a
22 period of time throughout this conspiracy, up
23 to the point when he was arrested on
24 unrelated charges. Overall, Your Honor, he
25 was responsible for selling at least ten

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1 pounds, in the aggregate, of methamphetamine.

2 Your Honor, this organization was
3 operating from January 2011 up through 2015.

4 As to Ms. Hollingsworth and the
5 conspiracy, Your Honor, two other dealers who
6 were receiving methamphetamine, both from
7 Sandra Duncan and then directly from her
8 supplier, were Barry Lee Underwood and
9 Yolanda Roche (phonetic). At one point Ms.
10 Roche was receiving kilogram amounts of
11 methamphetamine from the alternate source in
12 Georgia and Ms. Hollingsworth would act as a
13 go-between between Ms. Roche and Barry Lee
14 Underwood, transporting methamphetamine so
15 that it could be further resold.

16 Ms. Hollingsworth also participated in at
17 least one drug distribution involving Barry
18 Lee Underwood, which she assisted in that
19 transaction.

20 That is the facts as to Count 1, Your
21 Honor.

22 Then as to Defendant Jason Larson,
23 Indictment 15-GS-47-10, Counts 1 and 2, Your
24 Honor, this involved a traffic checkpoint on
25 October 16th, 2014. A Pickens County deputy

1 of the Pickens County Sheriff's Office had
2 interaction with Defendant Jason Allen Larson
3 while he was driving a sedan on public
4 highways. Along with him was a passenger,
5 Felicia Christine Cursey (phonetic), who has
6 already pled before the Court.

7 During the traffic stop it was found that
8 Mr. Larson was driving with a suspended
9 driver's license. During the stop a canine
10 was utilized and alerted to the odor of
11 controlled substances. A search of the
12 vehicle then led to the discovery of three
13 plastic baggies containing 8.47 grams of
14 methamphetamine. Two of the bags were found
15 under the driver's seat and the third bag was
16 found between the center console and the
17 passenger's seat.

18 As to Count 2, on October 16th, again
19 during that checkpoint, it was found that Mr.
20 Larson, in addition to the methamphetamine,
21 also was in possession of pills, particularly
22 Oxycodone, which is a Schedule II controlled
23 substance. That was concealed inside a beer
24 can. I would note for the record that Mr.
25 Larson did not have a valid prescription to

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1 have that controlled substance.

2 THE COURT: All right. Mr. Larson, you
3 heard all of the facts recited by the
4 Assistant Attorney General. Do you agree
5 with all the facts that related to you?

6 DEFENDANT LARSON: No.

7 THE COURT: Do you believe that the
8 facts that were recited, though, support the
9 charge of trafficking methamphetamine
10 conspiracy first offense, possession with
11 intent to distribute methamphetamine, and
12 possession of a controlled substance that you
13 are charged with?

14 DEFENDANT LARSON: (Deep sigh).

15 THE COURT: All right, we are going to
16 skip over you for a minute and then I'll talk
17 with you.

18 Let me -- or why don't y'all talk a
19 minute, stand down. Y'all talk and then
20 let me know if it is more permanent.

21 MR. ROBINSON: Yes, sir.

22 THE COURT: All right, we will go to
23 Ms. Trammell. You have already recited the
24 facts relating to her.

25 MR. UNDERWOOD: Yes, Your Honor.

1 THE COURT: There are no additional
2 facts.

3 MR. UNDERWOOD: (No verbal response).

4 THE COURT: All right, Ms. Trammell,
5 you heard all the facts that the Assistant
6 Attorney General recited. As they relate to
7 you, do you agree with all the facts that
8 relate to you?

9 DEFENDANT TRAMMELL: Yes, sir.

10 THE COURT: And based on that, do you
11 still wish to plead guilty?

12 DEFENDANT TRAMMELL: Yes, sir.

13 THE COURT: All right. I will accept
14 your plea. I find that it has been
15 knowingly, intelligently and voluntarily made
16 with the advice of competent legal counsel
17 with which you've indicated that you are
18 satisfied with his representation of you.

19 DEFENDANT TRAMMELL: Yes, sir.

20 THE COURT: And that there is a
21 substantial factual basis for the plea.

22 Now, your sentence will be deferred.
23 You will notified when additional matters
24 will be heard in your case.

25 You need to abide by the terms of the

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1 plea agreement.

2 DEFENDANT TRAMMELL: Yes, sir.

3 THE COURT: Any additional matters on
4 Ms. Trammell?

5 MR. UNDERWOOD: No, Your Honor.

6 THE COURT: As to bond?

7 MR. UNDERWOOD: I believe Mr. Shoemake
8 may have a Motion as to her bond.

9 THE COURT: All right.

10 MR. SHOEMAKE: Yes, Your Honor, we
11 would -- because she is in two indictments,
12 it's a little bit -- and I talked to the
13 Assistant Attorney General about this. We
14 would ask that for purposes of today that
15 she be continued on bond on the same terms.
16 However, we would request a modification.
17 As you can see, she is pregnant. She's
18 married now. What we would like to do is
19 for her to do is move in with her husband.
20 I have that address. He is on parole and I
21 think because of that that the Attorney
22 General's Office has an additional condition
23 that they may need to discuss -- we discussed
24 before.

25 If you are inclined to do that, Your

1 Honor, what we would ask is that we can send
2 a proposed Order that would potentially be
3 contingent upon Judge Hall agreeing to the
4 same modification, because obviously you
5 can't have two separate bond Orders.

6 MR. UNDERWOOD: If Your Honor were
7 inclined to -- for her modifying the bond's
8 change of address, because as it is presently
9 she is living with her mother and is in the
10 custody of her mother. If she is going to be
11 outside of that environment, the State would
12 ask that she be placed on some type of home
13 incarceration or house arrest as part of her
14 bond. We would also ask that those
15 conditions be subject to Judge Hall agreeing
16 to the same conditions on the next case.

17 MR. SHOEMAKE: And we, of course, do
18 not object to that.

19 THE COURT: I'll go along with
20 combining your two recommendations, subject
21 to approval by Judge Hall. You may submit a
22 proposed Order as to both ---

23 MR. SHOEMAKE: Yes, Your Honor, we
24 will submit a proposed Order that will have
25 contingent language. That way when Judge

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1 Hall signs it, if he signs it, it will -- and
2 if I may approach, I will pass up the request
3 for continuation of bond, (tendering).

4 THE COURT: All right. Good luck to
5 you.

6 All right, let's go to Ms. Hollingsworth.
7 Any additional facts as to Ms. Hollingsworth?

8 MR. UNDERWOOD: No, Your Honor. She
9 is only pleading to Count 1.

10 THE COURT: All right. Ms.
11 Hollingsworth, you heard all those facts
12 recited by the Assistant Attorney General.
13 Do you agree with all the facts relating to
14 you?

15 DEFENDANT HOLLINGSWORTH: Yes, sir.

16 THE COURT: Do you still wish to plead
17 guilty?

18 DEFENDANT HOLLINGSWORTH: Yes, sir.

19 THE COURT: All right, I will accept
20 your plea. I find that it has been
21 knowingly, intelligently and voluntarily made
22 with the advice of competent legal counsel
23 with which you have indicated that you are
24 satisfied, and that there is a substantial
25 factual basis for the plea.

1 As previously indicated, this is a
2 deferred sentence and you will notified when
3 additional matters relating to you are
4 needed. You must abide by the terms of your
5 plea agreement. Anything else?

6 MR. THOMPSON: I request that she be
7 allowed to remain on bond.

8 THE COURT: Any objection?

9 MR. UNDERWOOD: Your Honor, I have no
10 objection subject to consent of the bonds
11 person. I believe -- I believe that the
12 bonds person was here, I don't know if she
13 still is.

14 (Memo: Representative of Millie's Bail
15 Bonding signed off on consent off the
16 record).

17 THE COURT: All right, I do not have a
18 problem with that as long as they consent.

19 Now, back to Mr. Larson.

20 MR. UNDERWOOD: Your Honor, may we
21 approach?

22 THE COURT: Yes.

23 (OFF RECORD BENCH CONFERENCE)

24 THE COURT: All right, y'all stand down
25 and talk. Is he on the trial roster for next

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1 week?

2 MR. ROBINSON: He is, Your Honor.

3 (OFF RECORD CONFERENCE BETWEEN DEFENDANT
4 LARSON AND COUNSEL ROBINSON)

5 (BRIEF RECESS)

6 THE COURT: Mr. Larson, I understand
7 that you had some issues with the facts that
8 were presented; is that correct?

9 DEFENDANT LARSON: Yes, sir.

10 THE COURT: I'll be glad to hear what
11 y'all discussed before I ask any additional
12 questions.

13 MR. ROBINSON: Yes, sir. Mr. Larson
14 and I spoke. He is going to admit to the
15 threshold amount.

16 THE COURT: Okay.

17 MR. UNDERWOOD: Yes, Your Honor. That
18 was our discussion, that Mr. Larson disagreed
19 with the aggregate amount that I had
20 mentioned to the Court. However, it is my
21 understanding that he will agree to the
22 threshold amount for twenty-eight to one
23 hundred grams, the threshold minimum being
24 twenty-eight grams.

25 THE COURT: All right. Mr. Larson, you

1 were in court just a few minutes ago and
2 heard Mr. Underwood recite all the facts that
3 relate to the case involving you -- part of
4 it was the conspiracy and part of it related
5 directly to you. Okay?

6 DEFENDANT LARSON: (Affirmative nod) --
7 yes, sir.

8 THE COURT: Do you need him to repeat
9 those facts?

10 DEFENDANT LARSON: No, sir. There were
11 some discrepancies but I agree to the 28 to
12 100.

13 THE COURT: You agree to the facts that
14 support these charges and that you agree at
15 least to the threshold amount of
16 methamphetamine, which ---

17 DEFENDANT LARSON: Yes, sir.

18 THE COURT: --- is twenty-eight grams?

19 DEFENDANT LARSON: Yes, sir.

20 THE COURT: The only issue that you
21 have previously was as to the amount, and
22 everything else supported the facts for the
23 possession of a controlled substance,
24 possession with intent to distribute
25 methamphetamine and trafficking meth-

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1 amphetamine in the amount of 28 grams to 100
2 grams conspiracy. Do you agree with those
3 facts?

4 DEFENDANT LARSON: Yes, sir.

5 THE COURT: Okay. I think I had
6 already discussed everything else.

7 Based on that and based on everything --
8 and you've had additional time to talk with
9 your attorney about any additional matters;
10 is that correct?

11 DEFENDANT LARSON: Yes, sir.

12 THE COURT: Based on everything, do
13 still wish to plead guilty?

14 DEFENDANT LARSON: Yes, sir.

15 THE COURT: To all three charges?

16 DEFENDANT LARSON: Yes, sir.

17 THE COURT: All right. Mr. Larson, I
18 will accept your plea on all three charges.
19 I find that they have been knowingly,
20 intelligently and voluntarily made with the
21 advice of competent legal counsel, that you
22 have indicated you are satisfied with his
23 representation of you; and that there is a
24 substantial factual basis for the plea.

25 We will defer sentencing. You will be

1 notified when additional -- the additional
2 times you will be needed in Court. You are
3 also to comply with terms of the plea
4 agreement.

5 DEFENDANT LARSON: Yes, sir.

6 THE COURT: Anything else on behalf of
7 Mr. Larson?

8 MR. UNDERWOOD: Nothing from the
9 State, Your Honor.

10 THE COURT: All right. Good luck to
11 you, sir.

12 (HEARINGS CONCLUDED)

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Case No. 15-GS-47-0008

Guilty Plea of January 25, 2017

Before The Honorable Perry H. Gravely

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF GREENVILLE)

I, the undersigned Deborah Garrison,
Circuit Court Reporter (retired) for the 13th
Judicial Circuit, hereby certify that the foregoing
is a complete and accurate transcript of the
hearing held in the within action heard on January
25, 2017, before The Honorable Perry H. Gravely;

I further certify that I am neither kin
nor counsel to any of the parties and have no
interest in the outcome of this action.



Deborah Garrison

Greenville, South Carolina

JAMES R. PARKS
CLERK, STATE GRAND JURY

IN THE COURT OF
GENERAL SESSIONS FOR
THE THIRTEENTH JUDICIAL CIRCUIT

CASE NO.: 2015-GS-47-08
(COUNT 1)
CASE NO.: 2015-GS-47-10
(COUNTS 1 & 2)

PLEA AGREEMENT

1. The Defendant, Jason Allen Larson, agrees to plead guilty to the offense of Trafficking in Methamphetamine 28-100 grams (Conspiracy), first offense, a violation of S.C. Code Ann. §44-53-375(C)(2)(a), a lesser-included offense of that alleged in indictment 2015-GS-47-08 Count 1, which carries a sentence range of seven (7) years to twenty-five (25) years and a fine of fifty thousand dollars (\$50,000.00). The State will recommend a sentence cap of fifteen (15) years to run concurrently with Defendant's current sentences and all other counts listed in this agreement. This is considered a violent and serious offense.

Prosecutor: *PK*

2. The Defendant, Jason Allen Larson, agrees to plead guilty to the offense of Possession With Intent to Distribute Methamphetamine, first offense, a violation of S.C. Code Ann. §44-53-375(B)(1) as alleged in indictment 2015-GS-47-10 Count 1, which carries a sentence of up to fifteen (15) years and/or a fine of twenty-five thousand dollars (\$25,000.00). The State will recommend that the sentence run concurrently with Defendant's current sentences and all other counts listed in this agreement.

3. The Defendant, Jason Allen Larson, agrees to plead guilty to the offense of Possession of a Schedule I-V Controlled Substance, first offense, a violation of S.C. Code Ann. §44-53-370(d)(2) as alleged in indictment 2015-GS-47-10 Count 2, which carries a sentence of up to six (6) months and/or a fine of up to one thousand dollars (\$1,000.00). The State will recommend a sentence of six (6) months to run concurrently with Defendant's current sentences and all other counts listed in this agreement.

4. The Defendant, Jason Allen Larson, agrees to fully and truthfully cooperate with the Office of the Attorney General of South Carolina, and any local, state and federal law enforcement agents in their investigation of the importation, possession, and distribution of controlled substances and related unlawful activities. This cooperation is to include, but is not limited to, truthful and complete debriefings of the Defendant's knowledge concerning unlawful drug activities and related unlawful activities. Also, the Defendant understands that he must fully disclose and provide truthful information to the State including any books, papers, or documents or any other items of evidentiary value to the investigation. The Defendant must also testify fully and truthfully before any grand

Def.'s Initials: JL Attorney's Initials: D Prosecutor: MC

juries and at any trials or other proceedings if called upon to do so, subject to prosecution for perjury for not testifying truthfully. The failure of the Defendant to be truthful or to cooperate at any stage can cause the obligations of the State of South Carolina under this Agreement to become null and void. Further, it is expressly agreed that if the obligations of the State under this Agreement become null and void due to the lack of truthfulness or cooperation on the part of the Defendant, the Defendant understands that: (1) the Defendant will not be permitted to withdraw his plea of guilty to the offense described above; (2) any and all additional charges known to the State may be filed in the appropriate county; (3) the State may argue for a maximum sentence for the offenses to which the Defendant has pled guilty; (4) the State may use any and all information and testimony provided by the Defendant in the prosecution of the Defendant for all charges; and, (5) the State may advise the Department of Corrections of the Defendant's status as an uncooperative defendant and may accordingly recommend redesignation of the Defendant to a higher custodial level.

5. The Defendant, Jason Allen Larson, understands and agrees that any and all assets or portions thereof acquired or obtained as a result of illegal trafficking in drugs shall be surrendered to the South Carolina Law Enforcement Division (SLED), and/or other law enforcement related organizations in South Carolina to be designated by the South Carolina Attorney General, in portions to be determined by the South Carolina Attorney General. The assets so surrendered to South Carolina authorities will be disposed of according to South Carolina law. The assets to be surrendered include, but are not limited to, cash, stocks, bonds, certificates of deposit, personal property, and real estate. Further, the Defendant agrees to fully assist the Office of the Attorney

Def.'s Initials: JL

Attorney's Initials: [Signature]

Prosecutor: [Signature]

General and SLED in the recovery and return to SLED, and/or other designated law enforcement agencies in South Carolina of any drug-related assets or portions thereof, either domestic or foreign, which have been acquired or obtained either indirectly or directly through unlawful drug activities. The Defendant must prevent the disbursement and immediately and voluntarily surrender to the Office of the Attorney General, SLED, and/or other designated law enforcement agencies in South Carolina, all other domestic and foreign assets in which he has any direct or indirect interest or control, if the assets are the proceeds of unlawful drug activities or are directly or indirectly related to the unlawful drug activities. The Defendant further agrees to immediately and voluntarily surrender to the Office of the Attorney General, SLED, and/or other designated law enforcement agencies in South Carolina, in portions to be determined by the South Carolina Attorney General, all conveyances, including but not limited to, aircraft, vehicles, or vessels, which have been used or were intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of controlled substances. By signing this Agreement, the Defendant consents to civil forfeiture of all assets currently in the possession of the government and further consents to civil forfeiture of all drug related assets seized by law enforcement agents in connection with this investigation.

6. The Defendant, Jason Allen Larson, further agrees to submit to polygraph examination(s) by any qualified state polygraph examiner should he be requested to do so regarding his knowledge of and involvement in drug-related activities, other related unlawful activities, and any and all assets and conveyances acquired and/or used by the Defendant or others, whether drug-related

Def.'s Initials: JA

Attorney's Initials: B

Prosecutor: JR

or not. This Plea Agreement is expressly contingent upon successful completion, to the satisfaction of the State, of the polygraph examination(s).

7. The Attorneys for the State reserve the right to summarize all evidence, which would have been presented at trial to establish a factual basis for the plea.

8. The Attorneys for the State agree to advise any Court or other authority of the extent and value of the Defendant's cooperation if called upon to do so by the Defendant.

9. The Defendant, Jason Allen Larson, agrees that as a part of the consideration for this plea he will not appeal his plea of guilty or any sentence he receives in General Sessions Court in South Carolina. The Defendant, Jason Allen Larson, acknowledges that he understands that he has a right of direct appeal of his guilty plea or sentence and that he knowingly, voluntarily and expressly waives this right of direct appeal. Additionally, the Defendant, Jason Allen Larson, understands that he has a right to file a post-conviction relief (PCR) action in this case but agrees to knowingly and voluntarily waive any post-conviction relief action except for claims that directly attack the effectiveness of advice to agree to this waiver.

10. The Defendant, Jason Allen Larson, understands that the State's obligations under this Plea Agreement are expressly contingent upon the Defendant's abiding by state and federal laws, and complying with the terms and conditions of this Agreement, both before and after sentencing, and any bond executed in this case. This Agreement in no way limits or affects the Defendant's potential exposure to further prosecution by any Solicitor's Office in the State of South Carolina or the United States Attorney for conduct which is not a basis for his indictment and prosecution by the State

Def.'s Initials: JL

Attorney's Initials: [Signature]

Prosecutor: [Signature]

Grand Jury of South Carolina.

11. The parties hereby agree that this Plea Agreement supersedes all prior promises, representations and statements of the parties; that this Agreement may be modified only in writing signed by all parties; and that any and all other promises, representations and statements, whether made prior to or after this Agreement, are null and void.

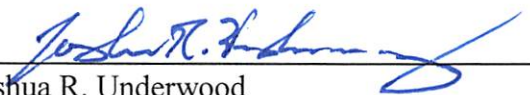
Def.'s Initials: JL

Attorney's Initials:

Prosecutor:

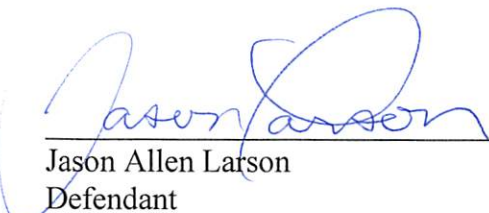
Alan Wilson
Attorney General of South Carolina

1/25/2017
DATE

By: 
Joshua R. Underwood
Assistant Attorney General

I have read this plea agreement carefully and reviewed each part of it with my attorney. I understand the terms of the plea and voluntarily agree to it, including the waivers of direct appeal and post-conviction relief as set forth herein.

1/25/17
DATE


Jason Allen Larson
Defendant

I represent Jason Allen Larson as legal counsel. I have carefully reviewed every part of this plea agreement with him. To my knowledge, the decision to make this plea agreement is informed and voluntary, including the waivers of direct appeal and post-conviction relief as set forth herein.

1/12/17
DATE


Scott D. Robinson, Esquire
Attorney for Defendant

STATE OF SOUTH CAROLINA)
) COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE) 2015-GS-47-08
)
)
)
THE STATE OF SOUTH CAROLINA)
) PLAINTIFF)
) vs.) TRANSCRIPT OF RECORD
)
JASON ALLEN LARSON)
) DEFENDANT)

May 18, 2018
Greenville, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, Judge.

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

JOSHUA UNDERWOOD, ESQ.
Attorney for the Attorney General

SCOTT ROBINSON, ESQ.
Attorney for the Defendant

APRIL HERRON
Official Court Reporter

2 | There were no exhibits.

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Certificate of Reporter 13

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1 THE COURT: Are you Jason Larson?

2 MR. LARSON: Yes, sir.

3 THE COURT: All right, Mr. Larson, you pled
4 guilty to these charges on January 25th of 2017 and
5 we're now here for sentencing.

6 So, Mr. Underwood.

7 SENTENCING

8 THE CLERK: Mr. Larson, can I swear you in?

9 JASON LARSON, after being duly sworn, testified
10 as follows:

11 MR. UNDERWOOD: May it please the Court, Your
12 Honor, this Defendant, Jason Alan Larson, pled guilty
13 to Indictment 2015-GS-47-08. On count one he pled
14 what was originally trafficking methamphetamine 400
15 grams or more by conspiracy. He pled to the lesser
16 included weight of 28 to 100 grams, first offense.
17 That carries a mandatory seven years to 25 years as
18 well as a fine of \$50,000. He also pled to
19 Indictment 2015-GS-47-10, counts one and two to
20 possession with intent to distribute methamphetamine,
21 first offense and possession of a scheduled one
22 through five controlled substance.

23 Your Honor, as to the trafficking charge, The
24 State is recommending a sentence cap of 15 years.
25 And recommending that all the charges run together,

1 concurrently. Your Honor, the role of this defendant
2 is, essentially, that he was selling methamphetamine
3 for Sandra Duncan, who is a high level conspirator in
4 this case. Ms. Duncan, who was the mother of
5 Christopher Smith, she is responsible for purchasing
6 multiple kilogram amounts of methamphetamine from a
7 number of Mexican nationals who were funneling
8 methamphetamine from Atlanta, Georgia to the Upstate.
9 She would then give that methamphetamine to other
10 dealers to sell for her. Mr. Larson was one of those
11 dealers. That was his role in this case.

12 He does have prior convictions, Your Honor. In
13 fact, he's currently serving a sentence, I believe,
14 for assault and battery of a high and aggravated
15 nature out of Pickens County. I believe the sentence
16 on that was either eight or nine years, I'll defer to
17 Mr. Robinson. He also has prior convictions for
18 malicious injury to property, three counts of
19 indecent exposure, violation of drug distribution
20 laws prohibited acts, unlawful use of a telephone and
21 another indecent exposure. That may be a probation
22 violation as to the rap sheet I'm referring to, Your
23 Honor.

24 THE COURT: All right.

25 Mr. Robinson, I'll be glad to hear from you.

1 MR. ROBINSON: May it please the Court. Your
2 Honor, I have here with me today his parents that are
3 back here that would like to say something in a
4 second. Judge, what we're asking for is a sentence,
5 a minimum sentence of seven years in this case.
6 We're actually asking that this be concurrent and
7 that it be backdated to when he started this sentence
8 about five years ago. He has a max out date in 2021.
9 But Judge, he has done remarkably well while he's in
10 jail. I've handed up to the court various
11 certificates he's received. He wants to go into some
12 ministry when he leaves prison. He has a daughter
13 who is graduating high school this year.

14 Judge, we asked, again, as I said, for the
15 minimum sentence in this case. And it be backdated
16 and concurrent. But I'd like the parents to speak as
17 well.

18 THE COURT: Yes, I'll be glad to hear from you.

19 MS. LARSON: My name is Dianna Larson and I'm
20 Jason Larson's mother. And I wrote what I would
21 wanted to say so that I didn't ramble.

22 THE COURT: All right, thank you.

23 MS. LARSON: Your Honor, I pray that God gives
24 you the wisdom to see the man Jason Larson standing
25 there before you now. It's not the same man that

1 stood there a year ago. Even though our prison
2 system doesn't do much to rehabilitate the inmates,
3 Jason beat the odds. He found it within himself to
4 enroll to rehabilitate himself with the help of our
5 Lord and his family. And even though Jason does not
6 live among us at home, he is still a big part of our
7 family and our extended family, his uncles, his aunts
8 and his cousins. He talks with us all frequently and
9 his daughter, of course.

10 He is sober, drug free and full of life now. He
11 has taken responsibility for his crimes and he has
12 repented for them and now strives to be a better man.
13 He has taken part in the programs offered in prison
14 such as Jump Start, Celebrate Recovery, Proverbs 221,
15 The Kairos Ministry. He was a chaplain assistant and
16 he also ran the sound board for the chapel. He has
17 been asked to speak at several events in the prison
18 to other inmates by peers and also Celebrate Recovery
19 and the Jump Start Program. He has recently been
20 asked to help lead Celebrate Recovery. He has
21 respect as he walks among the walls of prison. He
22 has no infractions the whole five years of his
23 incarceration. Has never once been in trouble or
24 called in for anything.

25 As his mother who knows him better than anyone,

1 I believe he is ready for a whole new life and will
2 make us all very proud. We could have -- what could
3 have made him very bitter didn't. It made him
4 better. I am thankful that God has given him this
5 second chance in life and it is my wish that you will
6 do the same by not adding more time to his sentence.
7 We still have a long way to go yet before he can come
8 back home to us. And as he is there he will continue
9 to grow and be a better man. And when he comes home
10 it will be worth it all to see him to be the citizen
11 and the father, the son and the brother and the man
12 that I know he's always been. And it's just now
13 taken all of this that he can do that. I ask for
14 leniency here, Your Honor.

15 THE COURT: Thank you. I realize that you are
16 parents and I'm sure y'all have been victims as a
17 result of all this.

18 MS. LARSON: When -- he didn't go to jail by
19 himself, we went with him.

20 THE COURT: Be glad to hear from you.

21 MR. LARSON: Your Honor, I made a lot of
22 mistakes in my life. I've had a lot of failures.
23 Some of my most valuable lessons has come from those
24 failures and those mistakes. I was a very selfish
25 person before my incarceration. Through my

1 incarceration I have been able to rehabilitate
2 myself. I've stayed out of trouble. I have beat the
3 odds. I stayed clear to gang activity, to
4 contraband, to cell phones. I strive to be a role
5 model inmate.

6 Your Honor, I -- I have a family that loves me
7 so much and I am so blessed. And I'd like to take
8 time to apologize to them and also thank them for the
9 unconditional love they show me and will continue to
10 show me. I intend on getting into ministry so I can
11 be accountable for my actions and also help other
12 people with the same experiences that I've gone
13 through. I just ask is that my max out date don't
14 change. I still have 34 months left. In those 34
15 months I can assure you that I will be a positive
16 citizen upon my release. Thank you for letting me
17 share.

18 THE COURT: All right, anything else?

19 MR. ROBINSON: No, sir, Judge.

20 MR. UNDERWOOD: Your Honor, if I may?

21 THE COURT: Yes, sir.

22 MR. UNDERWOOD: As to the request from the
23 defense as far as the time served in this case. Your
24 Honor, I do not oppose the sentence on these charges
25 running concurrently with his SCDC, however, as to

1 the request of backdating the credit for time served,
2 I don't believe that that would be appropriate.

3 Mr. Larson's ABHAN charge, which he was already in
4 custody when these charges came about, that arose
5 sometime significantly before these charge. I don't
6 feel it would be appropriate to give him credit for
7 that time in the middle.

8 He was already in custody, I believe, when he
9 was served with these indictments. He was served and
10 had his initial bond setting on December 8th of 2015.
11 However, I believe he was already in custody for the
12 ABHAN. His plea date of January 25th, 2017,
13 obviously, I have no opposition to backdating it to
14 that date. As in a normal case, the sentence had not
15 been deferred, it would have begin on that date
16 anyway. So, I have no opposition to backdating it to
17 January 25th of 2017. But I would oppose backdating
18 all way to the ABHAN charge.

19 MR. ROBINSON: And I would like to respond to
20 that, if I could?

21 THE COURT: Yes.

22 MR. ROBINSON: Judge, Jason has no control over
23 when they served him with an indictment or a charge.
24 He has no control over that. If they had taken the
25 time to serve him while he was in jail, he could have

1 started this a long time ago. He pled guilty on the
2 ABHAN charge with Judge Miller. This charge that
3 they have against him was no where to be seen. If
4 they had, while he was in that early stage done
5 something at that point, we could have gotten the
6 charge taken care of and started at that point. They
7 didn't do that. We believe or I believe that he's
8 entitled, and I think it's only fair, that he's
9 entitled to have the charge -- these charges and the
10 plea backdated as far as the time goes. It is fair,
11 it's just.

12 THE COURT: Well, he did two separate crimes and
13 therefore, I mean, you say it's fair and just that he
14 serve -- each case served takes care of both of
15 those? I'm not sure that's fair and just. I mean,
16 that's a good argument and all that but I'm not, you
17 know, it's two separate crimes that he's done and you
18 want him to just to -- you know, the more crimes you
19 do the less time you do? I mean--

20 MR. ROBINSON: I don't know if I'm going in that
21 direction, Judge. The direction I'm going in is here
22 he is, he's going to enter a plea on one charge.
23 They could have charged him around the same period of
24 time that he had this charge that he was waiting to
25 be sentenced or do a plea as far as the ABHAN goes.

1 They didn't do anything with that at that point.
2 That's what I'm saying. I know they're two separate
3 charges. But as far as when they could have served
4 him or indicted him or served a warrant on him, they
5 could have done that before the time that he either
6 pled guilty or shortly afterwards. That's where my
7 argument comes from. I understand that they're two
8 separate charges. But I ask that the -- it be --
9 that's where the justice and fairness comes in in
10 this case. Because he has no control over when they
11 serve the charge on him. Or indictment or anything
12 like that.

13 THE COURT: But isn't he serving time for
14 another charge that he's pled guilty to? Then he
15 doesn't automatically get credit for that time even
16 though he's been served with a warrant on another
17 one.

18 MR. ROBINSON: Okay.

19 THE COURT: Kind of like double dipping. These
20 are very serious charges here, too.

21 MR. ROBINSON: Yes, of course.

22 THE COURT: All right, anything else?

23 MR. ROBINSON: No, I haven't won the argument on
24 that so nothing else at this point.

25 THE COURT: All right. I think it's

1 appropriate. He's getting some additional -- I mean,
2 thing about it was he was serving time at the -- at
3 the time that he was served he was serving this other
4 charge that he had already pled guilty to.

5 MR. ROBINSON: Right, right.

6 THE COURT: And, I mean, discretionary even at
7 that point.

8 MR. ROBINSON: Yes, of course.

9 THE COURT: Because I'm willing to backdate it
10 to that point. But I think beyond that would be --
11 would not be consistent or I'm not sure even proper,
12 so. So, on the trafficking methamphetamine, the
13 sentence of The Court is nine years and \$50,000.
14 These are to run concurrent with each other. And
15 also the concurrent SCDC charge. Backdate it to
16 January 25th of 2017. On the possession with intent
17 to distribute, that's eight years. And on the
18 possession of scheduled controlled substance, that
19 will be time served.

20 MR. ROBINSON: Thank you, Judge.

21 THE COURT: Good luck to you.

22 (WHEREUPON, the proceedings were concluded.)

23

24

25

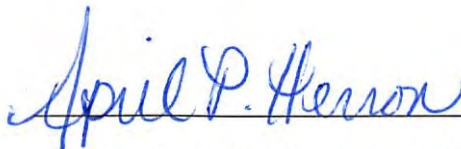
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for
the Thirteenth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and complete Transcript of Record of the
proceedings had and evidence introduced in the trial of
the captioned case, relative to appeal, in the Court of
General Sessions for Greenville County, South Carolina, on
the 18th day of May, 2018.

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

March 20, 2019



APRIL P. HERRON, Court Reporter

STATE GRAND JURY OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA

VS.

FILEDCASE NO. **2015 GS 47 087**

OCT 22 2015

JAMES R. PARKS
CLERK, STATE GRAND JURY**INDICTMENT FOR
UNLAWFUL DRUGS**

MARCELO MEDINA CRUZ,	)	Trafficking Methamphetamine
(A.K.A. "CHENCO"),	)	(Conspiracy)
ISAIAS ARIAS,	)	S.C. Code Ann. § 44-53-375(C)(5)
(A.K.A. "CHICO"),	)	(1 Count)
RAMON LUIS RIVERA DIAZ,	)	
MARIO ENRIQUE MORALES SANCHEZ,	)	Trafficking Methamphetamine,
(A.K.A. "CHIVA"),	)	400 grams or more
(A.K.A. "UNCLE"),	)	S.C. Code Ann. § 44-53-375(C)(5)
EDUARDO AGUIRRE ASSAD,	)	(4 Counts)
(A.K.A. "JOSE"),	)	
(A.K.A. "GORDO")	)	Distribution of Methamphetamine
(A.K.A. "ARABE")	)	S.C. Code Ann. § 44-53-375(B)
CHRISTOPHER DAMEON SMITH,	)	(9 Counts)
SANDRA DARLENE DUNCAN,	)	
(A.K.A. "MA"),	)	Trafficking Methamphetamine,
(A.K.A. "MAMA")	)	10 - 28 grams
WILLIAM BRIGHT, JR.,	)	S.C. Code Ann. § 44-53-375(C)(1)
(A.K.A. "BILLY"),	)	(5 Counts)
DANNY RAY BLACK,	)	
BARRY LEE UNDERWOOD,	)	Arson, Third Degree
ALEJANDRO NORENA GONZALEZ,	)	S.C. Ann. §16-11-110(C)
(A.K.A. "ALEJO"),	)	(1 Count)
LUIS ALBERTO FLORES MEZA,	)	
JUAN MANUEL ESPINOZA,	)	Trafficking Methamphetamine,
MARTHA MICHELLE COLLIER,	)	28 - 100 grams
(A.K.A. "BABY GIRL"),	)	S.C. Code Ann. § 44-53-375(C)(2)
PATRICK MARC KNIGHTS,	)	(4 Counts)
DELONDA WERSCHAY,	)	
(A.K.A. "DEE DEE"),	)	Trafficking Methamphetamine,
JEREMY MICHAEL LABOONE,	)	200 - 400 grams
JUSTIN THOMAS MARCENGILL,	)	S.C. Code Ann. § 44-53-375(C)(4)
JERRY DOUGLAS HOLMES,	)	(2 Counts)
(A.K.A. "COUNTRY"),	)	
(A.K.A. "PATRICK"),	)	Possession of a Firearm During the
	)	Commission or Attempt to Commit a
	)	Violent Crime
	)	S.C. Code Ann. §16-23-490
	)	(2 Counts)

JASON ALLEN LARSON,	)	Possession of Schedule I-V Controlled
JEREMY LEE STUBBS,	)	Substance
(A.K.A. "HONEY"),	)	S.C. Code Ann. § 44-53-370(d)(2)
MICHAEL DEAN KENNEDY,	)	(1 Count)
(A.K.A. "TINY"),	)	
MATTHEW EDWARD MELTON,	)	
TASHA REMONA JONES,	)	
LARRY EUGENE COLEMAN,	)	
(A.K.A. "BUBBA"),	)	
(A.K.A "POPPY"),	)	
AUBREY TAMARA TRAMMELL,	)	
(A.K.A. "TAMA"),	)	
STEPHANAE JOELLE HOLLINGSWORTH,	)	
(A.K.A. "JOELLE STEPHANA	)	
HOLLINGSWORTH"),	)	
BRANDON O'KEEFE PRIVETTE,	)	
	)	
	)	
DEFENDANTS.	)	

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on October 21, 2015 the State Grand Jurors present upon their oath:

COUNT ONE
TRAFFICKING METHAMPHETAMINE
(CONSPIRACY)
S.C. Code Ann. § 44-53-375(C)(5)

That

MARCELO MEDINA CRUZ (A.K.A. "CHENCO"), ISAIAS ARIAS (A.K.A. "CHICO"), RAMON LUIS RIVERA DIAZ, MARIO ENRIQUE MORALES SANCHEZ (A.K.A. "CHIVA") (A.K.A. "UNCLE"), EDUARDO AGUIRRE ASSAD (A.K.A. "JOSE") (A.K.A "GORDO") (A.K.A "ARABE"), CHRISTOPHER DAMEON SMITH, SANDRA DARLENE DUNCAN

(A.K.A. "MA") (A.K.A. "MAMA"), WILLIAM BRIGHT, JR. (A.K.A. "BILLY"), DANNY RAY BLACK, BARRY LEE UNDERWOOD, ALEJANDRO NORENA GONZALEZ (A.K.A. "ALEJO"), LUIS ALBERTO FLORES MEZA, JUAN MANUEL ESPINOZA, MARTHA MICHELLE COLLIER (A.K.A. "BABY GIRL"), PATRICK MARC KNIGHTS, DELONDA WERSCHAY (A.K.A. "DEE DEE"), JEREMY MICHAEL LABOONE, JUSTIN THOMAS MARCENGILL, JEREMY LEE STUBBS (A.K.A. "HONEY"), JERRY DOUGLAS HOLMES (A.K.A. "COUNTRY") (A.K.A. "PATRICK"), JASON ALLEN LARSON, MICHAEL DEAN KENNEDY (A.K.A. "TINY"), MATTHEW EDWARD MELTON, TASHA REMONA JONES, LARRY EUGENE COLEMAN (A.K.A. "BUBBA") (A.K.A. "POPPY"), AUBREY TAMARA TRAMMELL (A.K.A. "TAMA"), STEPHANAE JOELLE HOLLINGSWORTH (A.K.A. "JOELLE STEPHANA HOLLINGSWORTH"), and other persons whose names are both known and unknown to the State Grand Jury, did in Greenville County, Pickens County, Spartanburg County, Berkeley County, and Charleston County, of South Carolina, during the period of time extending from on or about January 1, 2011 until the present, conspire to sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State.

COUNT TWO
TRAFFICKING METHAMPHETAMINE, 400 GRAMS OR MORE
S.C. Code Ann. § 44-53-375(C)(5)

That MARCELO MEDINA CRUZ (A.K.A. "CHENCHO") did in Greenville County, on or about February 28, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THREE
TRAFFICKING METHAMPHETAMINE, 400 GRAMS OR MORE
S.C. Code Ann. § 44-53-375(C)(5)

That ISAIS ARIAS (A.K.A. "CHICO") and RAMON LOUIS RIVERA DIAZ did in Greenville County, on or about March 2, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FOUR
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That MARIO MORALES-SANCHEZ (A.K.A. "CHIVA") did in Greenville County, on or about November 13, 2013, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIVE
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That EDUARDO AGUIRRE ASSAD (A.K.A. "JOSE")(A.K.A. "GORDO")(A.K.A. "ARABE") did in Greenville County, on or about January 14, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT SIX
ARSON, THIRD DEGREE
S.C. Code Ann. § 16-11-110(C)

That EDUARDO AGUIRRE ASSAD(A.K.A. "JOSE") (A.K.A. "GORDO") (A.K.A. "ARABE"), LUIS ALBERTO FLORES MEZA, JUAN MANUEL ESPINOZA, and ALEJANDRO NORENA GONZALEZ (A.K.A. "ALEJO") did in Greenville County, on or about November 19, 2014, willfully and maliciously cause an explosion, set fire to, burn, or cause to be burned, or aid, counsel, or procure a burning that resulted in damage to a dwelling house, building, or structure, or any property which results, either directly or indirectly, in bodily injury to a person or damage to the property in violation of § 16-11-110(C), Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT SEVEN
TRAFFICKING METHAMPHETAMINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)

That LUIS ALBERTO FLORES MEZA did in Greenville County, on or about March 25, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT EIGHT
TRAFFICKING METHAMPHETAMINE, 200 - 400 GRAMS
S.C. Code Ann. § 44-53-375(C)(4)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") and JEREMY LEE STUBBS (A.K.A. "HONEY") did in Greenville County and Berkeley County, on or about April 30, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, two hundred (200) grams or more but less than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT NINE
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about November 21, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about November 25, 2014, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT ELEVEN
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about December 9, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWELVE
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about January 15, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT THIRTEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about February 18, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FOURTEEN
TRAFFICKING METHAMPHETAMINE, 400 GRAMS OR MORE
S.C. Code Ann. § 44-53-375(C)(5)

That SANDRA DARLENE DUNCAN (A.K.A. "MA") (A.K.A. "MAMA") did in Greenville County, on or about February 25, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT FIFTEEN
TRAFFICKING METHAMPHETAMINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)

That DANNY RAY BLACK did in Greenville County, on or about June 20, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT SIXTEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BARRY LEE UNDERWOOD did in Greenville County, on or about August 26, 2014, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT SEVENTEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BARRY LEE UNDERWOOD did in Greenville County, on or about December 23, 2014, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT EIGHTEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BARRY LEE UNDERWOOD did in Greenville County, on or about February 27, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT NINETEEN
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That BARRY LEE UNDERWOOD did in Greenville County, on or about March 13, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT TWENTY
DISTRIBUTION OF METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)**

That BARRY LEE UNDERWOOD did in Greenville County, on or about March 20, 2015, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine (“ice” or “crank”), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

**COUNT TWENTY ONE
TRAFFICKING METHAMPHETAMINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)**

That MARTHA MICHELLE COLLIER (A.K.A. “BABY GIRL”) and BRANDON O’KEEFE PRIVETTE did in Greenville County, on or about October 3, 2014, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of methamphetamine (“ice” or “crank”), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY TWO
TRAFFICKING METHAMPHETAMINE, 400 GRAMS OR MORE
S.C. Code Ann. § 44-53-375(C)(5)

That MARTHA MICHELLE COLLIER (A.K.A. “BABY GIRL”) and PATRICK MARC KNIGHTS did in Greenville County, on or about March 5, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, four hundred (400) grams or more of methamphetamine (“ice” or “crank”), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY THREE
POSSESSION OF A FIREARM DURING COMMISSION OF OR ATTEMPT TO
COMMIT A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That PATRICK MARC KNIGHTS did in Greenville County, on or about March 5, 2015, possess or visibly display a firearm during the commission of or attempt to commit a violent crime to wit: TRAFFICKING METHAMPHETAMINE, in violation of § 16-23-490, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY FOUR
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That JERRY DOUGLAS HOLMES (A.K.A. "COUNTRY") (A.K.A. "PATRICK") did in Greenville County, on or about June 9, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY FIVE
POSSESSION OF A SCHEDULE I-V CONTROLLED SUBSTANCE
S.C. Code Ann. § 44-53-370(d)(2)

That JEREMY MICHAEL LABOONE did, in Greenville County, South Carolina, on or about April 21, 2015, knowingly and intentionally possess (actually or constructively) a quantity of oxycodone, a Schedule II controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY SIX
TRAFFICKING METHAMPHETAMINE, 10 - 28 GRAMS
S.C. Code Ann. § 44-53-375(C)(1)

That JEREMY MICHAEL LABOONE did in Greenville County, on or about April 21, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, ten (10) grams or more but less than twenty-eight (28) grams of methamphetamine (“ice” or “crank”), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY SEVEN
POSSESSION OF A FIREARM DURING COMMISSION OF OR ATTEMPT TO
COMMIT A VIOLENT CRIME
S.C. Code Ann. § 16-23-490

That JEREMY MICHAEL LABOONE did in Greenville County, on or about April 21, 2015, possess or visibly display a firearm during the commission of or attempt to commit a violent crime to wit: TRAFFICKING METHAMPHETAMINE, in violation of § 16-23-490, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY EIGHT
TRAFFICKING METHAMPHETAMINE, 200 - 400 GRAMS
S.C. Code Ann. § 44-53-375(C)(4)

That DELONDA WERSCHAY (A.K.A. "DEE DEE") and JEREMY MICHAEL LABOONE did in Greenville County, on or about April 30, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, two hundred (200) grams or more but less than four hundred (400) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWENTY NINE
TRAFFICKING METHAMPHETAMINE, 28 - 100 GRAMS
S.C. Code Ann. § 44-53-375(C)(2)

That DELONDA WERSCHAY (A.K.A. "DEE DEE") and JEREMY MICHAEL LABOONE did in Greenville County, on or about April 30, 2015, knowingly possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, or provide financial assistance or otherwise aid, abet, attempt, or conspire to possess (actually or constructively), sell, manufacture, deliver, purchase, or bring into this State, twenty eight (28) grams or more but less than one hundred (100) grams of methamphetamine ("ice" or "crank"), a controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

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

A. True Bill

Henry McClure
FOREMAN

Alan Wilson
ALAN WILSON (jru)
ATTORNEY GENERAL

STATE GRAND JURY OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA)

VS.)

JASON ALLEN LARSON,)
FELICIA CHRISTINE KERSEY,)

DEFENDANTS.)

CASE NO. **2015GS 47 107****INDICTMENT FOR
UNLAWFUL DRUGS**Possession With Intent to Distribute
Methamphetamine
S.C. Code Ann. §44-53-375(B)
(1 Count)Possession of a Schedule I – V
Controlled Substance
S.C. Code Ann. §44-53-370(d)(2)
(1 Count)**FILED**

OCT 22 2015

JAMES R. PARKS
CLERK, STATE GRAND JURY

At a session of the State Grand Jury of South Carolina, convened in Columbia, South Carolina, on October 21, 2015 the State Grand Jurors present upon their oath:

COUNT ONE
POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE
S.C. Code Ann. § 44-53-375(B)

That JASON ALLEN LARSON and FELICIA CHRISTINE KERSEY did in Pickens County, on or about October 16, 2014, knowingly manufacture, distribute, dispense, deliver, purchase or aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to distribute, dispense, or deliver methamphetamine ("ice" or "crank"), a controlled substance under provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

COUNT TWO
POSSESSION OF A SCHEDULE I-V CONTROLLED SUBSTANCE
S.C. Code Ann. § 44-53-370(d)(2)

That JASON ALLEN LARSON did, in Pickens County, South Carolina, on or about October 16, 2014, knowingly and intentionally possess (actually or constructively) a quantity of hydrocodone, a Schedule II controlled substance under the provisions of § 44-53-110, *et. seq.*, Code of Laws of South Carolina (1976), as amended, such conduct not having been authorized by law and such activity occurring and/or having significance in more than one county of this State or arising out of or in connection with a crime having significance in more than one county of this State.

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

A True Bill

FOREMAN

Alan Wilson
 ALAN WILSON (jru)
 ATTORNEY GENERAL

STATE OF SOUTH CAROLINA

COUNTY OF

GREENVILLE

STATE

VS.

FILED

MAY 18 2018

JAMES R. PARKS
CLERK, STATE GRAND JURY

IN THE COURT OF GENERAL SESSIONS

7-25 / 50K

INDICTMENT/CASE#: 2015 -GS- 47 - 08 (COUNT 1)

JASON ALLEN LARSON

AKA: _____

Race: W Sex: M Age: 35

DOB: [REDACTED] SS#: [REDACTED]

Address: _____

City, State, Zip: _____

DL# [REDACTED] * SID# _____

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: TRAFFICKING METHAMPHETAMINE 28-100 GRAMS (CONSPIRACY), 1ST OFFENSE

In violation of § 44-53-375(C)(2)(a) of the S.C. Code of Laws, bearing CDR Code # 0392

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

ATTEST:

Assistant Attorney General

SC Bar # 76207

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 18 months days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ 50,000; provided that upon the service of _____ days/months/years and or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/18/18 + SCDC☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. Indicted to 4/25/17☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

PTUP _____

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning
Substance Abuse Counseling ☐*Fine: _____ \$ 50,000

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso 61.6 (Public Def/Probation) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00

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

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

3% to County (if paid in installments) \$ 8.25TOTAL \$ 50,283.25Clerk of Court/Deputy Clerk Margaret J. ScaCourt Reporter: April HebronRandom Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
Presiding Judge My MyJudge Code: 2755Sentence Date 5/18/18Plea Accepted Date(if different): 1/25/17Sentence Deferred
5/18/18
Rush

6m 10/10w
79

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

FILED

PICKENS

STATE

VS.

MAY 18 2018

INDICTMENT/CASE#: 2015 -GS- 47 - 10 (COUNT 2)

JASON ALLEN LARSON

AKA:

Race: W Sex: M

DOB: SS#:

Address:

City, State, Zip:

DL# * SID#

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

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

TO: POSSESSION OF A SCHEDULE I-V CONTROLLED SUBSTANCE

In violation of § 44-53-370(d)(2) of the S.C. Code of Laws, bearing CDR Code # 0179

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ \$17-25-45

(CSC w/minor 1st or Lewd Act)

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

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

ATTEST:

Assistant Attorney General

SC Bar # 76207

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center, for a determinate term of 78 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/18/18

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

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

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

SPECIAL CONDITIONS:

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

PTUP

Total: \$ plus 20% fee: \$

days/hours Public Service Employment

Payment Terms:

Obtain GED ☐

☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp.

Recipient:

May serve W/E beginning
Substance Abuse Counseling ☐

*Fine:

§14-1-206 (Assessments 107.5%) \$

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$

§56-5-2995 (DUI Assessment) \$12 \$

§56-1-286 (DUI Breath Test) \$25 \$

Proviso 61.6 (Public Def/Probation) \$500 \$

§14-1-212 (Law Enforce. Funding) \$25 \$

§14-1-213 (Drug Court Surcharge) \$150 \$

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

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

3% to County (if paid in installments) \$8.25 \$

TOTAL \$213.25

Clerk of Court/Deputy Clerk Mayant J. Self

Court Reporter: April Heron

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning

\$ Paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge Amy Hugg

Judge Code: 2753

Sentence Date 5/18/18

Plea Accepted Date(if different): 1/25/17

Sentence referred 5/18/18

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF

PICKENS

FILED

STATE

VS.

MAY 18 2018

JASON ALLEN LARSON

AKA:

Race: W Sex: M

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL# [REDACTED] * SID#

*CDL Yes ☐ No ☒ CMV Yes ☐ No ☒ Hazmat Yes ☐ No ☒In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: POSSESSION WITH INTENT TO DISTRIBUTE METHAMPHETAMINE, 1ST OFFENSE

In violation of § 44-53-375(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3198

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

ATTEST:

Assistant Attorney General

SC Bar # 76207

Defendant

Attorney for Defendant

SC Bar #

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections ☐ County Detention Center,for a determinate term of 8 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are
incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 5/18/18 + SCDC☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. Back date 4/25/17☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning

Substance Abuse Counseling ☐

*Fine:

\$14-1-206 (Assessments 107.5%)

\$14-1-211 (A)(1)(Conv. Surcharge)

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

\$56-5-2995 (DUI Assessment)

\$56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Probation)

\$14-1-212 (Law Enforce. Funding)

\$14-1-213 (Drug Court Surcharge)

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

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

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

Plea Accepted Date(if different): 4/25/17

Sentence Referred
Stacie [REDACTED]

ARREST WARRANT

2014A3910400065

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

THE STATE PCSON14-26192

against

Jason Allen Larson

Address: 946 Norris Hwy

Central, SC 29630-

Phone: SSN: [REDACTED]

Sex: M Race: W Height: 6'1" Weight: 205

DL State: SC DL #: [REDACTED]

DOB: [REDACTED] Agency ORI #: SC0390000

Prosecuting Agency: Pickens County Sheriff

Prosecuting Officer: Keith Littleton - 0299

Offense: Drugs/ Distribution, etc. of methamphetamine, 2nd

(Excludes manufacturing meth; see CDR Code

Offense Code: 3199

Code/Ordinance Sec: 44-53-0375(B)(2)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused

is to be arrested and brought before me to be

dealt with according to the law.

(L.S.)

Signature of Judge

RETURN

A copy of this arrest warrant was delivered to

defendant JASON ALLEN LARSON

on 10-17-2014

Signature of Court Clerk or Enforcement Officer

RETURN WARRANT TO:

General Sessions

P O Box 215

Pickens, SC 29671

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STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Personally appeared before me the affiant

Keith Littleton

being duly sworn deposes and says that defendant

Jason Allen Larson

did within this county and state on or about

10/16/2014

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

Pickens

in the following particulars:

DESCRIPTION OF OFFENSE: Drugs/ Distribution, etc. of methamphetamine, 2nd (Excludes manufacturing meth; see CDR Code

3777)

I further state that there is probable cause to believe that the defendant named above did commit

the crime set forth and that probable cause is based on the following facts:

The defendant, JASON ALLEN LARSON, did on or about 10/16/2014, have in his possession and control a quantity of

MATHAMPHETAMINE in excess of one gram, but less than ten grams. After a search of the vehicle, methamphetamine was

located in several locations of the vehicle within his immediate reach and control. The defendant has a prior drug conviction,

enhancing this charge to a second offense. The incident occurred within Pickens County S.C. Probable cause based on: 1)-PCSO

Incident Report# 14-26192. 2) Criminal History.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Pickens

Affiant's Address

216 C. David Stone Rd.

Pickens, SC 29671-

Affiant's Telephone

(864)898-5500

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

on or about 10/16/2014

defendant Jason Allen Larson

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

☒ County/ ☐ Municipality of

Pickens

) as set forth below:

DESCRIPTION OF OFFENSE: Drugs/ Distribution, etc. of methamphetamine, 2nd (Excludes manufacturing meth; see CDR Code

3777)

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or

her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as

soon thereafter as is practicable

Sworn to and subscribed before me

on 10/17/2014

Judge's Address

115-B Commons Way

Central, SC 29630-

Judge's Telephone

(864)639-8084

Issuing Court

☒ Magistrate ☐ Municipal ☐ Circuit

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GENERAL SESSIONS DOCKET TRACKING SHEET

Name: JASON ALLEN LARSON

Indictment #: 2015GS3900915

Address: 946 Norris Hwy

Warrant/Ticket #: 2014A3910400066

City: Central State: SC ZIP: 29630

No Warrant: _____

SS#: _____ Sex: M Race: W

Offense Code: 0180

Date of Birth: _____

Offense Name: Drugs / Poss. Of Other Co

State: SC Driver's License #: _____

Date of Arrest: October 17, 2014

DATE OF DISPOSITION: 8/20/2018

DISPOSITION:

- | | |
|---|------------------------------|
| _____ 1. Guilty Plea | * _____ 7. Remanded |
| _____ 2. Trial (Guilty) | _____ 8. Dismissed at Prelim |
| _____ 3. Trial (Not Guilty) | _____ 8. No Bill |
| * <u>X</u> _____ 4. Dism/Nol Pros/Pros Ended | * _____ 9. Failure to Appear |
| * _____ 5. Judicial Commitment | * _____ 10. Other |
| _____ 6. Judicial Dismissal | |
| * Explain: 04G Transfer to other prosecution (Statweide GJ) | |

Judge: _____

Ct. Reporter: _____

Defense Attorney: DOROTHY MANIGAULT

Solicitor: GENERAL ATTORNEY

Bar #: 78744

Offense Code: 0180 Offense Name: Drugs / Poss. Of Other Co

Sentence: _____

GENERAL SESSIONS DOCKET TRACKING SHEET

Name: JASON ALLEN LARSON Indictment #: 2015GS3900917
 Address: 946 Norris Hwy Warrant/Ticket #: 2014A3910400065
 City: Central State: SC ZIP: 29630 No Warrant: _____
 SS#: [REDACTED] Sex: M Race: W Offense Code: 3199
 Date of Birth: [REDACTED] Offense Name: DRUGS/MANUFACTURING METH
 State: SC Driver's License #: [REDACTED] Date of Arrest: October 17, 2014

DATE OF DISPOSITION: 8/21/2018

DISPOSITION:

- | | |
|--|---|
| ☐ 1. Guilty Plea | * ☐ 7. Remanded |
| ☐ 2. Trial (Guilty) | ☐ 8. Dismissed at Prelim |
| ☐ 3. Trial (Not Guilty) | ☐ 8. No Bill |
| * ☒ 4. Dism/Nol Pros/Pros Ended | * ☐ 9. Failure to Appear |
| * ☐ 5. Judicial Commitment | * ☐ 10. Other |
| ☐ 6. Judicial Dismissal | |
| * Explain: <u>04G Transfer to other prosecution (Statweide GJ)</u> | |

Judge: _____ Ct. Reporter: _____
 Defense Attorney: DOROTHY MANIGAULT Solicitor: JTC GENERAL ATTORNEY
 Bar #: 78744
 Offense Code: 3199 Offense Name: DRUGS/MANUFACTURING METH
 Sentence: _____

RECEIVED

JAN 23 2019

Referred to: Hanuligan IPB
 Answered: _____

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

JASON ALLEN LARSON)

SCDC# 338587)

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

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2018-CP-23-

APPLICATION FOR

POST-CONVICTION RELIEF

 2018 FEB 19 AM 11:14
 FILED CLERK OF COURT
 PAUL A. WILSON
 GREENVILLE, SC
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 TIGER RIVER CORRECTIONAL
2. Name and location of Court which imposed sentence GREENVILLE COUNTY COURT HOUSE
3. Name(s) of co-defendant(s) (if any) CONT'D TO SEPARATE PAGE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2015G53900917 DISTRIBUTION 2ND (METH)
 - (b) 2015G53900915 CONTROLLED SUBSTANCE
 - (c) 2015G54708 TRAFFICKING (CONSPIRACY)
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) MAY 18, 2018 9 YEARS / CONCURRENT BACK
 - (b) DATED TO 01/25/2017. DATE IN WHICH PLEA WAS SIGNED AND ACCEPTED.

PG 1

3) NAMES OF CO-DEFENDANTS:
 FELICIA KIRKSY, MARCELO MEDINA CRUZ
 (AKA "CHENCO"), ISAIAS ARIAS (AKA "CHICO"),
 RAMON LUIS RIVERA DIAZ, MARIO ENRIQUE
 MORALES SANCHEZ (AKA "CHIVA"), EDUARDO
 AGUIRRE ASSAD (AKA "JOSE") (AKA "GORDO"
 (AKA "ARABE"), CHRISTOPHER DAMEON SMITH
 SANDRA DARLENE DUNCAN, WILLIAM BRIGHT
 DANNY RAY BLACK, BARRY LEE UNDERWOOD
 ALEJANDRO NORENA GONZALEZ, LUIS
 ALBERTO FLORES MEZA, JUAN MANUEL
 ESPINOZA, MARTHA MICHELLE COLLIER,
 PATRICK MARC KNIGHTS, JUSTIN THOMAS
 MARCENGILL, JEREMY LEE STUBS,
 JERRY DOUGLAS HOLMES, MICHAEL DEAN
 KENNEDY, MATTHEW EDWARD MELTON,
 TASHA REMONA JONES, LARRY EUGENE
 COLEMAN, AUBREY TAMARA JONES,
 STEPHANAE JOELLE HOLLINGSWORTH,
 DELONDA WERSCHAY, JEREMY MICHAEL
 LABOONE, BRANDON O'KEEFE PRIVETTE

II) I WROTE ATTORNEY SEVERAL TIMES AND
 HE NEVER REPLIED. ATTORNEY WENT
 ON MEDICAL LEAVE FOR AN EXTENDED
 PERIOD OF TIME.

PLEA AGREEMENT STATED SENTENCE
 WOULD RUN CONCURRENT WITH THE

(CONT'D)

PG2

SENTENCE I AM SERVING TIME FOR NOW. SENTENCE START DATE SHOULD BE BACK DATED TO JUNE 2014. THIS START DATE OF 1/25/2017 WOULD BE A SPLIT SENTENCE WHICH WAS NOT STIPULATED IN PLEA AGREEMENT. ATTORNEY GENERAL USED EVIDENCE OF PHONE CALLS FROM PICKENS COUNTY DURING MY JAIL TIME FOR ATTEMPTED MURDER CASE BUT AT TIME OF SENTENCING, STATED IT WAS UNRELATED.

ATTORNEY GENERAL ELECTED TO PICK UP DISTRIBUTION & CONTROLLED SUBSTANCE CHARGES TO AIDE & ASSIST THEM TO INDICT ME ON CONSPIRACY. THEREFORE, I WAS NOT ALLOWED TO PLEA GUILTY AND I ENTERED S.C.D.C. WITH HOLDS & DETAINERS. BECAUSE OF THEM PICKING UP CHARGES I HAVE HAD TO REMAIN A LEVEL TWO CUSTODY STATUS INSTEAD OF A LEVEL ONE. MY CO-DEFENDANTS ARE RECEIVING ALL THEIR JAIL CREDITS.

I HAVE NO PRIORS FOR METH. THE ONLY ACTUAL POSSESSION IS NOT EVEN ENOUGH FOR A TRAFFICKING OFFENSE. SEVERAL OF MY CO-DEFENDANTS

(CONT'D) →

(c) N/A

6. Check whether a finding of guilty was made:

(a) after a plea of guilty ✓(b) after a plea of not guilty N/A(c) after a plea of nolo contendere N/A

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

NO

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

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

i. N/Aii. N/Aiii. N/A

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

i. N/Aii. N/Aiii. N/A

(c) the date of each such result:

i. N/Aii. N/Aiii. N/A

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

i. N/Aii. N/Aiii. N/A

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) TERMS OF PLEA AGREEMENT STIPULATED(b) APPEAL WOULD NOT BE FILED(c) —10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: INADEQUATE COUNSEL, TIME SERVEDNOT BEING CREDITED PER LAW

- (a) I WAS NOT ALLOWED TO PLEA GUILTY TO THE
 (b) DISTRIBUTION AT THE TIME OF MY AED(HAN) PLEA
 (c) WHICH HAS RESTRICTED ME TO A LEVEL TWO
DET. CUSTODY STATUS. 91RS TOO MUCH.

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

- (a) LACK OF CONTACT AND RESPONSE FROM ATTORNEY
 (b) NEVER REVIEWED OR DISCUSSED DISCOVERY
 (c) MATERIAL. NEVER HAD ANY ATTORNEY VISITS.

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. N/A

ii. N/A

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

(c) the disposition thereof:

i. N/A

ii. N/A

iii. N/A

Pg 3

HAVE ACTUAL POSSESSION OF A LOT MORE BUT RECEIVED THE SAME AMOUNT OF TIME AND SOME RECEIVED LESS TIME.

- 19) SINCE, THE ATTORNEY GENERAL TOOK PHONE RECORDS DURING MY JAIL TIME FOR THE ATTEMPTED MURDER CHARGE AND PRESENTED TO STATE GRAND JURY AS EVIDENCE AND ELECTED TO ADOPT MY DISTRIBUTION AND CONTROLLED SUBSTANCE CHARGES TO COUPLE WITH THE CONSPIRACY INDICTMENT MY SENTENCE START DATE SHOULD BACK DATE TO JUNE 2014. REDUCE TRAFFICKING SENTENCE BY ONE YEAR. BY DOING SO AND BACK DATING SENTENCE TO JUNE 2014 MY MAX-OUT WILL BE THE SAME AS MY A&B(HAN) SENTENCE. (APRIL 2021).

iv. N/A

(d) the date of each such disposition

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

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?

N/A

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

(a) which grounds have been presented

i. N/A

ii. N/A

iii. N/A

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

i. N/A

ii. N/A

iii. N/A

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) WAS NOT SURE WHEN SENTENCE WOULD BE BACK

(b) DATED TO - SCDC TOOK THREE MONTHS TO

(c) UPDATE SENTENCE.

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

- (a) your arraignment and plea? AT ARRAIGNMENT, NO. AT PLEA, YES
- (b) your trial, if any? NO TRIAL
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO APPEALS
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

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

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

- i. SCOTT ROBINSON
- ii. ~~9 EAST AVE~~ 819 EAST NORTH ST
- iii. GREENVILLE SC 29601

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

- i. PLEA AGREEMENT
- ii. SENTENCING
- iii.

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

BACK DATE SENTENCE START DATE TO 06/01/2014
AMEND SENTENCE ON TRAFFICKING TO 8 YEARS

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

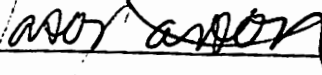
YES. ASSAULT & BATTERY (HIGH AND AGGRAVATED NATURE) - PICKENS COUNTY.

STATE OF SOUTH CAROLINA)

County of GREENVILLE)JASON LARSON)

VERIFICATION

I, _____, 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.



SWORN to and subscribed before me this 4
day of December, 2018

 (L.S.)
Notary Public

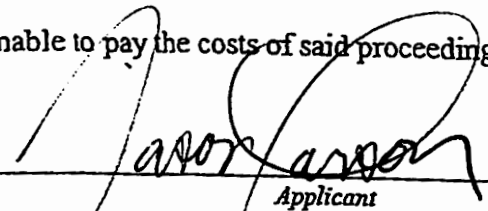
My Commission Expires: March 24, 2027

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

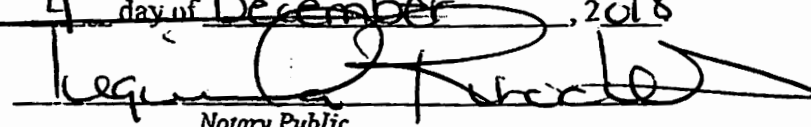
JASON LARSON

I, JASON LARSON, 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.

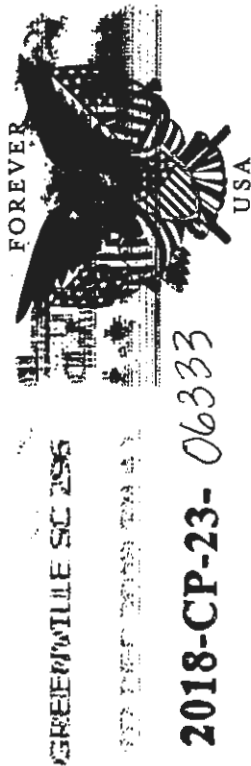

Applicant

SWORN or affirmed to and subscribed before me this
4 day of December, 2018


Notary Public

My Commission Expires: March 24, 2027

JASON CARSON 338587
 TYRCI 041204A
 200 PRISON ROAD
 ENOREE SC 29335



GREENVILLE SC 296

NO POSTAGE
 NECESSARY
 IF MAILED
 IN THE
 UNITED STATES

2018-CP-23- 06333

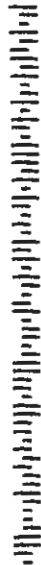
PAUL B. WICKENSIMER
 GREENVILLE CO. CLERK OF COURT
 305 EAST NORTH ST
 GREENVILLE SC 29601

RECEIVED

DEC 06 2018

TYRCI MAILROOM

29601-219099



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT
	)	
Jason Allen Larson, SCDC # 338587	)	Case No.: 2018-CP-23-06333
	)	
Applicant,	)	
	)	RETURN AND PARTIAL
	)	MOTION TO DISMISS
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed December 19, 2018, by Applicant Jason Allen Larson, Respondent (the State) would show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for the State Grand Jury.¹ On October 22, 2015, the State Grand Jury indicted Applicant for one count of conspiracy to traffic in cocaine (four hundred grams or more) (2015-GS-47-08) as part of a multi-count, multi-defendant indictment stemming from an investigation into a methamphetamine trafficking ring. On the same date, the State Grand Jury also indicted Applicant for possession with intent to distribute methamphetamine and possession of a schedule I-V controlled substance (2015-GS-47-10) along with co-defendant Felicia Kersey stemming from an October 16, 2014, traffic stop in which quantities of methamphetamine and other illegal drugs were recovered. Scott D. Robinson,

¹ Applicant is also serving active terms of imprisonment for unrelated convictions (assault and battery of a high and aggravated nature and possession of a weapon during the commission of a violent crime) arising out of Pickens County. Applicant pled guilty to these offenses on September 30, 2015 before the Honorable Edward W. Miller and never filed an application challenging these convictions. These convictions and sentences are **not** being challenged in this post-conviction relief action.

Esquire, represented Applicant. Assistant Attorney General Joshua Underwood of the South Carolina Attorney General's Office, prosecuted the case.

By plea agreement filed on January 25, 2017, Applicant entered into a written plea agreement, in which he agreed to “fully and truthfully cooperate with the Office of the Attorney General of South Carolina, and any local, state and federal law enforcement agents in their investigation of importation, possession, and distribution of controlled substances and related unlawful activities,” in exchange for a recommended sentence range of up to fifteen years imprisonment (effectively, for a sentence of between seven to fifteen years imprisonment) and allowing Applicant to plead to the lesser included offense of conspiracy to traffic in cocaine (28-100 grams) and the other two indicted offenses as indicted, with all sentences to be served concurrently with each other and with Applicant's unrelated sentences he was currently serving within the Department of Corrections. As part of this plea agreement, Applicant **expressly waived** his right to both a direct appeal and **post-conviction relief** action. (“The Defendant, Jason Allen Larson, agrees that as a part of the consideration for this plea he will not appeal his plea of guilty or any sentence he receives in General Sessions Court in South Carolina. The Defendant, Jason Allen Larson, acknowledges that he understands that he has a right of direct appeal of his guilty plea or sentence and that he knowingly, voluntarily and expressly waives this right of direct appeal. Additionally, the Defendant, Jason Allen Larson, understands that he has a right to file a post-conviction relief (PCR) action in this case but agrees to knowingly and voluntarily waive any post-conviction relief action except for claims that directly attack the effectiveness of advice to agree to this waiver.”). Applicant initialed each page of this written plea agreement and signed this plea agreement on January 25, 2017.

On January 25, 2017, Applicant appeared before the Honorable Perry H. Gravely, circuit court judge, and pursuant to the signed plea agreement, pled guilty to one count of the lesser included offense of conspiracy to traffic in cocaine (28-100 grams) (first offense), possession with intent to distribute methamphetamine (first offense), and possession of a schedule I-V controlled substance. At this hearing, Judge Gravely specifically asked Applicant if he understood the terms of his plea agreement and Applicant affirmed he did understand the terms of the plea agreement and had entered into the plea agreement freely and voluntarily. (Plea Tr. p. 13-14). Judge Gravely accepted Applicant's pleas and deferred sentencing.

On May 18, 2018, Applicant again appeared before Judge Gravely for a sentencing proceeding, represented by counsel Robinson. At this hearing, Robinson requested Judge Gravely not only run Applicant's new sentences concurrently with his unrelated, active sentences for his Pickens County convictions, but also ask that the new sentences be backdated to start when his active sentences started, essentially giving Applicant additional years of credit for time served on his unrelated sentences. The State opposed this request, stating Applicant would be unfairly benefitting from prior crimes if the court were to give him credit for the entirety of his active sentences but did agree Applicant should receive credit for the time served since entering his pleas in this case. Judge Gravely agreed Applicant would be unfairly benefitting from his prior crimes and gave Applicant credit for the time served since his plea was entered (January 25, 2017), but explicitly denied Applicant's request that he receive credit for the entirety of his sentence on the unrelated convictions. Judge Gravely sentenced Applicant to imprisonment for nine years for trafficking in methamphetamine, to eight years for possession with intent to distribute methamphetamine, and to time served for possession of a schedule I-V controlled

substance, with the sentences to be served concurrently to each other and to his active sentence. Applicant did not pursue a direct appeal.

II. Allegations Raised and Relief Sought in Application

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

1. Ineffective assistance of counsel
 - a. Counsel failed to respond to Applicant and did not visit with him
 - b. Counsel failed to review discovery with Applicant
 - c. Plea agreement breached because Applicant was not given credit for time served for the entirety of his unrelated sentence, which is also affecting Applicant's custody status within SCDC

As requested relief, Applicant states he is seeking resentencing to give him credit since June 1, 2014, and to amend his sentence for trafficking to eight years.

Attached herewith and incorporated herein by reference are the records of the South Carolina State Grand Jury Clerk of Court regarding the subject conviction (including the plea agreement), the transcripts from Applicant's plea and sentencing hearings, and Applicant's records for the Department of Corrections. Respondent reserves the right to amend its return upon the receipt of other relevant records.

III. Response to Allegations of Ineffective Assistance of Counsel

Applicant asserts his plea counsel was constitutionally ineffective for failing to review discovery with him, failing to respond to or sufficiently meet with him, and failing to ensure the plea agreement was honored to give him credit for all the time served on his unrelated sentence as stipulated in the plea agreement.

However, the record before this Court indicates that Applicant knowingly and voluntarily waived his right to collaterally attack his conviction, which includes his right to raise issues of ineffective assistance of counsel on any issue other than whether counsel properly advised Applicant regarding his right to post-conviction relief. Respondent asserts this application should be summarily dismissed, as it was filed in direct violation of his plea agreement waiving his right to challenge his guilty pleas and sentences through post-conviction relief.

The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008).

In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, an applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered

adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, 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).

Under South Carolina law, a criminal defendant can choose to waive his right to collateral review of his conviction. Spoone v. State, 379 S.C. 138, 665 S.E.2d 605 (2008) (holding that a waiver of appellate rights is valid and enforceable as long as it is knowing and voluntary). Plea agreements in general operate under contractual principles, and are upheld when each party receives the benefit of the bargain. State v. Thrift, 312 S.C. 282, 292, 440 S.E.2d 341, 347 (1994). Here, Applicant chose to plead guilty and agreed to waive his appellate and collateral attack rights in exchange for a favorable plea offer. Both parties received a benefit of the bargain, and this agreement is valid under contractual law.

However, South Carolina case law holds that, while appellate waivers are enforceable, a criminal defendant who has waived his right to challenge his conviction through direct appeal or collateral attack, such as post-conviction relief, is still entitled to raise the very narrow issue of challenging his attorney’s conduct in advising him to enter into the waiver. Sanders v. State, 412 S.C. 611, 617, 773 S.E.2d 580, 583 (2015) (“Consequently, we hold that although a defendant may waive his right to collateral review, he is nevertheless still entitled to challenge whether the

advice he received in agreeing to that waiver was constitutionally defective.”). Therefore, Respondent requests an evidentiary hearing be held for the sole purpose of determining whether Counsel was ineffective only in his representation surrounding his advice to waive Applicant’s appellate rights. All other allegations should be summarily dismissed.

IV. Any Future Amendments and Invocation of Discovery Process

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

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

V. 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, having made its return, the State requests an evidentiary hearing be held **solely** on the issue of ineffective assistance of counsel regarding counsel's advice to waive Applicant's right to appellate or collateral attacks on his pleas or sentences.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

April 30, 2019

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2018-CP-23-06333
	)	
JASON ALLEN LARSON, #338587,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

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

Sarah M. Henry, Esquire
Sarah Henry Law
406 Pettigru Street
Greenville, South Carolina 29601

DATED this the 30th day of April, 2019.

Caroline Collins, Administrative Coordinator
 For Respondent

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	2018-CP-23-06333
	)	
	)	
JASON A. LARSON	)	
APPLICANT	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA	)	
RESPONDENT)		

March 1, 2021
Greenville, South Carolina

B E F O R E:

THE HONORABLE R. SCOTT SPROUSE, Judge.

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

SARAH M. HENRY, ESQ.
Attorney for the Applicant

LINDSEY A. MCCALLISTER, ESQ.
Attorney for the State

APRIL HERRON
Official Court Reporter

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SCOTT ROBINSON

Direct By Ms. Mccallister 42
Cross By Ms. Henry 49
Redirect By Ms. Mccallister 59

There were no exhibits.

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Certificate of Reporter 68

1 (WHEREUPON, the following proceedings were held
2 via WebEx.)

3 COURT REPORTER'S NOTE: Due to remote platform
4 interruption and video/audio interference throughout the
5 hearing, those instances are denoted with [audio
6 distortion] in the transcript.

7 THE COURT: All right, do we have everybody for
8 our hearing? This is the case of Jason Allen Larson
9 vs. State of South Carolina, 2018-CP-23-6333.

10 MS. MCCALLISTER: Your Honor, I believe the
11 inmate is the only person that we're waiting on. And
12 I'll let Mr. Rody [ph], I think he on his way; is
13 that correct?

14 Your Honor, before we start, there is another
15 case that is on the roster for tomorrow, Martha
16 Collier Canaday.

17 (WHEREUPON, an off-the-record discussion was
18 held.)

19 THE COURT: Okay. So are you, Mr. Larson?

20 MR. LARSON: Yes, sir.

21 THE COURT: All right, do we have everyone now?

22 MS. MCCALLISTER: I believe so, Your Honor.

23 THE COURT: Okay. Well, Ms. McCallister, I'll
24 start with you. Tell me the procedural hearing
25 that's pertinent to our hearing today. And I believe

1 The State has a motion to dismiss then I'm going to
2 turn it over to Ms. Henry.

3 MS. MCCALLISTER: Thank you, Your Honor. Your
4 Honor, Mr. Larson is presently confined in the South
5 Carolina Department of Corrections pursuant to orders
6 of commitment of the Clerk of Court for The State
7 Grand Jury. He's also serving active terms of
8 imprisonment for unrelated convictions for assault
9 and battery of high and aggravated nature and
10 possession of a weapon during the commission of a
11 violent crime. Those are out of Pickens County he
12 pled to before Judge Miller and never filed a PCR
13 Application challenging those convictions. He did,
14 however, file an application challenging The State
15 Grand Jury conviction.

16 He was indicted on October 22, 2015 for one
17 count of conspiracy to trafficking cocaine 400-grams
18 or more. As part of a multi-count, multiple
19 defendant indictment stemming from an investigation
20 into a methamphetamine trafficking ring. On that
21 same date he -- The State Grand Jury also indicted
22 him for possession with intent to distribute
23 methamphetamine and possession of a Scheduled IV
24 controlled substance. Those charges were stemming
25 from a traffic stop in which quantities of

1 methamphetamine and other illegal drugs were
2 recovered. He was represented on these charges by
3 Scott D. Robinson. Assistant Attorney General Joshua
4 Underwood from the South Carolina Attorney General's
5 Office prosecuted the case.

6 Applicant entered into a written plea agreement,
7 which was filed on January 21, 2017. In which he
8 agreed to fully and truthfully cooperate with the
9 Office of Attorney General, any state, local and
10 federal law enforcement agents in their investigation
11 of importation, possession and distribution of
12 controlled substances in related unlawful activities.
13 In exchange, The State recommended a sentence range
14 up of up to 15 years imprisonment. And allowed
15 Applicant to plead guilty to the lesser included
16 offense of conspiracy to trafficking cocaine 28 to
17 100 grams in the two other offenses as indicted, with
18 all sentences to be served concurrently and
19 concurrent with the unrelated Pickens County
20 sentences.

21 As part of the plea agreement he expressly
22 waived his rights to both direct appeal and
23 post-conviction relief. He initialed each page of
24 that agreement and signed the agreement on
25 January 25th, 2017. He then on that same date

1 appeared before Judge Gravely and pursuant to that
2 agreement pled guilty, as I just stated to the lesser
3 included offense. And then to the two other offenses
4 as indicted. Judge Gravely specifically asked him if
5 he understood the terms of the plea agreement and he
6 affirmed that he did. Judge Gravely accepted the
7 pleas on that date but deferred sentencing.

8 On May 18, 2018, Mr. Larson, again, appeared
9 before Judge Gravely for the sentences proceeding,
10 again, represented by Mr. Robinson. At that hearing
11 Mr. Robinson requested that Judge Gravely run the new
12 sentence concurrent with the unrelated active
13 sentences and also ask that the new sentences be
14 backdated to start in December of 2015, I believe.
15 The State opposed the request and Judge Gravely,
16 ultimately, only backdated the sentence to
17 January 25, 2017. And sentenced him to imprisonment
18 for nine years on the trafficking charge, eight years
19 for the possession with intent to distribute and to
20 time served for the possession charge. He did run
21 all those sentences concurrent to each other and to
22 the Pickens County, the previous active sentence.

23 Mr. Larson did not pursue a direct appeal.
24 However, he filed this application for
25 post-conviction relief on December 19, 2018. The

1 State filed its return and partial motion to dismiss
2 on April 30th, 2019. Mr. Larson is represented in
3 this action by Ms. Sarah Henry. Both he and
4 Ms. Henry are present. And at the appropriate time
5 we would want to be heard on that motion to dismiss,
6 Your Honor.

7 THE COURT: Ms. Henry, is there anything you'd
8 like to add to the procedural history for the record?

9 MS. HENRY: No, Your Honor, I think that was
10 very accurate.

11 THE COURT: Okay, all right.

12 Ms. McCallister, let me hear your motion, then
13 I'll let Ms. Henry respond to that.

14 MS. MCCALLISTER: Thank you, Your Honor. The
15 motion is based, essentially, on the text of the plea
16 agreement. Your Honor, you should have a copy of
17 that agreement in your packet that was provided to
18 you.

19 THE COURT: I do. I do.

20 MS. MCCALLISTER: Okay. Your Honor, as you can
21 see the agreement is initialed on each by The
22 Defendant, initialed by his attorney and AG
23 Underwood. Your Honor, that agreement explicitly
24 states that he agreed to waive his right to a PCR
25 except for the [audio distortion] issue of whether

1 Mr. Robinson would be ineffective for advising him to
2 enter into this plea agreement. Mr. Robinson's
3 present, I can certainly put up Mr. Robinson to
4 testify about the issue of the entry into this plea
5 agreement, Your Honor. But it's The State's position
6 that this PCR should be dismissed because Mr. Larson
7 explicitly waived his right to file a PCR when he
8 entered into this plea agreement, Your Honor.

9 THE COURT: All right. Now, is the plea
10 agreement, the circumstances entering into the
11 hearing plea agreement [audio distortion] cited by
12 the Applicant in the application?

13 MS. MCCALLISTER: I'm sorry, Your Honor, can you
14 repeat that?

15 THE COURT: Is the advice, circumstance -- are
16 the circumstances surrounding the plea agreement, is
17 that a ground for the PCR listed in the application?

18 MS. MCCALLISTER: Your Honor, I don't believe
19 it's listed in the application explicitly.
20 Mr. Larson filed that application himself, Your
21 Honor. I believe he said that he -- I think [audio
22 distortion] but he said [audio distortion] had
23 contact from his attorney, never reviewed or
24 discussed discovery materials, never had any attorney
25 visits. I don't believe he, specifically, raises the

1 issue that Mr. Robinson was [audio distortion]
2 advising to enter into the plea agreement, Your
3 Honor. If you look at the application, there's some
4 handwritten explanation of his claims. And it has to
5 do with this issue of the time credit.

6 THE COURT: Okay.

7 All right, Ms. Henry.

8 MS. HENRY: Thank you, Your Honor. So, I guess,
9 we'll respond to this like this. I just kind of
10 would like to respond to what The State said
11 initially. So we have two separate arguments here,
12 okay. I think I sent you support for those documents
13 as exhibits in response to The State's motion to
14 dismiss. The State also has copies of those. I
15 understand there was a initial objection, the
16 majority of them are just excerpts so that we can
17 access things quickly. For instance [audio
18 distortion] and guilty plea transcript. I don't know
19 if The State has any further objection to entering
20 those public records as part of my response to their
21 motion to dismiss. All right.

22 MS. MCCALLISTER: Your Honor, if I could respond
23 to that because I do have an objection to entering
24 them as part of the response to the motion to dismiss
25 because those documents go to the merits. And the

1 issue that -- my position is that the Sanders issue
2 needs to be determined before we even get to the
3 merits. So those documents could, potentially, be
4 entered. Some of them are public record, that's
5 true, some of them could be, potentially, be entered
6 at a merits hearing but we're not at the merits stage.
7 We're only considering this issue of whether he's
8 even precluded from bringing this PCR by the plea
9 agreement itself. The Sanders issue of whether
10 Mr. Robinson appropriately advised him to enter into
11 that plea agreement and waived his right to PCR.

12 MS. HENRY: Yes, Your Honor. And that's what
13 those exhibits go to.

14 THE COURT: Okay. Okay. Let me ask you about
15 the relief sought in the application. Has there been
16 an amendment to the application for this case?

17 MS. HENRY: No, Your Honor, the application is
18 as it stands. As The Applicant wrote it.

19 THE COURT: Okay. Okay. All right. And do you
20 contest The State's allegations that under Sanders v.
21 State that you would be limited to testimony just to
22 the decision to enter into the plea agreement and the
23 advice he received from his attorney at the time?

24 MS. HENRY: Yes and no, Your Honor. We're
25 making two -- the Applicant in this case has made two

1 separate allegations related to the -- related to two
2 separate allegations in his PCR post-conviction
3 relief action. One of them I do think is implicated
4 by Sanders vs. State. The other one, I think, falls
5 under a totally separate PCR application [audio
6 distortion] and should be interpreted separately.

7 THE COURT: Okay. Tell me what you're prepared
8 to proceed under today and where that's included in
9 the application.

10 MS. HENRY: Yes, sir. So my understanding is
11 that The State's motion to dismiss their allegations
12 that he waived this post-conviction relief action as
13 part of his plea agreement. Our response to that is
14 twofold. One, we are making the allegation that the
15 advice to take the plea and to waive my client's
16 right to an appeal to a PCR was Constitutionally
17 defected [audio distortion] amendment. It was not
18 knowingly and voluntarily waived. I have the waiver
19 of rights from the guilty plea. And it's our
20 position that Mr. Robinson did not adequately explain
21 his rights [indiscernible] including the implications
22 of the rights that my client was waiving.
23 Particularly, as it relates to sentencing. And the
24 information that Mr. Robinson didn't put up during
25 the sentencing. I think, it's my understanding from

1 my client, that that was not discussed between either
2 The Court and my client or Mr. Robinson and my
3 client.

4 This situation, my client pled guilty and was
5 then sentenced, I believe, I'll pull up the timeline
6 that I submitted to The Court. I believe he pled
7 guilty in 2017 and wasn't signed until almost, I
8 think, 16 months, 18 months later when he was
9 sentenced in January 2017 and was sentenced on May
10 2018. It's my understanding from my client that he
11 did not -- he did not realize that in effect by
12 signing this he was waiving his ability to file a PCR
13 against Mr. Robinson for things like failing to
14 object to things during the sentencing. Failing to
15 make The Court aware of previous warrants and jail
16 time that he's entitled to. Failing to tell The
17 Court about Mr. Robinson's medical leave of absence
18 that, potentially, delayed the sentencing. Failing
19 to tell The Court about a co-defendant who was
20 sentenced under the exact same circumstances. And
21 whose sentence was backdated to 2015.

22 So my client was not aware that by signing this
23 plea agreement and was instructed by no one, that he
24 would also be waiving his ability to file a PCR
25 against Scott for failure to appropriately represent

1 him during the sentencing hearing. And so that is
2 our argument regarding The State's motion to dismiss
3 on the Sanders issue.

4 We have a second argument, which my client also
5 brings up [audio distortion] terms in his application
6 and that is that there is a problem, a legitimate
7 problem, I think, the statute number is 17-27-20.
8 And we're looking at A(1) and A(5) are the sections.
9 So we're, essentially, claiming the sentence is
10 violation of the laws in this state. In particular,
11 24-13-40. He's not receiving appropriate credit for
12 the time that he served prior to -- prior to the
13 guilty plea. And the reason is complicated, Your
14 Honor. It's one of the reasons why I included so
15 many exhibits for a motion hearing. I had explained
16 the majority of this to counsel already.

17 And I'm not sure how much time we have today,
18 Your Honor, but it's our position -- and I'm happy to
19 walk through it but it's our position -- but it's our
20 position that there were underlining warrants for
21 these charges. They were taken up by Statewide Grand
22 Jury. And Statewide Grand Jury then did a direct
23 presentment. You can see in Exhibit No. 2, the
24 guilty plea transcript, that they refer to the exact
25 same dates that were in the warrants. The warrants

1 are listed, I believe, are listed on this as well
2 under Exhibits 4, 4A and 4B. Those are the exact
3 same offense dates as are in the grand jury
4 indictments for those charges. And for some reason
5 nor Mr. Robinson nor Mr. Underwood brought them up
6 during sentencing.

7 And because Mr. Underwood chose not to reference
8 those warrants in his indictment, my client -- my
9 client had additional jail credit time that he had
10 earned, was not able to be computed by SCDC absent an
11 additional [indiscernible]. Which is the second
12 reason why we're here. Is that he has a second cause
13 of action for additional jail time outside of the
14 Sanders issue.

15 And it's our position that that applies to all
16 three of the previous charges, including the
17 trafficking and conspiracy. And again, that's why I
18 included all of those exhibits because I do believe
19 that it goes to disputing The State's motion to
20 dismiss.

21 THE COURT: Okay.

22 All right, Ms. McCallister, any response to
23 that?

24 MS. MCCALLISTER: Yes, Your Honor. Well, can I
25 clarify something first? Is Your Honor going to

1 accept the exhibits as part of this hearing? Because
2 I have individual objections if those are coming in.
3 And I don't know if Your Honor wants to hear those or
4 get through this on the Sanders issue first?

5 THE COURT: Well, let's get through this first--

6 MS. MCCALLISTER: Okay.

7 THE COURT: -- and then as we proceed you can
8 bring up objections and deal with each one at the
9 time.

10 MS. MCCALLISTER: Okay. Your Honor, first of
11 all, I assume that both of these issues that she's
12 arguing, I mean, the second issue that she's talking
13 about with the jail credit, The State's position is
14 it's not a PCR issue. I think [audio distortion]
15 recently clarified that those types of sentencing
16 related claims under Al-Shabazz should be brought
17 through SCDC's grievance procedure and to, if
18 necessary, through the Administrative Law Court. The
19 only time it becomes, potentially, becomes a PCR
20 claim would be if he was claiming that he would be
21 immediately released upon these credits.

22 And so, that's not pled, certainly, in this --
23 in the current [audio distortion] as it stands. Even
24 so, Your Honor, the issue is that this plea
25 agreement, specifically, says that Mr. Larson

1 waives -- and I'll read -- let me get -- quote the
2 text.

3 Paragraph 1 on Page 5 of 7 of the plea
4 agreement, that he acknowledges and understands that
5 he has the right of a direct appeal, he knowingly,
6 expressly waives that right. He also understands
7 that he has a right to file a post-conviction relief
8 action in this case but agrees to knowingly and
9 voluntarily waive any post-conviction relief action,
10 except for claims that directly attack the
11 effectiveness of advice to agree to this waiver.

12 So he initialed that page. His attorney
13 initialed that page. So that is part of the plea
14 agreement in expressed terms that the only claim that
15 he can raise are issues that attack the waiver. So
16 this credit claim is not a claim that attacks the
17 waiver. And as the application stands now, there is
18 no current claim that directly attacks that waiver.
19 So it's the State's position -- again, Mr. Robinson
20 is here. We can take some testimony from him, from
21 Mr. Larson, about their conversations on the entry of
22 that plea agreement. But it's The State's position
23 that the, as the text of the plea agreement says,
24 that he is waiving everything except for that issue.

25 And the Sanders case is directly on point. The

1 Sanders case, basically, found that a plea agreement,
2 you know, is enforceable under contract laws, this
3 was a negotiated guilty plea. He agreed to waive
4 these collateral rights in exchange for a favorable
5 negotiated sentence. Both parties received the
6 benefit of the bargain. And the agreement is valid
7 under contractual law.

8 THE COURT: Okay.

9 MS. MCCALLISTER: That's The State's position.

10 THE COURT: Okay. Ms. McCallister, would you
11 agree that based on what The Applicant filed, and I
12 have this petition in front of me, it appears as
13 though -- you told me the chief problem that he has
14 with what happened is the calculation of the time
15 served. Then you would agree that his remedy,
16 ordinarily, if he alleges that a Judge calculated the
17 time served incorrectly on the sentencing sheet,
18 would be to appeal that; is that not correct?

19 MS. MCCALLISTER: Correct. Or, you know,
20 potentially, to go through the grievance procedure at
21 SCDC. If he's claiming that he's statutorily
22 entitled to it, then that's something that could be
23 raised through that procedure and through the ALJ.

24 THE COURT: But the appellate option is taken
25 out by this agreement?

1 MS. MCCALLISTER: That's correct.

2 THE COURT: So I guess what my question is, how
3 is his conversation with his attorney and what he's
4 alleging here not related to a claim about the advice
5 that he received before he gave up the remedy that he
6 would have had if he's challenging the way the Judge
7 is calculating the time served?

8 MS. MCCALLISTER: Well, I'm trying to make sure
9 I'm following your question, Your Honor. I think
10 this issue is that what Sanders says is that he's
11 only allowed to raise this issue of whether he
12 properly was advised to waive those things. I mean,
13 by the very nature of entering into a plea agreement
14 like this, you waive claims. You may not know fully
15 the claims that you're waiving. But you do so in
16 order to receive -- to receive the benefit of the
17 bargain. So if he was informed that, you know,
18 there's potential claims that he might be waiving and
19 he chose to do so, then that waiver is still -- the
20 waiver is still valid.

21 THE COURT: Okay.

22 MS. MCCALLISTER: So I think that's what we need
23 to determine is whether that waiver was valid before
24 we get into all these [audio distortion] and that's
25 what we're asking for. I think with the standard.

1 THE COURT: Well, this is what I'm going to do.
2 I'm going to deny The State's motion to dismiss at
3 this time and I'll allow The Applicant to proceed.
4 However, we will be limited in the testimony to the
5 advice and circumstances surrounding and entering
6 into the agreement and the waiver. And we're going
7 to stick to that. Now, I'm liberally construing the
8 pleadings. The Applicant was not represented by
9 counsel but The Court is able to ascertain where the
10 argument is based on reading the pleadings. So we'll
11 proceed on that basis and, Ms. McCallister, again,
12 you can raise any objections to any exhibits they
13 seek to admit as they want to admit.

14 MS. HENRY: I apologize, Your Honor, I do have a
15 quick question.

16 THE COURT: Yes.

17 MS. HENRY: I do want to make sure, the
18 resolution as the attorney general has proffered it
19 to The Court, is that my client cannot file a PCR or
20 appeal in order to have another state statute
21 recognized that gives him access to the time that he
22 is statutorily entitled to. I've been told by SCDC
23 that they cannot compute the time without an
24 additional judicial order. I would really beg The
25 Court to allow me to present information on that

1 topic. Because I don't believe, since the AG has
2 pointed out that this is a contract, the contract,
3 that any contract can be construed in violation of
4 rights that are, specifically, granted by a state
5 statute.

6 THE COURT: All right, I'll allow you to proffer
7 that testimony for purposes of this hearing and with
8 the statute. But as far as the PCR application is
9 going to go, we're going to stick to the Sanders vs.
10 State issue. I'll allow you to present it in as a
11 proffer, okay.

12 MS. HENRY: Thank you, Your Honor.

13 THE COURT: All right, Ms. Henry, you can call
14 your witness.

15 MS. HENRY: Thank you, Your Honor. I call Jason
16 Larson.

17 THE COURT: Okay, Mr. Larson, raise your right
18 hand.

19 JASON LARSON, after being duly sworn{,}testified
20 as follows:{F}

21 THE CLERK: State your name for the record,
22 please.

23 THE WITNESS: Jason Larson.

24 THE COURT: Okay.

25 All right, Ms. Henry, your witness.

JASON LARSON-DIRECT BY MS. HENRY

1 MS. HENRY: Okay, thank you, Your Honor.

2 Everybody bear with me, I think this is kind of
3 the first time I tried to do something like that over
4 the internet.

5 DIRECT EXAMINATION

6 BY MS. HENRY:

7 Q Okay. All right. Mr. Larson, can you tell us
8 where you're located right now?

9 A Livesay Correctional Institution.

10 Q What are you serving time for?

11 A Several different charges. Serving time for
12 assault and battery high and aggravated nature and
13 currently a trafficking methamphetamine 28 to 100.

14 Q Okay. All right. Let me take a look at this
15 here. Okay. So regarding your possession with intent to
16 distribute, your possession of a controlled substance, who
17 were you represented by first?

18 A Scott Robinson.

19 Q So Scott Robinson?

20 A Excuse me, he advised my mother before we pled
21 out to the assault and battery high and aggravated nature,
22 he was not going to be able to be my representation
23 because the Attorney General's office picked that charge
24 up.

25 Q Okay. Who represented you on the possession of

JASON LARSON-DIRECT BY MS. HENRY

1 controlled substance and the possession -- PWID prior to
2 Scott Robinson?

3 A No one.

4 Q Dorothy Manigault did not represent you on this
5 charge?

6 A Oh, yes, ma'am, yes, ma'am.

7 Q Okay. That's okay. Listen, we're walking
8 through it. Okay. So in your conversations with Scott
9 Robinson -- let me make sure I got the timeframe right
10 here. All right. So were you -- okay. All right. Were
11 you arrested on October 17, 2014 for the possession of
12 controlled substance and possession with intent to
13 distribute?

14 A Yes, ma'am.

15 Q Okay. All right. And were you indicted on
16 October 22, 2015 for -- by the Statewide Grand Jury for
17 possession of controlled substance, PWID and conspiracy?

18 A Yes, ma'am.

19 Q Okay. Were you arrested or served the warrant
20 on the conspiracy charge December 8th, 2015?

21 A Yes, ma'am.

22 Q Okay. Did you plead guilty to the -- to all
23 three of those charges on January 25, 2017?

24 A Yes, ma'am, I did.

25 Q Okay. All right. And were you sentenced May

JASON LARSON-DIRECT BY MS. HENRY

1 18th of 2018?

2 A Yes, ma'am.

3 Q Okay. That was on all of those charges?

4 A Yes, ma'am.

5 Q And you received time served on the controlled
6 substance; is that correct?

7 A Yes, sir.

8 Q [audio distortion] months on the conspiracy?

9 A Yes, ma'am.

10 Q Okay. And eight years on the possession of --
11 PWID?

12 A Yes, ma'am.

13 Q Okay. You had pled guilty to ABHAN and
14 possession of a weapon during the commission of a violent
15 crime September 30th of 2015; is that correct?

16 A Correct.

17 Q Okay. All right. Your sentence was backdated
18 during your--

19 MS. MCCALLISTER: Your Honor, I'm going to
20 object. I mean, as I understood what you just ruled,
21 you ruled that we are having -- we're taking
22 testimony on the issue of entering into a plea
23 agreement, specifically. So -- and, specifically,
24 the advice to waive his right to PCR and direct
25 appeal. So these questions are about other issues.

JASON LARSON-DIRECT BY MS. HENRY

1 So I'm just making sure we're on the same page. And,
2 I guess, I would object to going into other than the
3 issue of the advice given about the entry of the plea
4 agreement, specifically.

5 MS. HENRY: Your Honor, our objection and our
6 problem with the advice given about the plea
7 agreement is, specifically, related to the
8 sentencing. I'm making sure that my client on the
9 record understands and is confirming the dates and
10 information that he has about those charges and what
11 he pled to, etcetera.

12 THE COURT: All right, overrule the objection.
13 Go ahead.

14 MS. MCCALLISTER: Thank you, Your Honor.

15 BY MS. HENRY:

16 Q All right. Okay. Jason, can you talk to us a
17 little bit about what your conversations with Scott were
18 about related to the plea agreement? Specifically,
19 related to you waiving your right to a post-conviction
20 relief action for ineffective assistance of counsel and
21 waiving your right to an appeal.

22 A I was never advised about waiving the PCR. I
23 wasn't advised about the rights that I was waiving to
24 appeal the situation. But during the whole course of --
25 from the time I was indicted to the time I was sentenced,

JASON LARSON-DIRECT BY MS. HENRY

1 Mr. Robinson was on extensive medical leave. I had very
2 little contact with Mr. Robinson before sentencing. He
3 did not guarantee me but, you know, we both felt
4 comfortable that the sentence was going to go our way.
5 And since it was agreed to run concurrent, then the
6 sentence would be backdated to the original sentence of
7 the ABHAN. And that was not the case.

8 Q Okay. All right. So did Scott ever tell you
9 prior to the sentencing that you would get or that you
10 would be assured or that you would absolutely get jail
11 credit for time you served?

12 A Yes.

13 Q Okay. Was it your understanding that legally
14 you were entitled to receive credit for time that you had
15 served?

16 A Yes.

17 Q Okay. So at the sentencing, did -- let's see,
18 at the sentencing did Scott bring up the fact that you had
19 served time prior to pleading guilty to the ABHAN and
20 prior to this guilty plea?

21 A He did.

22 Q What did he say about that?

23 A He actually told Judge Gravely that, you know,
24 we don't have any control we when the AG's office decides
25 to indict me, nor do we have control over when the AG's

JASON LARSON-DIRECT BY MS. HENRY

1 office offers me a plea agreement.

2 Q Right. So let me bring you back into these
3 dates, okay. All right. And, Jason, I know that you know
4 this information, I know you have a timeline there. So
5 you did not receive credit for the time that you spent in
6 jail from October --

7 I thought I was allowed to proffer this
8 information, I apologize.

9 MS. MCCALLISTER: Your Honor, again, so again,
10 this is -- my -- this is outside the scope of the
11 issue of whether or not Scott gave valid advice to
12 enter into this plea agreement. I understand that
13 Ms. Henry claims that this issue is -- that this is
14 relevant to that advice but it's not. The Sanders
15 hearing is about whether Scott properly advised him
16 to waive -- to knowingly and voluntarily waive his
17 right to PCR. These questions have to do with the
18 merits of the underlining claims that she is trying
19 to raise. If we're going to get into that, Your
20 Honor, I think I said in my email earlier that The
21 State was requesting a continuance on those issues.
22 So that's not [audio distortion] I mean, these
23 documents that Ms. Henry presented in her email
24 earlier today, some of them I have, some of them I do
25 not have. I'm under quarantine, haven't been able to

JASON LARSON-DIRECT BY MS. HENRY

1 go and talk to people at the office that I would need
2 to talk to get into these issues. So I understand
3 Your Honor is ruling that she can -- that we can take
4 testimony on this issue of whether Mr. Robinson was
5 ineffective in entering into this agreement but these
6 questions don't have anything to do with that advice,
7 specifically.

8 MS. HENRY: Your Honor.

9 THE COURT: Yeah, go ahead, Ms. Henry, respond
10 to that.

11 MS. HENRY: I understand, again, this is the
12 basis of our -- this is the basis of our response to
13 the motion. Is that Scott was, like, demonstratively
14 ineffective for three basic reasons related to the
15 sentencing. And I understand that that is part of
16 the merits. The reason that I'm walking through my
17 client through that is that he was not advised that
18 that type of ineffectiveness, that he would not be
19 able to file a PCR. I mean, that's why we're
20 discussing it. It directly goes to Sanders. I mean,
21 again, there are lots of other issues, other problems
22 that we could have brought up. We're only bringing
23 up these that are related to problems with sentencing
24 and with ineffective assistance related to the
25 sentencing, because that is -- those are the -- those

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1 are the problems that are -- that my client was not
2 advised that he could not appeal.

3 THE COURT: Okay, Ms. McCallister, who else
4 would you need for the hearing? You have the
5 attorney here.

6 MS. MCCALLISTER: I do, yes. I would,
7 potentially, need Mr. Underwood, who was the AG who
8 handled this hearing as well. Some of the documents
9 Ms. Henry submitted that she wants to admit, don't
10 relate to this case, they relate to a completely
11 separate defendant, so I haven't had any time to look
12 at those files or pull those or figure out what those
13 have to do with the case. Because I just got them at
14 one o'clock this afternoon and B, I'm confined to my
15 house at the moment. So I haven't had a chance to
16 fully look at that.

17 Also, I believe she included an email from SCDC,
18 that witness is not here. That exhibit would be
19 hearsay. So all of these things have not -- I
20 haven't had a chance to fully explore them if we're
21 going to get into the merits of the issue. I am
22 fully prepared to cross-examine Mr. Larson and to put
23 up Mr. Robinson as a witness. But again, as
24 Ms. Henry admits, these issues goes to the merit of
25 the PCR claims. These are not questions about what

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1 Mr. Robinson advised him and what they talked about
2 when he decided to enter this plea agreement. This
3 is specific, you know, this Paragraph 9 is really the
4 issue.

5 THE COURT: Okay. Let me look at it. Hold on.
6 All right, it says the effectiveness of advice -- to
7 attack the effectiveness of advice to agree to
8 waiver.

9 So your argument is that anything surrounding
10 the case about his -- obviously, his chief argument
11 in the case is about the way the time served was
12 credited. So is it your position that he can't bring
13 up any statement that his attorney made to him about
14 what time he was going to receive?

15 MS. MCCALLISTER: Well, no, Your Honor. My
16 position is that we haven't gotten to that point yet.
17 That would be something that we get to after Your
18 Honor rules on whether Mr. Robinson was ineffective
19 in advising Mr. Larson to enter into this plea
20 agreement. And I believe that's -- that's the issue
21 that Sanders says is that -- I got a quote here, if
22 you'll give me one second, if I can just find it.

23 That a defendant may waive his right to
24 collateral review, he has nevertheless entitled to
25 challenge whether the [audio distortion] agreeing to

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1 that waiver was constitutionally defective.

2 So what they talked about, other than the entry
3 of the plea agreement and, specifically, waiving the
4 right to PCR, would be outside the scope of Sanders.
5 So The State -- what The State is asking for is for
6 Your Honor to rule on that issue, specifically. And
7 then if Your Honor decides that Mr. Robinson was
8 ineffective in advising Mr. Larson to waive that
9 right to PCR, then he would be entitled to a full
10 evidentiary hearing. But until Your Honor makes that
11 ruling, he's not entitled to go into all these other
12 issues.

13 And so what Mr. Robinson told him about
14 sentencing and time that he would receive, those
15 would be merit issues. Those don't have anything to
16 do with the advice that Mr. Robinson gave him about
17 this waiver provision.

18 MS. HENRY: Your Honor, I don't know how you can
19 make a decision in a vacuum like that. I don't know
20 how you can make a decision about whether to proceed
21 with this hearing without knowing what their
22 conversations were, particularly, about the
23 sentencing. I don't know -- I think if that's what
24 the Court -- I think if that's what the Court
25 intended to do, then the answer would always be no.

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1 And that's clearly not what they intended.

2 THE COURT: I'm going to overrule the objection.
3 I don't believe I can make a determination about the
4 effectiveness of the advice to agree without knowing
5 some factual basis for that advice.

6 Now, as to your other concern, Ms. McCallister,
7 we have a term that last all week, so if there is a
8 witness that you have that you would like to call
9 that's unavailable, I can keep the record open.
10 Since we're doing this remotely anyway, I can keep
11 the record open if there's a witness that you need
12 after today. So we'll cross that bridge when we get
13 to it. I don't want to shut you out of the ability
14 to respond. But I don't think I can make an informed
15 decision on the waiver without hearing some of the
16 facts.

17 But, Ms. Henry, keep it to what they discussed
18 when the decision to sign this.

19 And I'm noting this is on Page 5 of the
20 agreement, Paragraph 9. It appears to have the
21 attorney, prosecutor and the Defendant's initials at
22 the bottom.

23 MS. MCCALLISTER: Your Honor, I'm sorry, I just
24 want to say, if I keep objecting, I understand your
25 ruling but I may keep objecting just to preserve the

JASON LARSON-DIRECT BY MS. HENRY

1 record for The State. I just want to. . .

2 THE COURT: Well, your objection is noted.

3 MS. MCCALLISTER: Thank you.

4 THE COURT: We can go forward.

5 All right, Ms. Henry.

6 MS. HENRY: Thank you.

7 BY MS. HENRY:

8 Q All right, Mr. Larson, give me one second, okay.

9 All right. All right, Mr. Larson, was it your
10 understanding from your conversations with Scott that you
11 were given credit for the time that you served on your
12 charges starting from October 2014?

13 A Yes. Part of the plea agreement was to run my
14 sentence concurrent with what I was doing at that time.
15 Which is the ABHAN. He led me to believe that it would be
16 backdated to June of 2014. Which is when I started the
17 assault and battery high and aggravated nature.

18 Q Okay. Was it your understanding that, as part
19 of sentencing, that he would be addressing that with the
20 Court?

21 A Yes.

22 Q Okay. So that was part of your conversations
23 with him?

24 A Yes.

25 Q Okay. Did you and Mr. Robinson also discuss his

JASON LARSON-DIRECT BY MS. HENRY

1 medical leave, as it relates to your sentencing?

2 A No.

3 Q You did not?

4 A No.

5 Q Okay. Let's see. And then did you and
6 Mr. Robinson -- did you assume or did you discuss with
7 Mr. Robinson that -- that he would be aware that he would
8 bring up -- did y'all discuss the sentences of your other
9 co-defendants?

10 A No.

11 Q You did not talk about Mr. Bright?

12 A No.

13 Q Okay. Did Mr. Robinson do any research or
14 following up Mr. Bright or discussion with you?

15 A No, I believe he was -- felt confident that the
16 Judge was going to backdate it. As the plea agreement, in
17 my eyes what it read was, to run concurrent. Which was to
18 backdate it.

19 Q Okay. Were you aware when you waived your
20 post-conviction relief action--

21 A No, I'm not.

22 Q Let me finish asking you first. All right. So
23 were you aware when you waived your post-conviction relief
24 action, that you would not be able to file for, like,
25 ineffective counsel? And if Mr. Robinson did not bring up

JASON LARSON-DIRECT BY MS. HENRY

1 those key issues at your sentencing?

2 A No, ma'am.

3 Q So you were not aware that you would not be able
4 to do anything about getting your statutorily required
5 time or statutorily entitled time if you sign that plea
6 agreement?

7 A Not at all.

8 Q If you waived your right to an appeal and you
9 waived your right to a PCR?

10 A No, ma'am.

11 Q Okay. So did you and Scott ever discuss the
12 implications of you waiving your appellate rights and your
13 PCR rights if the sentence was not backdated like he said
14 it was going to be?

15 A Not at all.

16 Q Okay. Would you have gone forward with the plea
17 if you had known that you were not -- if you did not get
18 this credit that you could not appeal that or file a
19 post-conviction relief action about that?

20 A One hundred percent, no.

21 Q Okay.

22 Let me just make sure I got all of this,
23 Your Honor. Your Honor, before I stop, I just want to
24 make sure that -- that all I'm talking to Mr. Larson about
25 right now is the Sanders standard; is that correct?

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1 THE COURT: Yes, ma'am.

2 MS. HENRY: Okay.

3 BY MS. HENRY:

4 Q All right. Jason, is there anything else that
5 you want to tell The Court about your conversations with
6 Scott and what you knew or didn't know about waiving your
7 PCR appellate rights?

8 A Just that, again, that when I entered into the
9 plea that it was discussed that it was going to be run
10 concurrent. And I was led to believe that run concurrent
11 was going to be backdated. So I had no problem entering
12 into the agreement. Had I known that I was not going to
13 receive the jail credits or any time served, no, I would
14 not have entered into it at that time.

15 Q Okay. Okay. All right. And then you and Scott
16 never had a separate conversation about what the remedy
17 would be if you did not get those required jail credits --
18 required statutorily jail credits or it wasn't backdated?

19 A No, ma'am.

20 Q Okay. All right. And when you guys discussed
21 your understanding of waiving your PCR and appellate
22 rights, you did not realize that not being able to
23 challenge those issues was included in what you were
24 waiving or giving up?

25 A No, ma'am.

JASON LARSON-CROSS BY MS. MCCALLISTER

1 Q Okay. Again, I just want one more time for the
2 record, if you had known that, would you have gone forward
3 with the plea?

4 A No.

5 MS. HENRY: All right, I don't have any other
6 questions right now.

7 THE COURT: All right, Ms. McCallister, your
8 witness.

9 MS. MCCALLISTER: Thank you.

10 CROSS-EXAMINATION

11 BY MS. MCCALLISTER:

12 Q Mr. Larson, how many times did you meet with
13 Mr. Robinson?

14 A None. Excuse me, there was several times I was
15 transferred, I was at Allendale at the time. I think
16 maybe two or three that I, actually, met with him. There
17 was several times I was transported from Allendale
18 Correctional Institution all the way to Greenville and he
19 was a no show.

20 Q Okay. So you met with him, though, at least, a
21 couple of times to talk about this case?

22 A Yes, ma'am.

23 Q And did you, in any of those meetings, did you
24 talk about the plea agreement that you were going to
25 enter?

JASON LARSON-CROSS BY MS. MCCALLISTER

1 A Yes, ma'am.

2 Q Okay. And is it your testimony, though, that he
3 did not advise you that you were waiving your right to a
4 direct appeal or to file post-conviction [audio
5 distortion]?

6 A I recall the direct appeal we discussed but not
7 the post-conviction relief. I never remembered discussing
8 that.

9 Q Okay. All right. Did you read the plea
10 agreement?

11 A No, he just -- he advised me of it and I signed
12 it.

13 Q Okay. So you signed -- you agreed, though, that
14 you initialed each page?

15 A Yes, ma'am.

16 Q Okay. And your testimony is that you initialed
17 without reading it?

18 A Well, it was on his advice that I was going to
19 receive the time served. The plea agreement, which was
20 the open plea from 7 to 15 was never in question. I had
21 no problem with that. You know, I admitted guilt and I
22 wanted to admit guilt to get it behind me. But if I would
23 have known that I wasn't going to receive the time I
24 already done, it may have persuaded me not to sign the
25 agreement.

JASON LARSON-CROSS BY MS. MCCALLISTER

1 Q Okay. I appreciate that but that's not the
2 question I'm asking you. I'm asking you if in entering
3 into the plea agreement, you signed the document, you
4 signed pages of the document that you did not read that
5 full document; is that your testimony?

6 A Yes, ma'am.

7 Q Okay. So your testimony is that you only
8 understood that you were waiving your right to a direct
9 appeal but you did not realize that you were waiving to a
10 PCR?

11 A Correct.

12 Q Okay. But you told Judge Gravely when you
13 entered into the plea agreement that you were doing so
14 freely and voluntarily and that you had had plenty of time
15 to talk to Mr. Robinson about entering into the agreement,
16 correct?

17 A Yes, ma'am.

18 Q Okay. And based on your testimony you're saying
19 that Mr. Robinson advised you that you wouldn't be allowed
20 to file a direct appeal, correct?

21 A Correct.

22 Q So and you're saying you understood that portion
23 of it?

24 A Yes, ma'am, I did.

25 Q Did you ask Mr. Robinson what would happen if

JASON LARSON-CROSS BY MS. MCCALLISTER

1 you weren't allowed to file a direct appeal and you didn't
2 get these credits?

3 A I didn't feel the question was needed. I was
4 led to believe that I would get jail credits.

5 Q Okay.

6 A [Audio distortion].

7 Q But you understood in waiving a direct appeal
8 that things might go wrong and you were waiving your right
9 to challenge that, correct?

10 A The appeal to me is something as far as what I'm
11 pleading guilty to. What I pled guilty to I did. I'm not
12 questioning that. I'm questioning the time served that I
13 was credited upon sentencing.

14 Q Okay. Okay. But you told Judge Gravely that
15 you weren't threatened or promised anything to plead
16 guilty and that's what you wanted to do, correct?

17 A Correct.

18 Q And you told Judge Gravely that you had entered
19 into this plea agreement, you understood it and that's
20 what you wanted The Court to accept it, correct?

21 A Yes.

22 Q Okay.

23 I think that's all the questions I have for
24 Mr. Larson at this point.

25 THE COURT: Thank you, Ms. McCallister.

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1 Any redirect, Ms. Henry?

2 MS. HENRY: No, Your Honor.

3 THE COURT: Okay. All right.

4 Thank you, Mr. Larson.

5 Any further witnesses from The Applicant on this
6 issue?

7 MS. HENRY: No, Your Honor.

8 THE COURT: Ms. Henry, I can't hear you now, I
9 lost you.

10 MS. HENRY: Sorry. No, Your Honor.

11 THE COURT: Okay.

12 All right, Ms. McCallister, do you have any
13 witnesses on this issue?

14 MS. MCCALLISTER: Yes, Your Honor. The State
15 calls Scott Robinson.

16 THE COURT: Okay.

17 All right, Mr. Robinson, raise your right hand.

18 SCOTT ROBINSON, after being duly

19 sworn{,}testified as follows:{F}

20 THE CLERK: State your name for the record,
21 please.

22 THE WITNESS: Scott Robinson.

23 THE COURT: Okay.

24 All right, Ms. McCallister.

25 MS. MCCALLISTER: Thank you, Your Honor.

DIRECT EXAMINATION

Q Mr. Robinson, how long have you been practicing law?

A Seems like forever. Probably 20 something
years, I'm not sure exactly.

Q Okay. And what percentage of your practice is criminal defense?

A About 98 percent.

Q Okay. And you recall your representation of Mr. Larson in this case?

A I do.

Q Okay. Were you appointed or retained?

A I think I was retained on the original cases, the assault and battery. I was appointed, I believe, on the PCR.

Q Okay. Appointed on the State Grand Jury you mean?

A Yeah, I got a call from Peggy Self asking since I represented him on the assault and battery, if I would take this case, get appointed, so yes.

Q Okay. How many times did you meet with Mr. Larson about this case?

A I didn't go down to Allendale to see him ever.
What I did is I met him when they would bring him up to

SCOTT ROBINSON-DIRECT BY MS. MCCALLISTER

1 court and so forth. So I can't tell you the exact number
2 of times. It was enough, though, that he understood what
3 was going on and all that kind of stuff. So I felt very
4 comfortable.

5 Q Okay. Was it more than one time?

6 A Yes, yes, definitely.

7 Q Did you ever write him any letters about the
8 case or speak with him on the phone?

9 A I don't recall that. I have no independent
10 recollection of that.

11 Q Okay. What was he originally indicted for in
12 this case?

13 A He was indicted for over 400 grams of
14 methamphetamine, I believe. Which is mandatory, I
15 believe, 25 years mandatory.

16 Q Okay. So he was facing a mandatory minimum 25
17 years on the original charge, correct?

18 A Right.

19 Q And he, ultimately, pled guilty to a lesser
20 included offense of trafficking in 28 to 100 grams,
21 correct?

22 A Yes.

23 Q So by pleading to that lesser included he
24 avoided a mandatory minimum sentence?

25 A Oh, yes. If he had continued to go to trial he

SCOTT ROBINSON-DIRECT BY MS. MCCALLISTER

1 would have been looking at the mandatory 25 years in this
2 case. And any other charges he may have had could have
3 been run consecutively.

4 Q Okay. So he also had two other charges that
5 could have been added to that 25 years, correct?

6 A I believe.

7 Q Okay. And you entered into plea negotiations
8 with The State on his behalf; is that correct?

9 A I did.

10 Q Okay. And can you talk a little bit about that
11 process? Did you make an offer, did they make an offer,
12 how did that process go?

13 A Well, I don't know if you've ever dealt with
14 Josh Underwood, he's not exactly the easiest guy to deal
15 with as far as negotiations go. But I like Jason, I
16 thought he was a good man. I like his family. And I
17 tried my best to get the lowest possible deal because 400
18 grams or more, that's a mandatory amount of time that the
19 Judge has no discretion with. So I felt pretty good about
20 representing him and so forth.

21 Q Okay. So but, ultimately, the offer that, I
22 guess, maybe you received from The State or you negotiated
23 to get from The State was an offer that had a recommended
24 cap of 15 years; is that correct?

25 A Right. They dropped it down, I believe, 10 to

SCOTT ROBINSON-DIRECT BY MS. MCCALLISTER

1 28 or 28 to 100 or something.

2 Q Okay. And you entered and Mr. Larson entered
3 into a written plea agreement with The State, correct?

4 A Yes.

5 Q Have you done a written plea agreement with The
6 State like that before?

7 A Yes.

8 Q Okay. Did you give Mr. Larson a copy of the
9 agreement?

10 A We sat down and went over it. I mean, it's
11 not -- Mr. Larson seems to be suggesting that it was a
12 quick kind of process where he just kind of just looked at
13 it for a second. That's not what happened. He sat down
14 with me, went over each individual paragraph of the
15 agreement. It wasn't anything quick.

16 Q Okay. So you went over each individual
17 paragraph so I assume that includes Paragraph 9 about
18 waiving his direct appeal and post-conviction relief,
19 right?

20 A Yes. Every single one. He is a very
21 intelligent guy. If he had questions about it or didn't
22 want to do it, we would have stopped and not done it and
23 come back another day. I mean, there was no pressure on
24 him as far as got to do this right now. If he had
25 questions about it, we would have stopped and we would

SCOTT ROBINSON-DIRECT BY MS. MCCALLISTER

1 have talked about it again in this case.

2 Q Okay.

3 A But he really did not want to take a chance with
4 going to trial with 400 grams or more. Because it was a
5 process where, you know, he went through the whole litany
6 of questions, signed it and dated it and so forth. He
7 knew what he was doing. It wasn't really a question about
8 that.

9 Q Okay. Let me ask you, specifically, about your
10 conversations about this particular provision. Do you
11 recall, specifically, talking to Mr. Larson about the fact
12 that the plea agreement required him to waive his direct
13 appeal and his PCR rights?

14 A Yes, that's something that, I believe, everyone
15 of these plea agreements that the attorney general does in
16 these cases that has that. So I would have gone over that
17 with him, of course.

18 Q Okay. So you're familiar with that provision
19 and you recall that you reviewed that provision with
20 Mr. Larson?

21 A Yes. And the reason I think they put that in
22 there is because they're dropping a large amount of time.
23 He's going from 25 years mandatory down to an amount of
24 time that is very low compared to that. So that's kind of
25 the reason why they do that. They're giving him the

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1 benefit of this and in return for giving up those
2 particular rights.

3 Q Okay. And did you talk to him about what a
4 direct appeal is?

5 A Yes.

6 Q Did you talk to him about what a PCR is?

7 A Yes.

8 Q Okay. So he was aware of the issues or claims
9 that he could have raised through each of those avenues,
10 you explained to him what he would be giving up if he
11 waived those avenues of challenging the conviction?

12 A Yes. And if he had wanted to he could have
13 stopped and said I'm not going to do this. I mean, he can
14 read and write, he's an intelligent guy and we could have
15 stopped and not gone forward.

16 Q Okay. Did he ask you any questions about that
17 provision that you recall?

18 A I don't think he did. I think that, you know,
19 at the time, I think he was concerned about the amount
20 of -- if going to trial for 400 grams or more and the
21 benefit that he got from pleading to a lesser included
22 charge.

23 Q Okay. In your opinion, did he appear to
24 understand what he was doing by waiving his PCR rights?

25 A Oh, yes. He wasn't under the influence of drugs

SCOTT ROBINSON-DIRECT BY MS. MCCALLISTER

1 or alcohol, he can read and write, he wasn't pressured to
2 do anything by me. So I believe he understood what he was
3 doing, yes.

4 Q Okay. And when you explained PCR, you explained
5 to him that he was waiving his right to challenge
6 something that you had done?

7 A Yes.

8 Q Okay. Or, I guess, would do going forward?

9 A Well, yeah, of course. Yeah, of course.

10 Q Okay. And he -- when you guys went to the plea
11 and you were in the colloquy with Judge Gravely, you
12 recall him telling Judge Gravely that he was satisfied
13 with you and your representation?

14 A I have to look at the -- I don't have the
15 transcript in front of me, I'd have to look at the
16 transcript.

17 Q Okay. Okay. Mr. Larson has testified that he,
18 you know, brought up to you, I guess, his concerns about
19 the time served credit. Do you recall conversations about
20 that?

21 A Yes. And what I told him was that we would ask
22 for The Judge to give him any time that he was entitled
23 to. I also advised him that once he gets to SCDC that
24 they will figure out how much time he's entitled to. I
25 asked The Judge to backdate the time at one point. And

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1 the Judge decided not to do that.

2 Q Okay. Okay. And, ultimately, he received a
3 nine year sentence from the trafficking and The Judge did
4 run it concurrent to his previous Pickens charges and the
5 three State Grand Jury charges ran concurrent to each
6 other; correct?

7 A Yes.

8 Q Okay.

9 Okay, I think that's all the questions I
10 have for Mr. Robinson right now.

11 THE COURT: Okay, thank you, Ms. McCallister.

12 MS. MCCALLISTER: Thank you.

13 Ms. Henry, your witness.

14 MS. HENRY: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. HENRY:

17 Q Okay. All right, Mr. Robinson, good to see you.
18 Let's see, let's start with this. Okay. So,
19 Mr. Robinson, I think, you testified that you did discuss
20 Mr. Larson's previous jail time; is that correct?

21 A We would discuss anything as far as if he was
22 entitled to any time served, SCDC would give that to him.
23 And we would ask for any sort of time that he would be
24 entitled to.

25 Q Okay. So again, I'm with you. Can you tell us

SCOTT ROBINSON-CROSS BY MS. HENRY

1 what time that was? I just want to make sure we're on the
2 same page. Because I know that you talked to Mr. Larson
3 about it and, of course, made The Court aware of it so I'm
4 just curious as to what time that would have been?

5 A The time he would be entitled to is any time
6 that he served in jail on these charges for the State
7 Grand Jury. That's what he would be entitled to. When
8 that first started.

9 Q Okay. Are you aware -- you're aware that
10 Mr. Larson had outstanding warrants, right? For the exact
11 same charges that were adopted by The Statewide Grand
12 Jury, correct?

13 A So this is going back about three or four years
14 now. So I can't tell you that I have a independent
15 recollection of every single one of these charges. But I
16 would have known at the time whatever charges he would
17 have had, of course.

18 Q Okay. So what's your response? Did you discuss
19 those with Mr. Larson?

20 A I don't know if I discussed the -- you're,
21 basically, saying that he would be entitled to the
22 previous time that he had when he was in jail on the other
23 charges, right? The warrants; is that correct? That were
24 took over by The State Grand Jury.

25 Q They were adopted by The Statewide Grand Jury,

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1 yes, they are.

2 A Okay. I don't know if I discussed -- I don't
3 know if I knew about those times as far as what that was.
4 I'm not sure about that one.

5 Q Okay.

6 And Your Honor, this is so awkward because
7 I'm not sure -- I've never done this over the camera.
8 Let's see, I think --

9 I'm sorry, Mr. Robinson, give me one
10 second, okay? All right. So I've got, this is Exhibit
11 10, I'm not real sure how -- I'm not sure how we're doing
12 this. I've handed over the exhibits to The Court and to
13 our other attorney, Mr. Robinson, but I'm not sure if you
14 have access to them or not?

15 A I don't.

16 Q You don't. Okay. I have an email here from
17 Dorothy Manigault that says you were made aware that the
18 charges--

19 MS. MCCALLISTER: Your Honor, I'm going to
20 object. I don't. . .

21 THE COURT: Okay, can the witness see,
22 Mr. Robinson, can you see the letter? Any way for
23 you to see the letter?

24 MR. ROBINSON: She would have to hold it up,
25 Judge.

SCOTT ROBINSON-CROSS BY MS. HENRY

1 MS. HENRY: [Audio distortion].

2 THE COURT: Okay.

3 MS. HENRY: Okay.

4 BY MS. HENRY:

5 Q All right, Mr. Robinson, okay. So when you
6 spoke to Mr. Larson, is your testimony that you didn't
7 have anything to do with the previous warrants; is that
8 correct?

9 A I don't think I represented him on the previous
10 warrants, no. I think Ms. Manigault did, I think.

11 Q Okay. And those warrants were converted to the
12 Statewide Grand Jury indictments?

13 A Now -- okay. All right.

14 Q Okay. All right. So you discussed -- did you
15 discuss those with Jason prior to him waiving his right to
16 a PCR?

17 A I don't know. I would have normally done that
18 but I don't have a independent recollection if I did,
19 that's the problem. When it's four or five years ago it's
20 kind of hard to have independent recollection of all that
21 stuff. So I can't tell you yes or no on that one.

22 Q Okay. And then, you know, we have all read the
23 transcript but it looks like in the transcript that you
24 did not make The Court aware of that time?

25 A Well, let's talk about that, Ms. Henry. Let's

SCOTT ROBINSON-CROSS BY MS. HENRY

1 talk about what I can know what The Court knows--

2 Q Scott, let me interrupt you, I'm so sorry. If
3 you could answer my question I would really appreciate it,
4 thank you.

5 A Why don't you repeat the question, Ms. Henry, so
6 I can answer it?

7 Q All right. So Mr. Larson had existing warrants
8 that were converted into a State Grand Jury indictment.
9 And your testimony is you're not sure whether you
10 discussed that with Mr. Larson. My question is whether or
11 not you made The Court aware of those warrants and
12 previous jail time during this incident?

13 A I have to look at the -- Ms. Henry, I'd have to
14 look at the transcript and I don't have the transcript in
15 front of me.

16 Q Okay. I'm aware that you asked that it be
17 backdated to -- based on a different -- I lost you,
18 Mr. Robinson.

19 Can y'all see Mr. Robinson?

20 THE COURT: We've lost Mr. Robinson.

21 Let's go into recess for a second. Let's see if
22 we can get Mr. Robinson reconnected. We'll be in
23 recess.

24 (WHEREUPON, a short break was taken.)

25 THE COURT: Okay. We were in the

SCOTT ROBINSON-CROSS BY MS. HENRY

1 cross-examination, Ms. Henry.

2 MS. HENRY: Thank you, Your Honor.

3 BY MS. HENRY:

4 Q Okay, Mr. Robinson. All right, let me just try
5 to figure out where I was here. Okay. So okay. All
6 right. Were you aware that -- were you aware that, and I
7 think I know the answer to this one, were you aware that
8 Josh Underwood had not referenced those warrant numbers in
9 his indictments?

10 A I wasn't aware of that. I don't think I was
11 aware of that.

12 Q All right. When you testified--

13 A Let's go back a little bit, this was, like, five
14 years ago. I've got a good memory but some stuff I'm not
15 going to remember explicitly so I'll do my best.

16 Q Okay. That's all there is. Okay. So let's
17 see. Do you remember discussing that issue with
18 Mr. Larson?

19 A As far as the previous warrants you're talking
20 about?

21 Q Uh-huh.

22 A I don't think I would -- I don't know if I,
23 specifically, did that. The way I would normally do it
24 was because I can't guarantee or tell someone this is what
25 you're going to get, that's impossible. But what I can

SCOTT ROBINSON-CROSS BY MS. HENRY

1 tell them, though, is that the Department of Corrections
2 will calculate what time he's entitled to. That's my
3 normal way of doing things. It's kind of just like
4 federal court, you really can't -- you really can't
5 promise someone they're going to get X, Y and Z amount of
6 time or this much credit. All I can tell them is that --
7 SCDC -- you'll get all the credit you're entitled to.

8 Q Okay. So based on your answer, I'm assuming
9 that you did not point that out to The Court?

10 A I think what I asked The Court was to give him
11 any time that he was entitled to, I think.

12 Q Okay. All right. So -- all right. So we
13 didn't point out the previous jail time, we did not point
14 out that the warrants were not referenced in the
15 indictments?

16 A I don't believe I discussed that. No, I don't
17 think -- I don't have the transcript in front of me so I
18 can't -- I don't have the -- I can't reference a lot of
19 this stuff in the transcript. But it sounds about right.

20 Q Okay. All right. That's fine. And you
21 testified a minute ago that you explained -- what exactly
22 did you tell -- did you tell Jason a PCR was?

23 A A PCR is what you file within one year. And
24 it's a Strickland v. State. It's that kind of test. It's
25 whether or not the performance of the attorney fell below

SCOTT ROBINSON-CROSS BY MS. HENRY

1 a certain standard and that the PCR would be brought
2 against me if my performance fell below a certain
3 standard. He would be attacking me.

4 Q Okay. And that's what you told Jason?

5 A Uh-huh. I discussed with him what a PCR is and
6 so forth, yes.

7 Q Okay. All right. And what did you tell him an
8 appeal was?

9 A An appeal would be something that he would be
10 filing if he thought it was something -- since it was a
11 plea, he would be appealing something The Court did. An
12 error that The Court made when they -- when they either in
13 the plea colloquy or the sentencing.

14 Q Okay. And did you tell him that if you made
15 errors or mistakes as part of your discussions with him,
16 the information that you gave him, what happened in the
17 plea, that if he waived the PCR that he would not be able
18 to do anything about it?

19 A Well, let's -- I would have told him that if I
20 make a mistake, you can file a PCR against me, of course.
21 But when you enter this guilty plea, this guilty plea, the
22 paperwork and so forth, you give up that right. And in
23 return for giving up the right to file an appeal and to
24 file a PCR, this is what you're getting in return for
25 that. You're getting a cut in your sentence down from 400

SCOTT ROBINSON-CROSS BY MS. HENRY

1 grams, down to a lesser amount and you're getting rid of
2 the mandatory minimum in this case. Because he admitted
3 that he did it. There's no question he did it. He always
4 admitted he did it. It's a question of how much -- you
5 know, he didn't want to go to trial on this case. He
6 wanted to take the benefit of getting a lower sentence and
7 getting a lower amount of drugs.

8 Q Okay. So it's your testimony that you explained
9 to him that if you or The Court -- well, let's just start
10 with you. We won't make it too big here. All right.
11 Okay. So it's your testimony that you explained to
12 Mr. Larson that this waiver also applied to the
13 sentencing? That you told him that if for some reason you
14 did not, for instance, you failed to tell The Court the
15 jail dates that he was entitled to that you would be able to
16 object to portions of the indictment? That if you failed
17 to object to The State's -- The State's [audio distortion]
18 that The State presented at the sentencing, that those
19 were all PCR-able offense or reasons and that he would not
20 be able to do anything about any of those?

21 A Ms. Henry.

22 Q Yeah.

23 A You're looking -- you're asking questions based
24 on an after the fact kind of deal. Back then that -- back
25 those years ago, I would have explained to him everything

SCOTT ROBINSON-CROSS BY MS. HENRY

1 about a PCR and not to give him what he could do if he
2 didn't like what I -- the advice that I gave him, mistakes
3 that I made, that he could file a PCR. If he didn't like
4 what The Judge did, he could file an appeal. Those were
5 discussed with him. And in return for that, he signed off
6 on this agreement waiving those.

7 Q Okay. So it's your testimony that you told him
8 that he could file a PCR and appeal if he didn't like how
9 you acted or how The Court ruled as part of this plea?

10 A Yes.

11 Q Okay.

12 A We talked back in -- we talked back in --
13 there's a room in back of where the courtroom is on the
14 second floor in Pickens that you can talk to someone and
15 that's where we talked about it.

16 Q Okay. All right. Let's see, Mr. Robinson, do
17 you think that-- so you requested at the time that some of
18 the time be backdated and that's part of your conversation
19 with Jason as well?

20 A Uh-huh. I could tell you -- go ahead.

21 Q No, go ahead.

22 A No, you first.

23 Q Okay. All right. Okay. So you discussed that
24 with him. And it's your understanding that -- you know, I
25 think the last statement was enough.

SCOTT ROBINSON-REDIRECT BY MS. MCCALLISTER

1 I don't have any others questions for
2 Mr. Robinson right now.

3 THE COURT: All right, thank you, Ms. Henry.

4 Ms. McCallister, any redirect?

5 MS. MCCALLISTER: Yes, please, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. MCCALLISTER:

8 Q Mr. Robinson, I just want to clarify some things
9 that you said. I believe you testified that when you
10 spoke to Mr. Larson you would not have guaranteed the
11 amount of time that he was going to be entitled to or
12 credited to, correct?

13 A Of course, yes.

14 Q And your testimony is that you told him that
15 SCDC would calculate the amount that he was entitled to,
16 correct?

17 A Yes.

18 Q Okay. So did you guarantee to him that he would
19 be entitled to the time from these Pickens charges or
20 Pickens warrants?

21 A No, no.

22 Q Okay. And then I believe you testified that you
23 explained to him what a PCR is, correct?

24 A As best I could, yes.

25 Q Okay. And you explained to him, specifically,

SCOTT ROBINSON-REDIRECT BY MS. MCCALLISTER

1 that a PCR would challenge your conduct, your
2 representation of him if you made any mistakes in
3 representing him?

4 A Correct.

5 Q The normal way he would challenge that would be
6 a PCR, correct?

7 A That's correct, yes.

8 Q And you explained that concept to him?

9 A Oh, yes.

10 Q And you explained to him, also, that he, in his
11 situation, was waiving the normal remedy that he would
12 have?

13 A Yes. In return for the 400 grams being dropped
14 down to a smaller amount of drugs in this case. And
15 getting away from the mandatory sentence he would be
16 facing.

17 Q Okay. Did you go through with him -- did you
18 give specific examples of every possible claim that he
19 could have raised in a PCR against you?

20 A That's impossible. You know, I know I'm a
21 halfway intelligent guy but I can't go over every single
22 scenario. All I can say is if I make a mistake, I'm not
23 perfect, but if I make a mistake, file a PCR on me if you
24 think I did something wrong, absolutely.

25 Q Okay. But you explained to him that in this

SCOTT ROBINSON-REDIRECT BY MS. MCCALLISTER

1 case he wouldn't be able to do that?

2 A Yes. In return for -- in return for, as you
3 said, I think it is a contract we're talking about here.
4 In return -- the consideration that he got in this case
5 was that his charges were dropped from the original 400
6 grams or more to something a lot less. That he wouldn't
7 get the mandatory time.

8 Q Okay. And so, your testimony is then that he
9 understood those direct appeal rights and the PCR rights,
10 at least, the general concept of what a direct appeal and
11 a PCR is. He understood when he initialed that page and
12 gave those rights up as part of the plea agreement?

13 A Yeah, I thought he did. You know, I normally, I
14 normally ask someone when they're doing this, whether
15 they're under the influence of any drugs or alcohol,
16 anyone supports them or whatever. Because I went through
17 with him what The Judge would ask him in this case. Just
18 to make sure he wasn't under the influence of any drugs or
19 alcohol or anything like that. And he wasn't, he was
20 fine.

21 Q Okay. And did you read the plea agreement with
22 him?

23 A Yes.

24 Q Okay.

25 A It took a long time. It wasn't something -- you

SCOTT ROBINSON-REDIRECT BY MS. MCCALLISTER

1 can't do that really quickly. It's got to be something --
2 it takes a little time.

3 Q Okay.

4 I think that's all I have on redirect.
5 Thank you, Your Honor.

6 THE COURT: Okay, anything further from
7 Mr. Robinson?

8 (There was no response.)

9 THE COURT: Okay, thank you, Mr. Robinson.

10 MR. ROBINSON: Thank you, Judge.

11 MS. MCCALLISTER: Your Honor, I'm not sure what
12 you want the next step to be. We discussed possibly
13 leaving the record opened. I think I have argument
14 to make at this point about whether Mr. Robinson
15 effectively advised Mr. Larson to enter this plea
16 agreement. If we're going to go further into -- if
17 Your Honor is going to rule, you know, that he's
18 allowed to fully go into the merits of this
19 agreement, then I would have some additional
20 witnesses that I would like to call. So I'm not sure
21 what Your Honor wants to do about -- about the next
22 step.

23 THE COURT: Ms. Henry, what else are you seeking
24 to put into the record?

25 MS. HENRY: Your Honor, again, because this was

1 a motion hearing in response to a motion to dismiss,
2 I had planned to just put them in as exhibits. I --
3 if we're moving on to the merits, I too would need to
4 call witnesses to support all that documentation.
5 Mainly, the clerk of court to get the evidence in and
6 that my client was entitled to that time and what was
7 submitted to The Court, etcetera. It just depends on
8 what The Court is going to rule as far as -- and I do
9 have very brief argument to make to The Court
10 regarding [audio distortion].

11 MS. MCCALLISTER: I do too, Your Honor.

12 THE COURT: Let's do this. Each of you make an
13 argument to me on what we've done so far on the
14 motion to dismiss. I want to go back and read the
15 transcript and look at the case law. I will take
16 that issue under advisement. And then we'll see
17 where it goes from there. So each of you make an
18 argument.

19 Ms. Henry, you go --

20 Ms. McCallister, it's your motion so I'm going
21 to give you the last word on it.

22 So, Ms. Henry, you go first.

23 MS. HENRY: Thank you, Your Honor. I'd just
24 like to put in first that I feel like this is a
25 justice issue. I feel like that we are going to be

1 able to prove this part of the merits hearing, that
2 my client is statutorily entitled to this time. And
3 that because of errors made by counsel and in my
4 opinion, Mr. Underwood, SCDC is unable to compute
5 that time correctly without judicial intervention. I
6 just would like to make that as a base -- a base.

7 Regarding the specific motion to dismiss by The
8 State, I feel like you just heard Mr. Robinson
9 testify several different times to telling him about
10 a PCR appeal and also telling him that he could not.
11 And that's within a space of 10 minutes. I don't
12 know that -- I think that that is probably a very
13 accurate representation of the conversations that he
14 had with Mr. Larson. You know, from the testimony of
15 Mr. Larson, that Mr. Larson was very [audio
16 distortion] about what his options were and what his
17 appellate review and PCR options were. I do not
18 believe, again, referring to Mr. Larson's testimony,
19 that he was aware that if Mr. Robinson made an
20 egregious error regarding sentencing, that he would
21 not be able -- that there would be no recourse.
22 Including that he would not be able to -- including
23 that he would not be able to exercise his statutorily
24 mandated time. That the way that this is set up
25 would prevent that from happening. And I feel like

1 the testimony from Mr. Robinson is that he would be
2 entitled to statutory time. And here we are with him
3 unable to access that because of ineffective
4 assistance of counsel.

5 Again, let me just make sure that I'm hitting
6 all of this. Okay. I also would point out that I
7 don't believe that Mr. Robinson was able to fully
8 advise Mr. Larson about those issues because he seems
9 to be unaware of them himself during his testimony.
10 So it would be very difficult to advise Mr. Larson
11 about those issues since he does not know about them
12 himself. And when you review the transcript you will
13 see that those were not issues that were brought up
14 to The Court. And I think that if we were allowed to
15 have, if you ruled in our favor and deny The State's
16 motion to dismiss and give Mr. Larson a full hearing
17 on these issues, that we would have ample witnesses
18 and documented support for what I'm saying. And I do
19 think that not giving Mr. Larson a full hearing on
20 these issues would not be service of justice.

21 I want to also say that while it is a contract,
22 that my understanding of interpreting contracts is
23 that they're only enforceable as long as they do not
24 violate our state statutes. And that this is a
25 violation of the state statute in the way that it's

1 worded and the way that it's been enforced. And will
2 remain that way without judicial interference. And
3 those are our arguments based on the testimony that's
4 been submitted regarding this issue.

5 THE COURT: Thank you, Ms. Henry.

6 Ms. McCallister.

7 MS. MCCALLISTER: Thank you, Your Honor. Again,
8 yes, this is a contractual issue. The Supreme Court
9 has looked, specifically, at these agreements which
10 waived the direct appeal and the post-conviction
11 relieve rights. And have held those agreements
12 provided that, you know, The Defendant or The
13 Applicant was effectively advised into entering into
14 that provision. And I think Mr. Robinson's testimony
15 here today was clear that A, he did not make
16 Mr. Larson a promise as to the amount of time that he
17 would receive. He stated that SCDC would calculate
18 that time. He also, repeatedly, testified that he
19 advised Mr. Larson what a PCR is, what the types of
20 issues are that you can bring up in a PCR and that
21 normally he would be able to do that. But because
22 Mr. Larson wanted to enter this plea agreement, he
23 had to give that right up in order to get the benefit
24 of getting out from under this statutory minimum --
25 mandatory minimum of 25 years.

1 Mr. Robinson cannot be expected to anticipate
2 every single issue that an inmate or applicant could,
3 potentially, think of to bring a PCR about. But I
4 think he was unequivocal that he explained in general
5 what a PCR is, what a direct appeal is and that
6 Mr. Larson was going to have to give those rights up
7 in order to avoid going to trial on this original
8 charge that he did not want to go to trial on.

9 You know, the other issue, Your Honor, I believe
10 Ms. Henry just said that this can only be fixed with
11 judicial intervention. Again, Your Honor, it's The
12 State's position that that is incorrect. That this
13 is not a PCR issue. Because Mr. Larson has other
14 avenues available to him to fix this. Including
15 judicial intervention through the Administrative Law
16 Court. If SCDC is incorrectly calculating his time,
17 he can get that time back by filing a grievance and
18 taking that up through the Administrative Law Court
19 to have a Judge order SCDC to fix the time. Which is
20 what Ms. Henry is asking for. That's the Al-Shabazz
21 case. That is not a PCR issue. It does not get
22 resolved in this action.

23 So those are The State's two positions. That
24 any of this isn't a PCR issue. And B, that even if
25 it is a PCR issue, Mr. Larson was advised about

1 giving up his right to a PCR. He knowingly and
2 voluntarily waived that right, he signed the page.
3 Mr. Robinson testified that they went over that
4 provision, specifically, they talked about it, he
5 signed it and gave up that right. He has the right
6 to do that in order to get the benefit of the
7 bargain. And that's what he chose to do. And The
8 State would ask The Court to enforce that and hold
9 him to that decision.

10 THE COURT: Thank you, Ms. McCallister.

11 Well, ladies, I'm going to take it under
12 advisement. Like I said, I'm going to read the
13 transcript and go over the materials that have been
14 submitted. And I'll have my law clerk email you my
15 decision. Thank you.

16 MS. MCCALLISTER: Thank you.

17 MS. HENRY: Thank you, Your Honor.

18 (WHEREUPON, the proceedings were concluded.)
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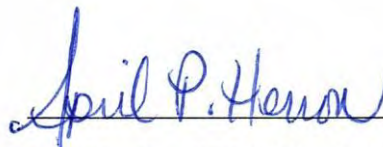
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, APRIL P. HERRON, Official Court Reporter for
the Thirteenth Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and complete Transcript of Record of the
proceedings had and evidence introduced in the trial of
the captioned case, relative to appeal, in the Court of
Common Pleas for Greenville County, South Carolina, on the
First day of March, 2021.

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

August 15, 2021



APRIL P. HERRON, Court Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS	
COUNTY OF GREENVILLE	)	FOR THE THIRTEENTH JUDICIAL CIRCUIT	
	)		
Jason Allen Larson, SCDC # 338587	)	Case No.: 2018-CP-23-06333	
	)		
Applicant,	)		
	)	ORDER OF DISMISSAL	
v.	)		
	)		
State of South Carolina,	)		
	)		
Respondent.	)		
_____	)		

FILED-CLERK OF COURT
PAUL B. WICKS
JUN 15 PM 3:35

This matter comes before the Court by way of an application for post-conviction relief filed December 19, 2018, by Jason Allen Larson (Applicant). On April 30, 2019, the State (Respondent) made its return and partial motion to dismiss, seeking summary dismissal of all claims beyond whether counsel was ineffective for advising Applicant to enter the written plea agreement waiving his rights to challenge his conviction through post-conviction relief pursuant to the written plea agreement. An evidentiary hearing into that issue was convened March 2, 2021, via Cisco WebEx Meetings in accordance with the Chief Justice's administrative memorandum, *Court Operations*, dated September 14, 2020, and supplemented January 8, 2021.¹ Applicant was present at the hearing and represented by Sarah Henry, Esquire. Assistant Deputy Attorney General Lindsey A. McCallister from the South Carolina Attorney General's Office appeared on behalf of Respondent. Following the hearing, this Court took the matter under advisement and issued a ruling on March 2, 2021. This order follows.

¹ See S.C. Sup. Ct. Memorandum dated September 14, 2020 ("Judges . . . have discretion to determine whether it is appropriate to conduct a hearing using remote communication technology. *Consent of the parties or counsel is not required.* Please use WebEx, the conferencing platform supported by the Judicial Branch." (emphasis added)).

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PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for the South Carolina State Grand Jury.² On October 22, 2015, the State Grand Jury indicted Applicant for one count of conspiracy to traffic in cocaine (four hundred grams or more) (2015-GS-47-08) as part of a multi-count, multi-defendant indictment stemming from an investigation into a methamphetamine trafficking ring. On the same date, the State Grand Jury also indicted Applicant for possession with intent to distribute methamphetamine and possession of a schedule I-V controlled substance (2015-GS-47-10) along with co-defendant Felicia Kersey stemming from an October 16, 2014, traffic stop in which quantities of methamphetamine and other illegal drugs were recovered. Scott D. Robinson, Esquire (Counsel), represented Applicant. Assistant Attorney General Joshua Underwood of the South Carolina Attorney General's Office, prosecuted the case.

By plea agreement filed on January 25, 2017, Applicant entered into a written plea agreement, in which he agreed to "fully and truthfully cooperate with the Office of the Attorney General of South Carolina, and any local, state and federal law enforcement agents in their investigation of importation, possession, and distribution of controlled substances and related unlawful activities," in exchange for a recommended sentence range of up to fifteen years imprisonment (effectively, for a sentence of between seven to fifteen years imprisonment) and

² Applicant is also serving active terms of imprisonment for unrelated convictions (assault and battery of a high and aggravated nature and possession of a weapon during the commission of a violent crime) arising out of Pickens County. Applicant pled guilty to these offenses on September 30, 2015, before the Honorable Edward W. Miller and never filed an application challenging these convictions. These convictions and sentences are not being challenged in this post-conviction relief action.

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allowing Applicant to plead to the lesser included offense of conspiracy to traffic in cocaine (28-100 grams) and the other two indicted offenses as indicted, with all sentences to be served concurrently with each other and with Applicant's unrelated sentences he was currently serving within the Department of Corrections. As part of this plea agreement, Applicant **expressly waived** his right to both a direct appeal and **post-conviction relief** action. ("The Defendant, Jason Allen Larson, agrees that as a part of the consideration for this plea he will not appeal his plea of guilty or any sentence he receives in General Sessions Court in South Carolina. The Defendant, Jason Allen Larson, acknowledges that he understands that he has a right of direct appeal of his guilty plea or sentence and that he knowingly, voluntarily and expressly waives this right of direct appeal. Additionally, the Defendant, Jason Allen Larson, understands that he has a right to file a post-conviction relief (PCR) action in this case but agrees to knowingly and voluntarily waive any post-conviction relief action except for claims that directly attack the effectiveness of advice to agree to this waiver."). Applicant initialed each page of this written plea agreement and signed this plea agreement on January 25, 2017.

On January 25, 2017, Applicant appeared before the Honorable Perry H. Gravely, circuit court judge, and pursuant to the signed plea agreement, pled guilty to one count of the lesser included offense of conspiracy to traffic in cocaine (28-100 grams) (first offense), possession with intent to distribute methamphetamine (first offense), and possession of a schedule I-V controlled substance. At this hearing, Judge Gravely specifically asked Applicant if he understood the terms of his plea agreement and Applicant affirmed he did understand the terms of the plea agreement and had entered into the plea agreement freely and voluntarily. (Plea Tr. p. 13-14). Judge Gravely accepted Applicant's pleas and deferred sentencing.

On May 18, 2018, Applicant again appeared before Judge Gravely for a sentencing proceeding, represented by counsel Robinson. At this hearing, Robinson requested Judge Gravely not only run Applicant's new sentences concurrently with his unrelated, active sentences for his Pickens County convictions, but also ask that the new sentences be backdated to start when his active sentences started, essentially giving Applicant additional years of credit for time served on his unrelated sentences. The State opposed this request, stating Applicant would be unfairly benefitting from prior crimes if the court were to give him credit for the entirety of his active sentences but did agree Applicant should receive credit for the time served since entering his pleas in this case. Judge Gravely agreed Applicant would be unfairly benefitting from his prior crimes and gave Applicant credit for the time served since his plea was entered (January 25, 2017), but explicitly denied Applicant's request that he receive credit for the entirety of his sentence on the unrelated convictions. Judge Gravely sentenced Applicant to imprisonment for nine years for trafficking in methamphetamine, to eight years for possession with intent to distribute methamphetamine, and to time served for possession of a schedule I-V controlled substance, with the sentences to be served concurrently to each other and to his active sentence. Applicant did not pursue a direct appeal.

ALLEGATIONS RAISED

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

1. Ineffective assistance of counsel
 - a. Counsel failed to respond to Applicant and did not visit with him
 - b. Counsel failed to review discovery with Applicant
 - c. Plea agreement breached because Applicant was not given credit for time served for the entirety of his unrelated sentence,

which is also affecting Applicant's custody status within SCDC.

- i. "Plea agreement stated sentence would run concurrent with the sentence I am serving time for now. Sentence start date should be back dated to June 2014. This start date of 1/25/17 was a split sentence which was not stipulated in plea agreement. . . . Attorney General elected to pick up distribution and controlled substance charges to aide and assist them to indict me on conspiracy. Therefore, I was not allowed to plea (sic) guilty and I entered SCDC with holds and detainers. Because of them picking up charges, I have had to remain a level two custody status instead of a level one. My co-defendant's are receiving all their jail credits. . . ."

As requested relief, Applicant states he is seeking resentencing to give him credit since June 1, 2014, "[s]ince the attorney general took phone records during my jail time for the attempted murder charge and presented to the State Grand Jury as evidence and elected to adopt my distribution and controlled substance charges to couple with the conspiracy indictment."³ Applicant also requests to amend his sentence for trafficking to eight years.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record and to observe the witnesses presented at the hearing, evaluate their credibility, and weigh their testimony accordingly. Set

³ Although no amendment to the application was filed, the parties agree Applicant's main contention is that, due to Counsel's ineffective assistance, Applicant was not given time-served credit to which he believes he is entitled. At the hearing, counsel for Applicant explained the allegation in further detail. Applicant alleges the Attorney General in the original case adopted county charges and turned those into the above-listed State Grand Jury indictment. Applicant argues he was not given credit he is entitled to by law for time served in jail on those county charges because the Attorney General did not reference those warrant numbers in the State Grand Jury indictments, and Applicant's attorney failed to inform the court of this issue during the plea hearing. Counsel for Applicant further clarified he is requesting relief in the form of backdating his sentence to October 16, 2014.

forth below are the relevant findings of facts and conclusions of law as required pursuant to section 17-27-80 of the South Carolina Code of Laws.

In a post-conviction relief action, an applicant has the burden of proving the allegations in his or her application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant alleges ineffective assistance of counsel as a ground for relief, he or she must prove “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813. The proper measure of performance is whether an attorney provided representation within the range of competence required in criminal cases. Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813. The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under professional norms.” Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel’s alleged errors, he would

not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

At the start of the evidentiary hearing, Respondent renewed its motion to dismiss all allegations beyond whether counsel was ineffective for advising Applicant to enter into the portion of the plea agreement waiving his rights to challenge counsel's representation in a post-conviction relief action. Respondent argued that Applicant's plea agreement was valid and enforceable, and pursuant to Sanders v. State, 412 S.C. 611, 617, 773 S.E.2d 580, 583 (2015), Applicant was entitled to raise only the narrow issue as to whether counsel was ineffective for advising him to enter into the plea agreement waiving his right to pursue post-conviction relief. Respondent further argued Applicant still had a judicial remedy available to him to correct the allegedly miscalculated time-served credit, because Applicant could file a grievance with SCDC which can then be reviewed by the Administrative Law Court. See Al-Shabazz v. State, 338 S.C. 354, 370, 527 S.E.2d 742, 750 (2000) (finding issues regarding the calculation of an inmate's sentence, sentence-related credits, and custody status are administrative matters and, thus, cannot be raised in a post-conviction relief proceeding); Jernigan v. State, 340 S.C. 256, 260, 531 S.E.2d 507, 509 (2000) ("We held in Al-Shabazz that if an inmate raises a non-collateral matter with the Department of Corrections (DOC), then the state Administrative Procedures Act (APA) applies and an inmate may seek review of the DOC's final decision under the APA.").

In response, Applicant argued (a) Counsel was ineffective in advising Applicant to enter into the plea agreement and did not fully explain the rights Applicant was waiving by doing so; and (b) Applicant's sentence violates state law and invalidates the plea agreement because he was not given the full credit he is entitled to for time served. Applicant argued the Court needed

to hear testimony and evidence regarding the sentencing issue in order to evaluate whether the advice Counsel gave to waive PCR was proper. Respondent objected, arguing it was not proper to take testimony and evidence on the merits of the credit issue unless and until this Court found Counsel was ineffective in advising Applicant to enter into the waiver provision. Respondent requested the Court continue the hearing due to the late production of documents and potential need to have other witnesses present in order to fully present its case on the merits.

This Court ultimately allowed Applicant to proffer testimony and documents regarding the sentencing issue in order to fully evaluate whether dismissal of all claims beyond this limited issue was proper, and the Court reserved its ruling on the dismissal of all other claims until after the hearing on the limited issue as set forth in Sanders. However, after careful review of the entire record, based on the standard discussed above, this Court finds Applicant has failed to carry his burden of proof regarding his allegation of ineffective assistance of counsel in deciding to enter into the plea agreement. Therefore, the Court grants Respondent's motion to dismiss and denies relief, in accordance with the findings below.

Whether Counsel was Ineffective for Advising Applicant to Waive His Right to Post-Conviction Relief

Applicant proceeded at the evidentiary hearing on the claim of whether counsel was ineffective for advising him to waive collateral review of his convictions through post-conviction relief in exchange for the favorable terms as set forth in the signed plea agreement, namely a significant reduction in sentencing exposure. In support of this allegation, Applicant testified on his own behalf. Applicant testified he is currently serving sentences for ABHAN and trafficking in methamphetamine. Applicant testified he was originally arrested in Pickens County for distribution of methamphetamine – second offense and possession of controlled substance on

October 16, 2014. He testified Dorothy Manigault originally represented him on those charges. Applicant further testified that Scott Robinson later represented him on his other, unrelated Pickens County charges (assault and battery of a high and aggravated nature and possession of a weapon during the commission of a violent crime) as well as the above-listed county drug charges after they were adopted by the State Grand Jury in an indictment on October 22, 2015. Applicant testified the county warrants that were picked up by the State Grand Jury were not directly referenced in the State Grand Jury indictments, although the incidents were the same. Applicant also testified that those county drug warrants were dismissed and transferred to the State Grand Jury.

According to Applicant, Counsel was on extensive medical leave from the time of indictment to the time of sentencing, and he and Counsel had very little interaction. Applicant testified Counsel did not advise him about waiving his right to PCR, but he was aware he waived his right to a direct appeal. Applicant averred Counsel did not guarantee a particular sentence, but he stated they both felt the sentence would be favorable to him and would be backdated to the original arrest in Pickens County. Applicant further testified he believed he was entitled to time-served credit starting on that date, and Counsel assured him he would receive time-served credit. Further, Applicant testified Counsel previously told him the time would be backdated to June 2014. Applicant also testified he never discussed with Counsel the sentences any of his codefendants received nor was he aware of whether Counsel researched the codefendants' sentences, but Counsel was confident the court would backdate Applicant's sentence. Applicant testified several codefendants had received credit for their previous time-served. Applicant acknowledged Counsel raised the issue of credit at sentencing and requested some time-served

credit, but he testified the judge ultimately did not backdate his sentence to the date Counsel asked for. Applicant testified Counsel did not inform the court about the county warrants for drugs that were adopted by the State Grand Jury, did not inform the court that the warrants were not referenced in the State Grand Jury indictments, did not inform the court that Applicant had served pre-conviction jail time on the underlying warrants, and did not request that the court give him credit for this time. He also testified Counsel did not bring up the credit other codefendants received and did not tell the court that Applicant was legally entitled to this credit.

Applicant testified he was not aware when he waived his right to PCR that this meant he could not file a claim alleging ineffective assistance against Counsel, and he and Counsel did not discuss the implications of waiving his appellate and collateral rights if the sentence was not backdated. Applicant further testified he would not have pleaded guilty if he had known he would not receive the time-served credit and could not file a PCR action on that issue. Applicant stated Counsel did not discuss what remedy Applicant would have if he did not receive the credit Applicant expected.

On cross-examination, Applicant testified he met with Counsel several times when he was brought to court for various hearings. Applicant agreed he and Counsel discussed the plea agreement, but he testified he did not read the agreement. Applicant testified Counsel advised as to what was in the agreement, and Applicant signed and initialed each page, even pages which he had not read. Applicant testified he signed the plea agreement based on Counsel's advice because he wanted to admit guilt and put the situation behind him. Applicant testified it "may have" swayed him not to sign the agreement if he had known he was waiving his post-conviction rights. Applicant stated he recalled Counsel advising him he was waiving his right to a direct

appeal, but he did not recall a discussion regarding post-conviction relief. Applicant testified he did not ask Counsel what would happen if he waived his appellate rights and did not receive the credit because there was no need to do so, as he believed he would receive it. Applicant agreed he told the plea judge he had plenty of time to review the agreement with Counsel, he understood it, and he was pleading guilty freely and voluntarily.

Counsel testified he has been practicing law for twenty years and approximately ninety-eight percent of his practice is criminal work. Counsel stated he was retained to represent Applicant on the Pickens County charges initially and was later appointed to represent him on the State Grand Jury charges. Counsel testified he met with Applicant several times when Applicant was brought to court. Counsel stated he felt it was an adequate number of meetings to effectively represent Applicant.

Counsel explained Applicant was originally facing a mandatory, twenty-five year sentence for the trafficking charge, but he ultimately pleaded guilty to a lesser-included offense, thereby avoiding a mandatory minimum sentence. Counsel testified he engaged in plea negotiations with the State, and the State ultimately offered Applicant a plea bargain with a recommended cap of fifteen years. Counsel testified he and Applicant entered a written plea agreement, which he reviewed with Applicant at length. Counsel testified he reviewed every paragraph of the agreement with Applicant, including the waiver paragraph, and Applicant had plenty of time to ask questions during the process. Counsel stated every plea agreement with the Attorney General's Office contains the provision waiving direct appeal and collateral rights, so he was familiar with the provision. Counsel testified he reviewed that provision with Applicant and explained what both a direct appeal and a PCR action are, including Applicant's right to

challenge Counsel's conduct if he made mistakes. Counsel further testified it would be impossible for him to explain or list every potential PCR claim Applicant could raise. However, he stated he explained that if he made a mistake, Applicant would normally file a PCR but in this case, he would not be able to do so because he was waiving that right in exchange for a substantial benefit in sentencing.

Counsel explained Applicant did not want to take the chance of going to trial on the original charge, and he received a big benefit from the State in pleading to the lesser charge in exchange for waiving these rights. Counsel testified he did not recall Applicant asking any questions about the waiver provision and stated Applicant was focused on avoiding a trial on the trafficking charge. Counsel further testified Applicant is intelligent and could have asked questions if he wanted to do so, and Counsel believed Applicant understood what he was doing in agreeing to the waiver.

Counsel agreed Applicant raised the issue of time-served credit, and Counsel testified he told Applicant they would ask the judge to give Applicant credit for any time Applicant was entitled to receive. Counsel testified he also told Applicant SCDC would calculate the amount of credit, and he did not guarantee Applicant would receive credit for time served on any Pickens County charges or warrants. Counsel stated he made an argument to the judge on this issue, but ultimately the judge did not backdate to the sentence to the date Counsel requested.

On cross-examination, Counsel testified he told Applicant that SCDC would determine how much credit he was due and apply that to his sentence, which would be time-served in jail on the State Grand Jury charges. Counsel testified he did not now recall whether Applicant had outstanding warrants from Pickens County for the charges ultimately prosecuted by the State

Grand Jury, but he would have been aware of any pending charges at the time. Counsel testified he did not specifically recall if he discussed the warrants with Applicant, though he would have in his normal practice, and he stated he believed Applicant's first attorney dealt with that issue. Counsel also testified he did not recall whether he was aware the State Grand Jury indictment did not list specific warrant numbers and did not point that out the court, and he did not recall whether he made the court aware of the previous warrants. Counsel testified he does not guarantee specific time credit but normally tells defendants that SCDC will compute the time-served credit, and he stated he asked the plea judge for the time Applicant was entitled to.

Counsel testified he explained to Applicant a PCR action is what Applicant could file within a year to see if the attorney's performance fell below a certain standard, and that Applicant would be attacking his performance in that action. He testified he explained a direct appeal would challenge some error the plea court made during the colloquy or in sentencing. On cross-examination, Counsel stated he explained to Applicant that Applicant could file a PCR against him if he made a mistake or if Applicant was unhappy with his performance as his attorney, and he tells all of his clients this information. Counsel further testified he explained to Applicant that Applicant would be giving up that right if he signed the plea agreement. Counsel also testified he explained Applicant was receiving a significantly lower sentence in exchange for waiving those rights. Counsel testified he did not specifically give an example about errors in sentencing, but he explained, generally, what PCR is, and Applicant chose to sign off on the agreement.

After reviewing the record and listening to the testimony presented, this Court finds counsel performed competently in advising Applicant to enter into the plea agreement including

the waiver of post-conviction relief. Under South Carolina law, a criminal defendant can choose to waive his right to collateral review of his conviction. Spoone v. State, 379 S.C. 138, 665 S.E.2d 605 (2008) (holding that a waiver of appellate rights is valid and enforceable as long as it is knowing and voluntary). Plea agreements in general operate under contractual principles and are upheld when each party receives the benefit of the bargain. State v. Thrift, 312 S.C. 282, 292, 440 S.E.2d 341, 347 (1994). However, South Carolina case law also holds that, while appellate waivers are enforceable, a criminal defendant who has waived his appellate and collateral rights is still entitled to raise the narrow issue of whether his attorney's assistance in advising him to enter into the waiver was constitutionally ineffective. Sanders, 412 S.C. at 617, 773 S.E.2d at 583 ("Consequently, we hold that although a defendant may waive his right to collateral review, he is nevertheless still entitled to challenge whether the advice he received in agreeing to that waiver was constitutionally defective.").

Here, Applicant chose to plead guilty and agreed to waive his appellate and collateral rights in exchange for a favorable negotiated sentence. Both parties received a benefit of the bargain, and this Court finds Applicant's plea agreement is valid under contractual law. This Court also finds Counsel's testimony on this issue to be credible. Counsel is experienced in handling similar plea agreements based on his significant criminal defense experience. Counsel's credible testimony establishes that he adequately and fully explained all portions of the plea agreement to Applicant including the waiver of Applicant's direct appeal and post-conviction relief remedies, and Applicant knowingly and voluntarily waived his rights after these conversations with Counsel. This Court also finds Counsel was prepared and competent in his representation of Applicant generally. Therefore, the allegation Counsel was constitutionally

ineffective in advising Applicant to enter into the waiver provision is denied and dismissed with prejudice.

Dismissal of All Other Allegations Beyond Whether Counsel was Ineffective for Advising Applicant to Waive his Right to Post-Conviction Relief

Because this Court finds Applicant received effective assistance of counsel in deciding whether to enter into the waiver provision, this Court dismisses with prejudice all other allegations contained in Applicant's application and raised at the hearing. See Sanders v. State, 412 S.C. 611, 617, 773 S.E.2d 580, 583 (2015) ("[W]e hold that... a defendant may waive his right to collateral review"); Spoone v. State, 379 S.C. 138, 665 S.E.2d 605 (2008) (holding that a waiver of appellate rights is valid and enforceable as long as it is knowing and voluntary). Moreover, Applicant has a remedy available to him as outlined in Al-Shabazz, discussed above, through SCDC's grievance procedure and review by the Administrative Law Court.

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 is denied and dismissed with prejudice.

This Court notes Applicant must file and serve a notice of appeal within thirty days from the receipt of this Order by counsel of record to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRPC, provides 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. This application for post-conviction relief must be denied and dismissed with prejudice; and
2. Applicant shall remain in the custody of the State.

AND IT IS SO ORDERED this 4 day of June, 2021.



R. SCOTT SPROUSE
Presiding Judge
Thirteenth Judicial Circuit

Wallula, South Carolina

Copy mailed to Attorney <u>General and S. Henry</u> on <u>6 / 15 / 2021</u>
