

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Pickens County

G. Edward Welmaker, Circuit Court Judge

RECEIVED

JUN 11 2012

S.C. Supreme Court

EDWARD BOWEN

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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I N D E X

(SW) - Denotes State's Witness
(DW) - Denotes Defense Witness
(IC) - Denotes In Camera

EDWARD BOWEN:

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E X H I B I T S

There were no Exhibits.

1 THE CLERK: Your Honor, this is 2005-GS-39-1619, State
2 vs. Edward James Bowens (sic). Indictment for possession of
3 marijuana. 2005-GS-39-1618, Indictment for possession of
4 cocaine with intent to distribute. 2005-GS-39-1381,
5 Indictment for possession of controlled substance.
6 2005-GS-39-1380, indictment for possession of a controlled
7 substance. 2005-GS-39-1379, Indictment for unlawful sell,
8 manufacture, etcetera of alcoholic liquors. 2005-GS-39-1378,
9 Indictment for possession of marijuana. 2005-GS-39-1377,
10 Indictment for simple assault and battery. 2005-GS-39-1376,
11 Indictment for trafficking methamphetamine. 2005-GS-39-1375,
12 Indictment for possession of marijuana.

13 You're Mr. Bowens (sic)?

14 MR. BOWENS: Yes, ma'am.

15 THE CLERK: 2006-GS-39-2002, Indictment for possession of
16 methamphetamine with intent to distribute

17 THE COURT: That was for Owens?

18 THE CLERK: Yes, sir.

19 You're Mr. Bailey? 2005-GS-39-786, the State vs. John
20 David Bailey, Jr., Indictment for burglary, second degree,
21 violent. 2005-GS-39-787, the State vs. John David Bailey,
22 Jr., Indictment for petit larceny.

23 Ma'am, I did not read yours out did I?

24 A DEFENDANT: No, ma'am.

25 THE CLERK: 2006-GS-39-1173, the State vs. Sharon Denise

1 Edwards, Indictment for possession of marijuana.

2 2006-GS-39-1219, the State vs. Quiona Bowens, Indictment
3 for possession of marijuana with intent to distribute witness
4 one half mile of a park. 2006-GS-39-1218, Indictment for
5 possession of marijuana with intent to distribute.

6 2006-GS-39-1217, Indictment for possession of crack cocaine.

7 Ma'am, are your license -- do you have those?

8 MS. BOWENS: Yes, ma'am.

9 THE CLERK: Okay, they need to be turned into us today.

10 If you'll all, please, raise your right hand.

11 (WHEREUPON, all the defendants were sworn.)

12 THE COURT: All right, I'm going to have to get
13 Mr. Bowens (sic) and Ms. Bowens to switch. Okay. Flip flop.

14 EXAMINATION

15 THE COURT: All right. Okay. All right, Mr. Bowens, how
16 old are you?

17 MR. BOWENS: 54, sir.

18 THE COURT: You're just Bowen, right?

19 MR. BOWENS: Yes, sir.

20 THE COURT: All right. All right. And what's the
21 highest grade you finished?

22 MR. BOWEN: Seventh grade, sir.

23 THE COURT: Can you read and write?

24 MR. BOWEN: Yes, sir.

25 THE COURT: What kind of work do you do?

1 MR. BOWEN: I'm a disabled veteran, sir.

2 THE COURT: All right. Well, have you ever worked?

3 MR. BOWEN: Yes, sir.

4 THE COURT: What kind of work?

5 MR. BOWEN: Carpenter, sir.

6 THE COURT: What's your marital situation?

7 MR. BOWEN: Divorced, sir.

8 THE COURT: Children?

9 MR. BOWEN: I have four, sir.

10 THE COURT: How old are they

11 MR. BOWEN: 25, 26, 32, and 27.

12 THE COURT: All right, you spend any time in jail on this

13 case?

14 MR. BOWEN: Yes, sir.

15 THE COURT: How many days, do you know?

16 MR. BOWEN: I had about 100, a little over 100 days. No,

17 not a 100 days. From November the 10th to January 14th. And

18 then one other time I had 28 days in jail in June.

19 ~~THE COURT: All right 28 plus all that?~~

20 MR. BOWEN: Yes, sir.

21 THE COURT: All right, Mr. Bailey, how old are you?

22 MR. BAILEY: 22, sir.

23 THE COURT: What's the highest grade you finished?

24 MR. BAILEY: Semester of college, sir.

25 THE COURT: What kind of work do you do?

1 MR. BAILEY: Sales. Car sales .

2 THE COURT: What's your marital situation?

3 MR. BAILEY: Single.

4 THE COURT: Do you have any children?

5 MR. BAILEY: No, sir.

6 THE COURT: Days in jail?

7 MR. BAILEY: Five total.

8 THE COURT: Five?

9 MR. BAILEY: Yes, sir.

10 THE COURT: Ms. Edwards, how old are you?

11 MS. EDWARDS: 47.

12 THE COURT: What's the highest grade you finished?

13 MS. EDWARDS: I finished high school, a year at Tech and
14 two years vocational school.

15 THE COURT: All right. What's your -- what's your --
16 what kind of work do you do?

17 MS. EDWARDS: Right now I'm not working because I'm
18 having serious back problems.

19 ~~THE COURT: What kind of work do you do when you work?~~

20 MS. EDWARDS: I build printed circuit boards for
21 computers.

22 THE COURT: What's your marital situation?

23 MS. EDWARDS: Divorced.

24 THE COURT: Children?

25 MS. EDWARDS: Yes, sir.

1 THE COURT: How old are they?

2 MS. EDWARDS: 14. She's 14.

3 THE COURT: All right, how many days did you spend in
4 jail?

5 MS. EDWARDS: 46 days.

6 THE COURT: Mr. Owens, how old are you?

7 MR. OWENS: 21, sir.

8 THE COURT: What's the highest grade?

9 MR. OWENS: Graduated high school.

10 THE COURT: Speak up.

11 SMR. OWENS: 12th.

12 THE COURT: What kind of work?

13 MR. OWENS: I do tree service and I work at Sonic too.

14 THE COURT: Tree service and what?

15 MR. OWENS: Tree service and I work at Sonic on the side.

16 THE COURT: Sonic?

17 MR. OWENS: Yes, sir.

18 THE COURT: What's your marital situation?

19 ~~MR. OWENS: Not married, sir.~~

20 THE COURT: Children?

21 MR. OWENS: Got a five year-old.

22 THE COURT: Days in jail?

23 MR. OWENS: Two.

24 THE COURT: Ms. Bowens, how old are you?

25 MS. BOWENS: 22.

1 THE COURT: What's the highest grade you finished?

2 MS. BOWENS: The ninth, I got my GED.

3 THE COURT: What kind of work do you do?

4 MS. BOWENS: I work in a restaurant?

5 THE COURT: What do you do?

6 MS. BOWENS: Cashier and --

7 THE COURT: What's your marital situation?

8 MS. BOWENS: Separated.

9 THE COURT: Do you have children?

10 MS. BOWENS: Yes, sir.

11 THE COURT: How old are they?

12 MS. BOWENS: 13, 7, 2 of them 3 and one 2.

13 THE COURT: How many days you spend in jail?

14 MS. BOWENS: Overnight.

15 THE COURT: All right. In the last 24 hours have you had
16 any drugs, alcohol or medication, Mr. Bowen?

17 MR. BOWEN: No, sir. Except medication, yes, sir.

18 THE COURT: What did you have?

19 ~~MR. BOWEN: Antipsychotic medication, Risperidone.~~

20 THE COURT: All right, in the last three days have you
21 had -- taken the correct dosage.

22 MR. BOWEN: And Tresidone, sir. I'm on two
23 anti-psychotic medications.

24 THE COURT: Okay. Have you had the right dosage over the
25 last three days?

1 MR. BOWEN: Yes, sir.

2 THE COURT: Do they limit your ability to understand what
3 you're doing?

4 MR. BOWEN: No, sir.

5 THE COURT: Mr. Bailey?

6 MR. BAILEY: No, sir.

7 THE COURT: Ms. Edwards.

8 MS. EDWARDS: No, sir.

9 THE COURT: Mr. Bailey.

10 MR. BAILEY: No, sir.

11 THE COURT: Ms. Edwards?

12 MS. EDWARDS: No, sir.

13 THE COURT: Mr. Owens?

14 MR. OWENS: No, sir.

15 THE COURT: Ms. Bowens?

16 MS. BOWENS: No, sir.

17 THE COURT: Okay. Have you ever been treated for the
18 abuse of alcohol, drugs, mental illness or emotional
19 problems?

20 Tell me about it, Mr. Bowen.

21 MR. BOWEN: Yes, sir. I just completed the IOP. I had
22 28 days inpatient at Columbia at the VA.

23 THE COURT: For what?

24 MR. BOWEN: That's been a few years ago. But recently I
25 finished IOP and continued care. And two 12 week courses in

1 anger management, sir.

2 THE COURT: All right. Who treats you for -- who gives
3 you your psychotic medication?

4 MR. BOWEN: Dr. Dinker at Greenville Outpatient Center.

5 THE COURT: Okay. What's your diagnosis? You got a
6 mental problem?

7 MR. BOWEN: Posttraumatic stress disorder, sir.

8 THE COURT: Okay.

9 All right, Mr. Farnsworth, you think he's competent?

10 MR. FARNSWORTH: Yes, Your Honor.

11 THE COURT: All right, how about you, Mr. Bailey?

12 MR. BAILEY: Yes, sir, I had the pre-trial intervention
13 and after I finished that I was supposed to go to IOP because
14 of a marijuana habit. And I didn't have a license back then
15 so I got kicked out of that for missing two days. Because I
16 was not able to get there as far as a ride goes. But since
17 then I have corrected the fact and got my license back. So.
18 But, yes, sir.

19 ~~THE COURT: Have you ever been treated?~~

20 MR. BAILEY: I was treated but I didn't actually finish
21 the course.

22 THE COURT: All right, Ms. Edwards?

23 MS. EDWARDS: Sir? Could you repeat the question?

24 THE COURT: Are you paying attention?

25 MS. EDWARDS: Yes, sir. I'm trying, I'm in a lot of

1 pain.

2 THE COURT: Pay extra to come up here, I got to read the
3 questions twice for you?

4 MS. EDWARDS: I'm in a lot of pain.

5 THE COURT: All right. I just want to know if you've
6 ever been treated for the abuse of alcohol, drugs, mental
7 illness---

8 MS. EDWARDS: Yes, sir.

9 THE COURT: --or emotional problems.

10 MS. EDWARDS: Yes, sir.

11 THE COURT: Tell me about that.

12 MS. EDWARDS: I have been to Marshall Pickens once and
13 I'm awaiting to go to Marsh Village now. And I finished IOP.

14 THE COURT: What is IOP?

15 MS. EDWARDS: Intense outpatient.

16 MS. FORD: It's at behavioral health.

17 THE COURT: Okay. All right. All right, you okay today?

18 MS. EDWARDS: I'm in a lot of pain.

19 THE COURT: Do you understand what's going on?

20 MS. EDWARDS: Yes, sir, I do.

21 THE COURT: Do you think she's competent, Mr. DeJong?

22 MR. DEJONG: I don't represent her, Your Honor.

23 MR. FARNSWORTH: I think she is, Your Honor.

24 THE COURT: Okay. All right.

25 Mr. Owens, how about you?

1 MR. OWENS: Yes, sir.

2 THE COURT: What did you get treated for?

3 MR. OWENS: Drugs and alcohol.

4 THE COURT: When was that?

5 MR. OWENS: Back in '04, '03.

6 THE COURT: Are you sober today.

7 MR. OWENS: Yes, sir.

8 THE COURT: Okay, how about you, Ms. Bowens?

9 MS. BOWENS: No, sir.

10 THE COURT: All right, Mr. Bowen, you're up here on
11 Indictment 05-1375, alleges you did in Pickens County
12 November 10, '04, unlawfully have in your possession a
13 quantity of marijuana, second offense. Carries a year, do
14 you understand that?

15 MR. BOWEN: Yes, sir.

16 THE COURT: You're also here on trafficking meth. 10 to
17 28 grams, second offense. 05-1376, alleges you did in
18 Pickens County June 3rd '05 sell, manufacture, deliver, bring
19 ~~into South Carolina, provide some form of assistance to do~~
20 any of those things. And you were in actual or constructive
21 possession of 10 to 28 grams of methamphetamine, second
22 offense.

23 MR. BOWEN: No, sir, I was just in possession.

24 THE COURT: Uh?

25 MR. BOWEN: Yes, sir, you're right, sirs.

1 THE COURT: More than 10 grams, trafficking, carries from
2 five to 30 years and a \$50,000 fine, do you understand that?

3 MR. BOWEN: Yes, sir.

4 THE COURT: You're also here on 05-1377, alleges you did
5 in Pickens County November 10th, '04, commit an assault and
6 battery upon John B. Craig. You hit and slapped him about
7 his face and body. Carries 30 days. Do you understand that?

8 MR. BOWEN: Yes, sir.

9 THE COURT: You're also up here on Indictment 05-1378,
10 alleges you did in Pickens County June 3, '05, have in your
11 possession a quantity of marijuana. That's another second
12 offense, that's another year; do you understand that?

13 MR. BOWEN: Yes, sir.

14 THE COURT: You're also here on 05-1379, alleges you did
15 in Pickens County June 3, '05, unlawfully have in your
16 possession a quantity of untaxed liquor. Carrot Creek Road
17 in Pickens County. Moonshine.

18 MR. BOWEN: Yes, sir.

19 THE COURT: ~~What does that carry?~~

20 MR. DELOACH: Uh, a year to six months.

21 THE COURT: Six months, do you understand that?

22 MR. BOWEN: Yes, sir.

23 THE COURT: Where did you get that moonshine? Well we'll
24 talk about in it in a minute. All right, you're also here on
25 '05-1380, alleges you did in Pickens County on or about

1 November 10, '04, unlawfully have in your possession a
2 quantity of Alprazolam, Diazepam, Oxazepam, Zolpidem.
3 Controlled four substance, second or subsequent offense. Up
4 to five years. Do you understand that?

5 MR. BOWEN: Yes, sir.

6 THE COURT: Okay. You're also here on 05-1381, alleges
7 you did in Pickens County November 10th, '04, unlawfully have
8 in your possession a quantity of Oxycodone. Third or
9 subsequent offense. And that carries up to five to 20 years,
10 \$20,000 fine. Do you understand that?

11 MR. BOWEN: There was no response.

12 THE COURT: Five to 20 years, do you understand that?

13 MR. BOWEN: Yes, sir.

14 THE COURT: Okay. All right, sir. Finally you're --
15 well, not finally. You're also here on 05-1618, alleges you
16 did in Pickens County March 9th, '05 possess with intent to
17 distribute a quantity of cocaine. Second offense carries up
18 from five to 30 years; do you understand that?

19 MR. BOWEN: Yes, sir.

20 THE COURT: All right, that's a serious offense which
21 means you get convictions for three or more serious offenses
22 you're eligible for life in prison without parole. Do you
23 understand that?

24 MR. BOWEN: Yes, sir.

25 THE COURT: Same is true with that crack -- the

1 trafficking case, do you understand that?

2 MR. BOWEN: Yes, sir.

3 THE COURT: All right, you're also here on 05-1619,
4 alleges you did in Pickens County March 9th, '05, have in
5 your possession a quantity of marijuana, second offense.
6 That's another year, do you understand that?

7 MR. BOWEN: Yes, sir.

8 THE COURT: All right, Mr. Bailey, you're here on 05-787,
9 alleges you did in Pickens County January 15th, '05, carry
10 away the personal property of Garland Perry. Phonographic
11 albums, a slide ruler, a pocket knife, decorative jug and a
12 portable radio. Valued less than a \$1,000. That's 30 days,
13 do you understand that?

14 MR. BAILEY: Yes, sir.

15 THE COURT: You're also here on '05-786, alleges you did
16 in Pickens County June 15th, '05 unlawfully enter a storage
17 building belonging to Garland Perry on Laurens Road in
18 Clemson, South Carolina in the nighttime. Pleading to
19 burglary third degree and that carries up to five years, do
20 you understand that?

21 MR. BAILEY: Yes, sir.

22 THE COURT: Mr. Edwards -- Ms. Edwards, you're up here on
23 06-1173, alleges you did in Pickens County on or about April
24 13th, '06, unlawfully have in your possession a quantity of
25 marijuana. First offense, carries 30 days. Do you

1 understand that?

2 MS. EDWARDS: Yes, sir.

3 THE COURT: And you've been in jail 46 days?

4 MS. EDWARDS: Yes, sir.

5 THE COURT: Do you understand all your rights

6 MS. EDWARDS: Yes, sir.

7 THE COURT: Your lawyer been over all that with you?

8 MS. EDWARDS: Yes, sir.

9 THE COURT: You want to plead guilty?

10 MS. EDWARDS: Yes, sir.

11 THE COURT: Anybody making you do it?

12 MS. EDWARDS: No, sir.

13 THE COURT: Time served.

14 All right. Well wait a minute, did she have drugs in her
15 possession on that day, Solicitor?

16 MR. DELOACH: Who, Ms. Edwards?

17 THE COURT: Yeah.

18 MR. MARCHANT: Search warrant at the house, Your Honor,
19 ~~on a probation violation.~~

20 THE COURT: Okay.

21 MR. FARNSWORTH: We were going to tell you, that's what
22 Ms. Ford is up here for.

23 THE COURT: Oh.

24 MR. FARNSWORTH: She was on probation and she was revoked
25 before Judge Few---

1 THE COURT: Well run her through. Sorry.

2 All right, Ms. Bowens, you're up here on 06-2002, alleges
3 you did in Pickens County May 30th, '06, possess with intent
4 to distribute a bids quantity of methamphetamine, first
5 offense. Carries up to 15 years and about a \$25,000 fine, no
6 suspended sentence, no probation; do you understand that?

7 MS. BOWENS: Yes, sir.

8 THE COURT: All right, you're also here on -- Ms. Bowens,
9 you're up here on 06-1217, alleges you did in Pickens County
10 February 21, '06, unlawfully have in your possession a
11 quantity of crack cocaine. That carries up to three years
12 and a \$5,000 fine. Do you understand that?

13 MS. BOWENS: (Defendant nods.)

14 THE COURT: You have to speak.

15 MS. BOWENS: Yes, sir.

16 THE COURT: You're also up here on 06-1218, alleges you
17 did Pickens County, February 21st, '06, possess with intent
18 to distribute a quantity of marijuana. That's up to five
19 years and a \$5,000 fine, do you understand that?

20 MS. BOWENS: Yes, sir.

21 THE COURT: You're also here on 06-1219, alleges you did
22 in Pickens County, February 21st, '06, unlawfully have in
23 your possession with intent to distribute a quantity of
24 marijuana within one half mile of Haygood Park. Carries up
25 to 10 years, it's a serious offense. You get convictions for

1 three or more serious offenses you're eligible for life in
2 prison without parole. Do you understand that?

3 MS. BOWENS: Yes, sir.

4 THE COURT: All right. Understanding the nature of the
5 charges against you and the maximum possible punishment, how
6 do you want to plead, Mr. Bowen?

7 MR. BOWEN: Guilty, sir.

8 THE COURT: Mr. Bailey?

9 MR. BAILEY: Guilty to larceny, sir. Petit larceny.

10 MR. BAILEY: Okay, burglary third and petit larceny.
11 Yes, sir.

12 THE COURT: You sure you want to plead guilty? We got a
13 jury coming tomorrow, we'll pick them, try you up.

14 MR. BAILEY: Yes, sir, I understand that.

15 THE COURT: So you want the jury?

16 MR. BAILEY: No, sir, I want to plead guilty to petit
17 larceny and burglary third, sir.

18 THE COURT: Are you sure about that?

19 MR. BAILEY: Yes, sir.

20 THE COURT: All right, how about you, Ms. Edwards?

21 MS. EDWARDS: Guilty.

22 THE COURT: Mr. Owens?

23 MR. OWENS: Guilty.

24 THE COURT: Ms. Bowens?

25 MS. BOWENS: Yes, sir. Yes, sir.

1 THE COURT: Well that's not a yes or no question. What
2 you want to do?

3 MS. BOWENS: Guilty.

4 THE COURT: All right, do you understand the nature of
5 the charges and the maximum possible punishment?

6 MS. BOWENS: (Defendant nods.)

7 Yes, sir.

8 THE COURT: Okay. All right, let's see. Owens and
9 Bowens have recommendations, other than a recommendation has
10 anybody forced you, coerced you, threatened you or promised
11 you anything to get you to plead guilty, Mr. Bowen?

12 MR. BOWEN: No, sir.

13 THE COURT: Mr. Bailey?

14 MR. BAILEY: No, sir.

15 THE COURT: Ms. Edwards.

16 MS. EDWARDS: No, sir.

17 THE COURT: Mr. Owens?

18 MR. OWENS: No, sir.

19 THE COURT: Ms. Bowens?

20 MS. BOWENS: No, sir.

21 THE COURT: Do you each understand that you have an
22 absolute right to a trial by jury where you would be presumed
23 innocent unless and until the State could prove you guilty
24 beyond any reasonable doubt of each and every element of each
25 offense that you're charged with. You'd have the right to

1 confront and cross-examine the witnesses and the evidence put
2 up against you by the State. You'd have the right to compel
3 in court all relevant and competent evidence in your own
4 defense. Or you could remain silent. Your silence would not
5 be held against you and you could never be compelled to
6 incriminate yourself.

7 Do you understand all those rights, Mr. Bowen?

8 MR. BOWEN: Yes, sir.

9 THE COURT: Mr. Bailey?

10 MR. BAILEY: Yes, sir.

11 THE COURT: Ms. Edwards.

12 MS. EDWARDS: Yes, sir.

13 THE COURT: Mr. Owens?

14 MR. OWENS: Yes, sir.

15 THE COURT: Ms. Bowens?

16 MS. BOWENS: Yes, sir.

17 THE COURT: Do you want to give up those rights and plead
18 guilty, Mr. Bowen?

19 MR. BOWEN: Yes, sir.

20 THE COURT: Mr. Bailey?

21 MR. BAILEY: Yes, sir.

22 THE COURT: Ms. Edwards.

23 MS. EDWARDS: Yes, sir.

24 THE COURT: Mr. Owens?

25 MR. OWENS: Yes, sir.

1 THE COURT: Ms. Bowens?

2 MS. BOWENS: Yes, sir.

3 THE COURT: Are you guilty, Mr. Bowen?

4 MR. BOWEN: Yes, sir.

5 THE COURT: Mr. Bailey?

6 MR. BAILEY: Yes, sir.

7 THE COURT: Ms. Edwards.

8 MS. EDWARDS: Yes, sir.

9 THE COURT: Mr. Owens?

10 MR. OWENS: Yes, sir.

11 THE COURT: Ms. Bowens?

12 MS. BOWENS: Yes, sir.

13 THE COURT: Who picked out these five to put together?

14 MR. DEJONG: Mr. Marchant, Your Honor.

15 THE COURT: All right.

16 Are you totally and completely satisfied with the
17 representation of your attorney, Mr. Bowen?

18 MR. BOWEN: Yes, sir.

19 THE COURT: Mr. Bailey?

20 MR. BAILEY: Yes, sir.

21 THE COURT: Ms. Edwards.

22 MS. EDWARDS: Yes, sir.

23 THE COURT: Mr. Owens?

24 MR. OWENS: Yes, sir.

25 THE COURT: Ms. Bowens?

1 MS. BOWENS: Yes, sir.

2 THE COURT: Do you have any complaints you want to make
3 with respect to anybody -- about anything with respect to
4 these charges, Mr. Bowen?

5 MR. BOWEN: No, sir.

6 THE COURT: Mr. Bailey?

7 MR. BAILEY: No, sir.

8 THE COURT: Ms. Edwards.

9 MS. EDWARDS: No, sir.

10 THE COURT: Mr. Owens?

11 MR. OWENS: No, sir.

12 THE COURT: Ms. Bowens?

13 MS. BOWENS: No, sir.

14 THE COURT: And have you had ample opportunity to review
15 the evidence the State has against you, Mr. Bowen?

16 MR. BOWEN: Yes, sir.

17 THE COURT: Mr. Bailey?

18 MR. BAILEY: Yes, sir.

19 THE COURT: Ms. Edwards.

20 MS. EDWARDS: Yes, sir.

21 THE COURT: Mr. Owens?

22 MR. OWENS: Yes, sir.

23 THE COURT: Ms. Bowens?

24 MS. BOWENS: Yes, sir.

25 THE COURT: All right, listen carefully while the State

1 recites the facts they'd prove at trial.

2 MR. DELOACH: Thank you, Your Honor, may it please the
3 Court. Your Honor, as to Mr. Bowen there are three
4 incidents. The first incident on November 10th, 2004 at
5 about 11 p.m. members of the Pickens County Sheriff's Office
6 went the defendant's home on Dan Ross Road to follow up an
7 investigation. They were advised -- they were allowed in by
8 the defendant's roommate, Benny Craig. While lawfully on the
9 property they saw marijuana in plain view and what appeared
10 to be a burn pile behind the residence which is consistent
11 with making methamphetamine.

12 They got a search warrant and recovered 1 schedule 2
13 narcotic and 8 schedule 4 narcotics. And less than one gram
14 of marijuana along with sets of digital scales and several
15 fire arms. The defendant was not at home at the time. When
16 he did return Benny told him what had happened that he --
17 when he did return Benny told him what happened and he
18 assaulted Benny by hitting him in the head and face several
19 times.

20 The second incident was on March 9th, 2005 while the
21 defendant was out on bond for a previous charge, the
22 defendant was a passenger in a truck stopped by the Easley
23 Police Department because it matched the description of and
24 was identified by a witness as the truck from which shots
25 were fired earlier in the evening. The defendant was

1 arrested for DUI. When he removed from the passenger side of
2 the truck a cigarette pack was found on the floorboard where
3 the defendant was sitting. Inside the cigarette pack were
4 two small bags of cocaine which had 2.88 grams and 1.28 grams
5 of cocaine. 4.7 grams in total. Also in the packet was 1.04
6 grams of marijuana.

7 The third incident on June 3rd of 2005 while out on bond
8 for the two previous offenses, the defendant was at home on
9 Carrot Creek Road in Pickens County. The Pickens County
10 Sheriff's Office was sent to the home by family members of
11 the homeowner who wanted them to do a wellness check on the
12 kids of the homeowner. The homeowner allowed the deputies in
13 the home. She told the defendants (sic) that she did want
14 the defendant to leave. He was in the bedroom of the house,
15 they told him to leave and began to escort him out of the
16 house. He turned around claiming that he needed to get his
17 shoes. A deputy saw him take something from his shirt pocket
18 and toss it behind the chair in the living room.

19 The bag was retrieved and had 26.26 grams of
20 methamphetamine in it. In with the defendant's belongings
21 taken from the house was a quantity of untaxed liquor and 26
22 grams of marijuana.

23 THE COURT: All right, is all that true?

24 MR. BOWEN: The liquor and the stuff where I was staying
25 in the little residence behind it, it was a guess house.

1 THE COURT: Yeah.

2 MR. BOWEN: That's where I was staying, sir.

3 THE COURT: All right. Everything he told me true?

4 MR. BOWEN: Yes, sir.

5 THE COURT: All right. And what his record?

6 MR. DELOACH: Yes, sir. He's got a 1973, sell of meth --
7 sell of methamphetamine. '97, sell of valium, barbiturates.
8 Sell of valium and barbiturates. '82, open container of beer
9 and DUS. '86, simple possession of marijuana. '86, another
10 simple possession of marijuana. '87, a possession of a
11 weapon. '89, malicious damage and failure to comply. '89, a
12 disorderly conduct. '91, DUS. '91, DUI. '95, possession of
13 drug paraphernalia. 2002, simple possession of marijuana.
14 2002, open container. 2002, disorderly conduct. 2002
15 possession of crank. And 2003 possession of a controlled
16 substance. Total of six prior drug convictions.

17 THE COURT: Way back in the 70's?

18 MR. DELOACH: Yes, sir.

19 THE COURT: Okay. All right.

20 Is all that true?

21 MR. BOWEN: Yes, sir.

22 THE COURT: Okay.

23 Mr. Farnsworth.

24 MR. FARNSWORTH: Thank you, Judge. Judge, as you heard
25 probably vast majority of his convictions and most of them

1 are drugs or drinking. Were prior probably to 1995. His
2 record starts back '73. Judge, he's told you he's 54 years
3 old, he has four grown children, he's divorced. Most of his
4 adult life prior to being -- becoming disabled he worked as a
5 carpenter, construction work.

6 Judge, he, Mr. Bowen, joined the Marine Core when he was
7 18 years olds and I think he celebrated his 19th birthday in
8 Vietnam. He was in the Marine Core for six years, he was a
9 machine gun operator.

10 THE COURT: Six years?

11 MR. BOWEN: Six years, yeah.

12 MR. FARNSWORTH: And like so many of them that went over
13 there, I think he was first introduced to drugs. In any
14 event, Your Honor, he's told you he had -- he began drawing
15 disability for the stress disorder from Vietnam in I believe
16 in 1991.

17 Is that right?

18 MR. BOWEN: 1991 or '92.

19 ~~MR. FARNSWORTH: '91, '92. And he's been able to --~~
20 unable to work since then. He also goes to the VA on a
21 monthly basis for treatment for his psychiatric problem. And
22 he's on pretty heavy drugs and has been for several years.

23 Judge, let me just say this, these cases go back
24 probably, I don't know, two years at least. The oldest one
25 probably does. And I've been representing him every since

1 then. He has since these charges, on his own, he has gotten
2 two anger management classes he completed. He also completed
3 alcohol and drug programs. He tells me he's been drug free
4 for 17 months. And on occasion I think he has given some
5 information to the law enforcement center this entire time
6 that these charges have been going on.

7 Your Honor, I've explained to him that there's a minimum
8 five years on this. And I would ask, Your Honor, to, based
9 on everything and the fact that he does have a great
10 background as far as military. And that was, as, Your Honor,
11 remembers, that was a very unpopular war. And, of course, it
12 didn't help him, he still had to do the best he could when he
13 was over there. And I think -- I just be proud that he did
14 that. And I would just ask, Your Honor, to take that all in
15 consideration and give him somewhere around the minimum the
16 Court sees fit.

17 THE COURT: All right. Anything you want to tell me?

18 MR. BOWEN: Yes, sir. While I was in jail I found a page
19 out of the Bible that was Deuteronomy. And when I first got
20 to jail I couldn't even read a verse of it. As days past I
21 got to where I could read a verse and by the time I got out
22 in 28 days, I could read the whole page, back and front. And
23 I had a fearful awakening. And drugs will no more be in my
24 life, sir.

25 THE COURT: All right. Where did you get that moonshine?

1 MR. BOWEN: It was a gift, sir.

2 THE COURT: From who?

3 MR. BOWEN: A friend.

4 THE COURT: How good of a friend?

5 MR. BOWEN: Good enough that I won't tell you who it was,
6 sir.

7 THE COURT: All right. You still see them, I guess.

8 MR. BOWEN: Yes, sir.

9 THE COURT: Live here in Pickens County?

10 MR. BOWEN: No, sir.

11 THE COURT: Just across the line in North Carolina?

12 MR. BOWEN: He probably came from North Carolina, sir.

13 THE COURT: Yeah. Okay. All right, I'm going to take
14 kind of a chance on you because of your background and your
15 other problems. I hope you're sincere about your spiritual
16 awakening. I'm going to give you six years on the
17 trafficking, Oxycodone, cocaine charges, cocaine --
18 possession with intent to cocaine. One year on all the
19 ~~marijuana cases. Six months on the moonshine case. 30 days~~
20 or time served on the simple assault and battery. All those
21 are concurrent. Then on the other charge, Indictment
22 05-1380, I'm going to give you five years suspended with
23 probation for three years. It's consecutive. Substance
24 abuse counseling, random drug and alcohol testing and mental
25 health counseling. You're going to do your time and be out

1 and be on probation. All right?

2 MR. BOWEN: Yes, sir.

3 THE COURT: All right, good luck to you.

4 MR. FARNSWORTH: Thank you, Your Honor.

5

6 (WHEREUPON, the requested portion of the
7 proceedings were concluded.)

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FORM 5
CLERK OF COURT
PICKENS COUNTY

STATE OF SOUTH CAROLINA SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF PICKENS

2010 OCT -6 A) 9:17

2010-CP-30-176F

EDWARD J. BOWEN #290274
Full name and prison number (if any) of Applicant.

v.

APPLICATION FOR

State of South Carolina

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Catawba Pre-Release Center, 1030 Milling Road, Rock Hill, SC 29730
2. Name and location of Court which imposed sentence Pickens County Court of General Sessions, Pickens County Court House, 214 E Main Street, Pickens, SC 29671
3. Name(s) of co-defendant(s) (if any)
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2005-GS-32-1618 Possession with Intent to Distribute Cocaine, 2nd
 - (b) 2005-GS-39-1376 Trafficking Meth 10-28 g 2nd Offense
 - (c) 2005-GS-39-1377 Assault and Battery
 - (d) 2005-GS-39-1379 Possession of untaxed liquor

- (e) 2005-GS-39-1380 Possession of schedule IV controlled substance
- (f) 2005-GS-39-1381 Possession of schedule II narcotic, 2nd
- (g) 2005-GS-39-1375, -1378, -1619 three counts of Possession of marijuana

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

- (a) October 23, 2006 - 6 years
- (b) October 23, 2006 - 6 years
- (c) October 23, 2006 - time served
- (d) October 23, 2006 - six months
- (e) October 23, 2006 - consecutive 5 years suspended to 3 years Probation
- (f) October 23, 2006 - 6 years
- (g) October 23, 2006 - 1 year for each count

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty X
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____

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

No

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

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

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

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

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

(c) the date of each such result:

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

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

results:

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

9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) Unaware that I could appeal
 - (b) _____
 - (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of counsel
 - (b) involuntary guilty plea
 - (c) Newly Discovered Evidence
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) _____
 - (b) _____
 - (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? no
 - (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? yes
 - (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. Post Conviction Relief Application - ineffective assistance of counsel
 - ii. Post Conviction Relief Application - States unlawful use of a prior conviction
 - iii. _____

iv. _____

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

i. Pickens County Court of Common Pleas, Pickens County Court House, 214 E

Main Street, Pickens, SC 29671

ii. Pickens County Court of Common Pleas, Pickens County Court House, 214 E

Main Street, Pickens, SC 29671

iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. Amended Sentence - 2007-CP-39-1518

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. April 7, 2009

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

Yes

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

(a) which grounds have been presented:

i. Incorrect Sentence

ii. _____

- iii. _____
- (b) the proceedings in which each ground was raised:
- i. PCR - 2007-CP-39-1518
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) _____
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
- i. Daniel J. Farnsworth, P.O. Box 10196, Greenville, SC 19603
- ii. Perry Gravely, P.O. Box 219, Pickens, SC 29671
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. plea
- ii. PCR
- iii. _____
19. State clearly the relief you seek in filing this application:
- New trial

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

No

2010-CP-39-176F

STATE OF SOUTH CAROLINA)
)
County of Pickens)

VERIFICATION

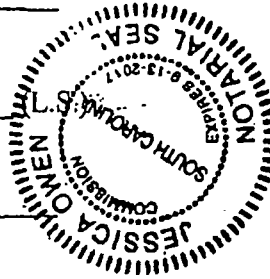
I, Edward Bowen, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Edward J. Bowen 290274

SWORN to and subscribed before me this 1
day of September, 2010.

J. Owen
Notary Public

My Commission Expires: 9/13/17



CLERK OF COURT
PICKENS COUNTY
SOUTH CAROLINA
2010 OCT -6 AM 9:18

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)
)
 Edward J. Bowen,)
 S.C.D.C. No. 290274,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2010-CP-39-1761

RETURN AND MOTION TO DISMISS

In response to the post-conviction relief (PCR) application filed October 6, 2010, the Respondent would show this Court:

I.

The Applicant is confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Clerk of Court for Pickens County. The Applicant was indicted at the July 2005 term of the Pickens County Grand Jury for three (3) counts of possession of marijuana (2005-GS-39-1375, -1378, -1619), trafficking methamphetamine (2005-GS-39-1376), assault and battery (2005-GS-39-1377), possession of untaxed liquor (2005-GS-39-1379), possession of schedule IV controlled substance (2005-GS-39-1380), possession of schedule II narcotic (2005-GS-39-1381), and possession with intent to distribute (PWID) cocaine (2005-GS-39-1618). He was represented by Daniel J. Farnsworth, Esquire.

On October 23, 2006, the Applicant pled guilty. The Honorable Edward W. Miller sentenced the Applicant to concurrent terms of one (1) year for each count of possession of marijuana, second offense, six (6) years for trafficking methamphetamine, second offense, time-

served for assault and battery, six (6) months for possession of untaxed liquor, six (6) years for possession of schedule II narcotic, second offense, and six (6) years for PWID cocaine, second offense. Judge Miller levied a consecutive sentence of five (5) years suspended with three (3) years probation for possession of schedule IV controlled substance, second offense, The Applicant did not appeal.

The Applicant filed a PCR application on October 12, 2007 (2007-CP-39-1518). The Applicant raised the following issues:

1. Ineffective assistance of counsel:
 - a. Failed to investigate the State's unlawful use of a prior conviction.
 - b. Failed to challenge the State's unlawful seizure of personal property.

An evidentiary hearing was convened on February 23, 2009 at the Pickens County Courthouse. Perry H. Gravely, Esquire represented the Applicant. At the hearing, the Applicant stated he wanted to voluntarily withdraw all of his PCR issues except for one. The Applicant wanted the Court to order SCDC to interpret his sentence for trafficking methamphetamine (2005-GS-39-1376) as non-violent. The Honorable John C. Few agreed and issued an order filed April 15, 2009. The order stated: (1) SCDC must interpret the trafficking methamphetamine sentence as non-violent and (2) that all other issues were voluntarily withdrawn by the Applicant. The Applicant did not appeal.

II.

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.
3. Newly-discovered evidence.

For the purpose of this Return, the Respondent incorporates the Pickens County Clerk of Court records, SCDC's records, and the prior PCR records by reference. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III.

The Respondent submits that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. §§ 17-27-10, et. seq. (2003). South Carolina Code Ann. § 17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. See Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant pled guilty to the offenses he challenges in this application on October 23, 2006. The Applicant was therefore required to file his application before October 23, 2007. This application was filed on October 6, 2010, which was almost three (3) years beyond the time the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. See McDonnell v. Consolidated Sch. Dist. of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994). In addition, S.C. Code Ann. § 17-27-70(c) (2003) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to

judgment as a matter of law.” Therefore, the Respondent requests that this Court summarily dismiss the application for post-conviction relief for failure to file within the time mandated by the Uniform Post-Conviction Procedure Act.

IV.

The Court should also summarily dismiss the current Application because it is successive to the previous application for post-conviction relief. Successive applications for post-conviction relief are disfavored. See Land v. State, 274 S.C. 243, 246, 262 S.E.2d 735, 737 (1980). South Carolina Code Ann. § 17-27-90 (2003) states:

All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief, may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended application.

Under this statute, successive post-conviction relief applications are forbidden unless an applicant can point to a “sufficient reason” why new grounds for relief were not raised or were not properly raised in previous applications. Aice v. State, 305 S.C. 448, 450, 409 S.E.2d 392, 394 (1991). Any new ground raised in a subsequent application is limited to those grounds that “could not have been raised . . . in the previous application.” Id. (emphasis in original). If the Applicant could have raised these allegations in a previous application, then the Applicant may not raise those grounds in successive applications. Id. The Applicant bears the burden of showing that the allegations could not have been raised previously. Id.

As the Applicant has failed to present any reasons why he could not have raised the current allegations in his previous post-conviction relief application, the Respondent moves for a

summary dismissal of the application because it is successive.

V.

The Respondent submits the Applicant's claim of newly- or after-discovered evidence is without merit. For an applicant to be granted a new trial based on after-discovered evidence, he must show the evidence: (1) is such that it would probably change the result if a new trial were granted; (2) has been discovered since the trial; (3) could not in the exercise of due diligence have been discovered prior to the trial; (4) is material; and (5) is not merely cumulative or impeaching. State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) (citation omitted).

The Applicant has not specified the nature of his newly-discovered evidence. Regardless, the Respondent submits it is unlikely the "new evidence" offered by the Applicant is material to the issue of guilt or innocence or would not change the result if a new trial was had. See id. The Respondent submits the Court should summarily dismiss this allegation.

VI.

The Respondent denies each allegation not expressly admitted, qualified or explained.

VII.

WHEREFORE, the Respondent moves to summarily dismiss the application because it is successive to the Applicant's prior PCR action and was filed after the statute of limitations had expired.

Respectfully submitted,


HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By: 
Attorneys for Respondent

December 22, 2010

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

EDWARD J. BOWEN, 290274)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS


2010-CP-39-1761

AFFIDAVIT OF SERVICE BY MAIL

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

Tommy A. Thomas, Esquire
Post Office Box 88
Irmo SC 29063

DATED this 22nd day of December, 2010.


 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF PICKENS)

Docket No.:2010-CP-39-1761

Edward J. Bowen,)
)
 Applicant,)
 vs.)
 State of South Carolina,)
)
 Respondent.)
_____)

RETURN TO STATE'S MOTION
TO DISMISS

That the Applicant in response to the State's Motion to Dismiss would respectfully respond as follows:

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Pickens County. The Applicant was indicted at the July 2005 term of the Pickens County Grand Jury for three (3) counts of possession of marijuana (2005-GS-39-1375, 2005-GS-39-1378 and 2005-GS-39-1619), trafficking methamphetamine (2005-GS-39-1376, assault and battery (2005-GS-39-1377), possession of untaxed liquor (2005-GS-39-1379), possession of schedule IV controlled substance (2005-Gs-39-1380), possession of schedule II narcotic (2005-GS-39-1381) and possession with intent to distribute (PWID) cocaine (2005-GS-39-1618). He was represented by Daniel J. Farnsworth, Esq.

On October 23, 2006, the Applicant pled guilty. The Honorable Edward W. Miller sentenced the Applicant to concurrent terms of one (1) year for each count of possession of marijuana, second offense, six (6) years for trafficking methamphetamine, second offense, time-served for assault and batter, six (6) months for possession of untaxed liquor, six (6) years for possession of schedule I narcotic, second offense and six

(6) years for PWID cocaine, second offense. Judge Miller imposed a consecutive sentence of five (5) years suspended with three (3) years probation for possession of schedule IV controlled substance, second offense. The Applicant did not appeal.

The Applicant filed a PCR application on October 12, 2007 (2007-CP-39-1518).

The Applicant raised the following issues:

1. Ineffective assistance of counsel:

- Failed to investigate the State's unlawful use of a prior conviction.
- Failed to challenge the State's unlawful seizure of personal property.

An evidentiary hearing was convened on February 23, 2009 at the Pickens County Courthouse. Perry H. Gravely, Esq. represented the Applicant. At the hearing, the Applicant stated he wanted to voluntarily withdraw all of his PCR issues except for one. The Applicant wanted the Court to order SCDC to interpret his sentence for trafficking methamphetamine (2005-GS-39-1376) as non-violent. The Honorable John C. Few agreed and issued an order filed April 15, 2009. The order stated: (1) SCDC must interpret the trafficking methamphetamine sentence as non-violent and (2) that all other issues were voluntarily withdrawn by the Applicant.

The Applicant was arrested for trafficking methamphetamine on June 3, 2005.

On that date the statute defining violent offenses did not specifically include trafficking methamphetamine. S.C. Code Ann. § 16-1-60 (Supp. 2004). The statute was subsequently amended to treat trafficking methamphetamine as violent – with an effective date of June 7, 2005. S.C. Code Ann § 16-1-60 (Supp. 2005). When the Applicant was sentenced, the conviction was erroneously marked as violent on the

sentencing sheet and treated as violent by the South Carolina Department of Corrections.

This was an error.

The Applicant agreed to the Court's relief dated April 15, 2009, based upon misinformation. He believed wrongly that if it were categorized as non-violent, then he would be parole eligible. Even though the classification changed from violent to non-violent, he is still not parole eligible and is serving a 85% crime.

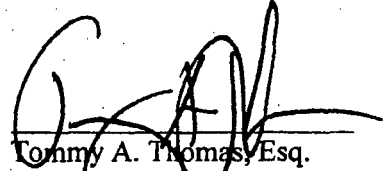
Therefore, based upon the foregoing, the Applicant is informed and believes that his agreement to a dismissal to his Post Conviction Relief Application and voluntary withdrawal of all other issues was based upon erroneous information. Therefore this withdrawal was not freely and voluntarily entered into nor was it an informed withdrawal of the issues before the Court.

The error was not found until counsel was retained in October, 2009, to determine his parole eligibility. It was determined that due to the circumstances of his sentence, he is not eligible for parole. This information was unknown at the previous PCR Hearing.

Originally the Applicant filed a Motion to Reopen the original Post Conviction Relief case. But after consultation with the Attorney General's Office about scheduling a hearing, it was determined that a second Post Conviction Relief filing was more appropriate.

The Applicant would respectfully request that he be allowed an evidentiary hearing to present those issues that were originally scheduled to be presented at his February 23, 2009 hearing.

Respectfully submitted,



Tommy A. Thomas, Esq.
Attorney for Applicant
P.O. Box 88
Irmo, SC 29063
(803) 732-5507

January 20, 2011
Irmo, South Carolina

STATE OF SOUTH CAROLINA)
 COUNTY OF PICKENS)
)
)
 EDWARD J. BOWEN)
) APPLICANT)
 vs.)
)
 STATE OF SOUTH CAROLINA)
) RESPONDENT)

COURT OF COMMON PLEAS
 2010-CP-39-01761

ORIGINAL

TRANSCRIPT OF RECORD

May 12, 2011
 Greenville, South Carolina

B E F O R E:

THE HONORABLE EDWARD WELMAKER, Judge.

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

TOMMY A. THOMAS, ESQ.
 Attorney for the Applicant

KAREN C. RATIGAN, ESQ.
 Attorney for the Respondent

APRIL HERRON
 Official Court Reporter

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DAN FARNSWORTH

Direct By Ms. Ratigan 36
Cross By Mr. Thomas 42

» > o < «

Certificate of Reporter 49

1 THE COURT: All right, Ms. Ratigan, be glad to
2 hear about the next case.

3 MS. RATIGAN: Thank you, Your Honor. This the
4 case of Edward Bowen vs. The State of South Carolina, it's
5 a Pickens County case. The docket number is
6 2010-CP-39-1761. We've got a bit of unusual procedural
7 history so I will go through it just to make sure that
8 everyone is on the same page. Mr. Bowen was indicted back
9 in 2005, again in Pickens County, for three counts of
10 possession of marijuana and one count each of trafficking
11 methamphetamine, assault and battery, possession of
12 untaxed liquor, possession of a schedule four substance,
13 possession of schedule two narcotic and possession with
14 intent to distribute cocaine. He was represented on these
15 charges by Mr. Farnsworth.

16 He pled guilty October 23rd, 2006 before Judge
17 Miller. He received concurrent sentences of one year for
18 each count of possession of marijuana, second offense.

19 Six years for trafficking methamphetamine, second offense.
20 Time served for assault and battery. Six months for
21 possession of untaxed liquor. Six years for possession of
22 schedule two narcotic, second offense. And six years for
23 possession with intent to distribute cocaine, second
24 offense. He also received a consecutive sentence of five
25 years suspended with three years probation for the

1 possession of schedule four controlled substance, second
2 offense. He did file an appeal.

3 Mr. Bowen did file a PCR application in October
4 of 2007. We actually had a hearing on the case
5 February 23rd, 2009 at the Pickens courthouse. He was
6 represented at that time by Mr. Gravely. At the hearing
7 Mr. Bowen stated he wanted to withdraw all his PCR issues
8 except for one. He wanted the Court to order the
9 Department of Corrections to interpret his sentence for
10 trafficking meth as non-violent. Judge Few agreed and
11 issued an Order to that effect April 15th, 2009. He did
12 not file an appeal. Mr. Bowen then filed a second PCR
13 application in October. I submitted a return motion to
14 dismiss and proposed Conditional Order of Dismissal to
15 Judge Stilwell. Judge Stilwell signed the Conditional
16 Order dismissing the case and it was filed January 25th of
17 this year.

18 Mr. Thomas submitted a response to that
19 Conditional Order and Judge Stilwell at that point ordered
20 that we would have a hearing on my motion to dismiss. We
21 did have that hearing back in February term of court over
22 here in Greenville County before Judge Stilwell. At that
23 hearing Judge Stilwell found that this case needed to
24 proceed to a evidentiary hearing. He found that
25 Mr. Bowen's agreement to withdraw his prior PCR

1 application was predicated on improper advice from his
2 first PCR attorney. So basically what Judge Stilwell has
3 done is set us back to square one and we're here to
4 proceed on the PCR issues related to his original guilty
5 plea from October 23rd of 2006.

6 THE COURT: So the 2006 PCR was the one that
7 changed the sentence from violent to non-violent?

8 MS. RATIGAN: Yes, from violent to non-violent.
9 I mean, basically what happened is--

10 THE COURT: Okay, then everything was withdrawn
11 so the appeal now is basically should be withdrawn
12 everything else?

13 MS. RATIGAN: Yes, we're basically back to the
14 original PCR issues, Judge.

15 THE COURT: All right, Mr. Thomas.

16 MR. THOMAS: Judge, may it please the Court,
17 we'd call Mr. Bowen to the stand.

18 THE CLERK: Mr. Bowen, if you'd step around
19 here, please. Place your left hand on the Bible and raise
20 your right hand. Your left hand on the Bible.

21 EDWARD BOWEN, after being duly sworn, testified
22 as follows:

23 THE CLERK: Thank you, you may be seated. State
24 your full name for the record, please.

25 THE WITNESS: Edward James Bowen.

1 THE CLERK: Thank you.

2 MR. THOMAS: If it please the Court, Your Honor?

3 THE COURT: Yes, sir.

4 DIRECT EXAMINATION

5 BY MR. THOMAS:

6 Q Mr. Bowen, you're here for post-conviction relief?

7 A Yes, sir.

8 Q All right, sir. You understand that the relief that
9 you're asking for, the post-conviction, is for a new
10 trial?

11 A Yes, sir.

12 Q All right, sir. And you and I have spoken about
13 exposure and what you do if the Judge grants your
14 petition for this action, that you'd be given a new
15 trial or could be tried on these actions?

16 A Yes, sir.

17 Q All right, sir. And you wish to proceed?

18 A Yes, sir.

19 Q All right, sir. Mr. Bowen, you're currently
20 incarcerated with the South Carolina Department of
21 Corrections?

22 A Yes, sir.

23 Q And you are at what institution?

24 A Catawba pre-release, sir.

25 Q All right. And when do you max out?

1 A August 2011.

2 Q All right, sir. Soon?

3 A Yes, sir.

4 Q All right. And you're serving what type of sentence,
5 how long?

6 A Six years, 85.

7 Q All right, sir. Now, Mr. Bowen, you have charges,
8 you've heard the charges and what you've pled to that
9 was presented by an attorney?

10 A Yes, sir.

11 Q All right, sir. And those charges arose out of three
12 separate incidents, is that correct?

13 A Yes, sir.

14 Q And what three different incidents were there?
15 Because I know that you're making allegations of
16 different parts --

17 A Yeah, the first incident was my house.

18 Q Is that the --

19 A That was November 2004.

20 Q And that's at Dan Ross Road, is that correct?

21 A Yes, sir.

22 Q All right. And what warrants or indictments did you
23 get out of that?

24 A That was trafficking meth.

25 Q Yes, sir.

1 A That was -- and also schedule two narcotic.

2 Q Yes, sir.

3 A Possession of marijuana and schedule four controlled
4 substance.

5 Q All right, sir. Now, you--

6 A Also -- excuse me, sir, also the assault and battery.

7 Q Okay. All right. Now, then March 9th of 2005 was a
8 separate incident?

9 A Yes, sir.

10 Q And where was that?

11 A That was in Easley, South Carolina. And I was in --
12 I was a passenger in the pickup truck driven by the
13 owner of it. And we were pulled over for -- they
14 accused us of shooting into a dwelling. And so the
15 dogs were brought out and they searched the vehicle.
16 And they got the driver out and had him doing a
17 sobriety test.

18 Q Yes, sir.

19 A And as he was doing the sobriety test, after they had
20 already searched him and everything, he led the
21 police back to the truck, pickup truck, and they went
22 through it again. The police officer was on one side
23 and he was on the other side, and they came out with
24 something. And they said it was mine and they
25 charged me with possession of cocaine with intent to

- 1 distribute and simple possession of marijuana.
- 2 Q Now, do you have any ownership of that truck?
- 3 A No, he was the owner of it.
- 4 Q He was the owner of it?
- 5 A Yes, sir. He was the owner of it, he was the driver
6 of it, I was the passenger and he wasn't charged. I
7 don't know if they charged him for DUI or not.
- 8 Q All right. Was anyone charged with the discharging
9 of a weapon?
- 10 A No, sir.
- 11 Q Okay. Now, the third incident occurred in June the
12 3rd of 2005. And what happened there?
- 13 A There was a wellness check at Tamara Flanagan's
14 house.
- 15 Q Yes, sir.
- 16 A And I was inside and the deputies came in, the
17 narcotics agents came in and all. And I was caught
18 there with trafficking meth. And simple possession
19 of marijuana.
- 20 Q All right.
- 21 A And unlawful liquor that was also there.
- 22 Q Now was that your home?
- 23 A No. There was a little place out back, a guest
24 house.
- 25 Q Yes, sir.

- 1 A I was staying in the guest house at the time, sir.
- 2 But I was in the house when the arrest was made, sir.
- 3 Q All right, sir. Now, the trafficking charge, just to
- 4 clear everything up, the trafficking charge, you had
- 5 a charge of trafficking from your home at Dan Ross
- 6 Road, is that correct?
- 7 A Yes, sir.
- 8 Q Now that -- those drugs turned out to be imitation
- 9 drugs, is that correct?
- 10 A Well, it wasn't even a controlled substance but I
- 11 didn't find this out until I went to a bond hearing
- 12 in, I believe it was June 2005. I went to a bond
- 13 hearing on the first time I actually did have it.
- 14 Q Yes, sir.
- 15 A And I went to the bond hearing and I found out that
- 16 that wasn't even a controlled substance that they had
- 17 me in jail for three months for. And I had a bond
- 18 over \$100,000.00. Anyway, I'm grateful that it
- 19 wasn't the real thing because...
- 20 Q Now you only pled to one account of trafficking --
- 21 A Yes, sir --
- 22 Q -- methamphetamine --
- 23 A Yes, sir.
- 24 Q -- is that correct?
- 25 A Yes, sir.

1 Q And actually we've looked at that and the charge that
2 you pled to is the Carrot Creek, is that right?

3 A Yes, sir.

4 Q So that's the drug that actually tested for
5 methamphetamine?

6 A Yes, sir.

7 Q So evidentially you did not plead to the one that
8 turned out to be something other than a drug?

9 A No, sir.

10 Q All right. Now, Mr. Bowen, you understand that this
11 is your day in court to challenge these charges and
12 these sentences against you. And I think that you
13 and I have gone through this in quite some detail.
14 The first issue that you indicated to me was the
15 unlawful search and seizure?

16 A Yes, sir. I wasn't home when my house was entered by
17 the police--

18 Q All right, we're talking about the Dan --

19 A Dan Ross Road, yes, sir.

20 Q The first incident, okay.

21 A I wasn't home at the time. And when I came home the
22 guy that I let lived there because he didn't have a
23 place to stay, he said he let the police in and that
24 they found all this stuff.

25 And I said, I didn't have any stuff.

1 And I got real angry at him. That's where the
2 assault and battery came in.

3 Q All right. Now --

4 A He -- excuse me, sir.

5 Q No, you go ahead.

6 A He also said that the police took a knife collection
7 of mine and also some watches that belonged to my
8 grandfather. And anyway I got real mad and two of my
9 other friends was there that came with me. And it
10 was like drizzling rain and they found some of my
11 stuff outside in the rain, you know. And that's what
12 I got real mad about. I tried to claim the police
13 officers took my belongings, that when I assaulted
14 him, sir.

15 Q All right, sir. Now, it was your contention that he
16 didn't have the authority to grant permission for the
17 police to come into your house?

18 A No, he didn't pay any rent and he didn't have
19 anything to do with living there. I give him a room
20 to live in --

21 Q Yes, sir.

22 A And that's the only place he should have been. As a
23 matter of fact, before I left the night before, when
24 he let the police in the next day, I made a specific
25 order for nobody enter my bedroom because I had ran a

1 couple out of there earlier. And but...

2 Q Okay.

3 A He definitely didn't have any reason in my bedroom.

4 Q Did you talk to your attorney about that?

5 A I told him all about it. That I wasn't guilty of any
6 of the charges except at Carrot Creek.

7 Q Did you talk about a motion to suppress to try to
8 suppress any evidence that this was going to go to
9 trial?

10 A I was illiterate at the time, sir. I didn't know
11 anything about suppressing anything.

12 Q All right.

13 A And I was coerced by him in pleading guilty, afraid
14 that I might wind up with a life sentence. And they
15 wouldn't believe me because of my -- I couldn't be
16 guilty a part of it and not guilty of all of it and
17 all this stuff. And they wouldn't believe me. Which
18 was probably right, you know, I don't know if they
19 would. But anyway, it started out with a five year
20 plea that I was offered. And when Judy Munson took
21 over the case they withdrew [sic] that.

22 Q Okay, let's don't get ahead of ourselves.

23 A Yes, sir.

24 Q Now, you do have a prior record?

25 A Yes, sir.

- 1 Q A lot of it is marijuana?
- 2 A Yes, sir.
- 3 Q And you served in Vietnam?
- 4 A Yes, sir.
- 5 Q And you've been diagnosed with post-traumatic stress
6 syndrome?
- 7 A Yes, sir.
- 8 Q And you do take medication for mental health issues?
- 9 A Yes, sir. I was on medication since '91.
- 10 Q All right, sir. And so although you may have a prior
11 history, you never had any significant drug charges;
12 have you?
- 13 A No, sir. No, sir.
- 14 Q Okay. All right. Now, you were -- you're alleging
15 that your attorney was ineffective?
- 16 A Yes, sir.
- 17 Q All right. And did -- how did he go about as far as
18 preparing this case for you? Did you prepare it for
19 trial or how did you do that?
- 20 A I didn't see him prior to anything. All he did was
21 coerce me into pleading guilty, sir.
- 22 Q All right. How many times did you meet with him?
- 23 A I met with him numerous times. He called me up to
24 the courthouse and I'd go up there for roll call and
25 maybe they wasn't even roll call but he'd be there

1 and I'd be there and I'd talk to him, you know.

2 Q Yeah.

3 A And anyway, he called me up there one time and asked
4 me about prostitutes in Vietnam.

5 Q Did you have any theory? Did you sit down and say,
6 you know, how are you going to defend me, what's our
7 theory going to be as far as a defense in any of
8 this?

9 A Well he did a good job at my bond hearing.

10 Q Yes.

11 A I was really impressed by him bringing out the fact
12 that they held the evidence of the first drugs not
13 being actual controlled substance.

14 Q Yes, sir.

15 A The first methamphetamine, I was real impressed how
16 he brought that out. Told them that they violated my
17 rights by not letting me know that and all this. So
18 I was real impressed with him.

19 Q Yes, sir.

20 A And I thought he'd be doing the right thing and I
21 totally trusted him, sir.

22 Q So what happened from there?

23 A From there I pled guilty and was sentenced.

24 Q Yes, sir. Now, did you talk to him about the
25 vehicle? About what happened there and your

1 contention that none of those drugs that were found
2 were yours?

3 A Yes, sir. I told him but just like a police officer
4 told me that they pile so much stuff on you that even
5 your lawyer wouldn't believe it. That's exactly what
6 happened to me, sir.

7 Q But it was your contention that whatever was found in
8 that vehicle didn't belong to you?

9 A It definitely wasn't mine, sir. No, sir, it wasn't
10 mine. And I told him it wasn't.

11 Q Now, you had mentioned in this -- and let's go into
12 the thing about the plea offer. Because you
13 mentioned that a little bit earlier. Now, did you
14 have an original plea offer?

15 A I had a plea offer of five years parolable from
16 Mr. Peter Them, the solicitor in Pickens County.

17 Q Yes, sir.

18 A At the time. And after Ms. Munson took over the
19 case, my lawyer informed me that the plea was
20 withdrawn.

21 Q All right. Now, you said that you had a plea offer.
22 You and I talked about this and you told me that you
23 had a plea offer to trafficking meth, possession of
24 marijuana, second, the untaxed liquor?

25 A Yes, sir.

1 Q And the assault and battery?

2 A Yes, sir.

3 Q And that they had offered you five years non-violent
4 parolable?

5 A Yes, sir.

6 Q Okay. And did you discuss that plea with your
7 attorney?

8 A I told him I'd take that. I was in counseling and
9 talked to a psychiatrist and that I didn't think that
10 very day but I told him I definitely wanted that plea
11 bargain.

12 Q Okay.

13 A But it was withdrawn, like I say. They changed
14 solicitors and it was withdrawn.

15 Q So did your attorney, to the best of your knowledge,
16 your attorney did not transmit that acceptance to the
17 solicitor?

18 A If he did they withdrew it anyway. I'm not sure
19 what he did, sir.

20 Q But you had indicated to him that--

21 A Yes, sir, I definitely wanted it, yes, sir.

22 Q Now you were being treated at that time?

23 A Yes, sir. I was on two psychotropic medications at
24 the time, sir.

25 Q Where were you being treated at?

- 1 A At Greenville Outpatient Clinic.
- 2 Q Did you talk with your attorney about that?
- 3 A He knew that too, sir, yes, sir.
- 4 Q Okay. Now, you and I have talked about competency.
- 5 You entered into a plea and you pled guilty to these
- 6 charges and was sentenced. Do you feel like you were
- 7 competent at the time to enter this plea?
- 8 A I don't know if I was competent or not but I was
- 9 misinformed and I was -- I was coerced into a plea
- 10 that I wouldn't have taken it if I'd known what I
- 11 know now. So no, I wasn't as competent then as I am
- 12 now, no, sir.
- 13 Q All right. And you said that you started having
- 14 problems after you returned from Vietnam?
- 15 A Yes, sir.
- 16 Q And that's when you were actually diagnosed with
- 17 mental illness?
- 18 A Yes, sir.
- 19 Q Are you're still being treated for that now?
- 20 A I was until I came to prison, sir.
- 21 Q They haven't offered you any treatment?
- 22 A Well they gave me medication but it was the wrong
- 23 thing. I took the wrong medication for about five
- 24 months and all I got was a headache from it. And I
- 25 refused the medication so they took me off of it.

1 And through prayer and a little exercise and stuff,
2 I've come through it pretty well.

3 Q All right, sir.

4 A And I don't -- hopefully I'll never have to use
5 medication again of any sort.

6 Q Okay. Are you clear minded today?

7 A Sir?

8 Q Are you clear minded today?

9 A Yes, sir. Clearer than I've been in 40 years, sir,
10 yes, sir.

11 Q Now, you said that in the transcript at your plea
12 hearing, the solicitor makes certain statements about
13 a prior record. And you had indicated to me that
14 those representations made by the solicitor were
15 false?

16 A Yes, sir.

17 Q How were they false?

18 A Well they -- it was claimed that I was arrested for
19 sell of Valium and barbiturates in 1997 which was
20 totally untrue.

21 Q Okay. And I think that's on page 25 of your
22 transcript.

23 A Probably, sir.

24 Q I've got a copy of it --

25 A Yes, sir, that sounds reasonable.

1 Q And it said that in '97 you had a conviction for
2 selling Valium?

3 A Yes, sir, that's what it says, sir, that's what it
4 says.

5 Q All right. Were you guilty of that?

6 A No, sir, that didn't happen.

7 Q All right. And what else was misrepresented that
8 you...

9 A In 2003, controlled substance, that never happened
10 neither.

11 Q All right. So you feel that both of those
12 representations to the Court were incorrect?

13 A Definitely incorrect, sir.

14 Q All right. And you feel like that could have
15 influenced the Judge's decision --

16 A Yes, sir.

17 Q -- in sentencing you?

18 A Especially as far as enhancement clause.

19 Q All right. Now you and I also spoke about a witness.

20 You said that there was a problem with one of the
21 witnesses that you were going to use. What kind of
22 problem was that?

23 A Well, she was a ex parole officer.

24 Q Yes, sir.

25 A And she was going to get up and be a character

1 witness for me and explain why I was at her house
2 when I was arrested June 2nd at Carrot Creek. And
3 she was going to say some good things about me,
4 probably about the reason I was there at her house,
5 you know. For her protection and stuff. And the
6 Solicitor, Ms. Munson, told her if she took the stand
7 in my behalf and said anything to help me that she'd
8 see to it that she went to prison with me.

9 Q And did you discuss that with your attorney?

10 A Yes, sir.

11 Q And what happened with that?

12 A He said not to worry about that, she wouldn't be
13 presenting my case in court.

14 Q And who was that? Who was the she you're talking
15 about?

16 A She was Ms. Judy Munson.

17 Q All right. And you knew Ms. Munson from school, you
18 and she went to school together?

19 A Yes, sir, we went to school together in the seventh
20 grade. She told on us for smoking cigarettes.

21 Q All right. Did you tell your attorney about that?

22 A Yes, sir.

23 Q You did?

24 A Yes, sir.

25 Q All right. Now, Mr. Bowen, you also said that you

1 felt like that your trafficking charge was improperly
2 enhanced and you and I talked about that, is that
3 correct?

4 A Yes, sir.

5 Q Raise this before the Court. How do you feel like it
6 was improperly enhanced?

7 A According to what research I've done, Brown versus,
8 what Woodruff?

9 Q Yes, sir.

10 A Versus Brown.

11 Q Yes, sir.

12 A It states the statute of trafficking can only be
13 enhanced by trafficking itself.

14 Q So you feel like, it's your opinion that it could
15 only have been enhanced by a prior trafficking?

16 A Yes, sir. The 470 Rule don't apply according to the
17 Brown case.

18 Q Yes, sir.

19 A It don't apply to trafficking because it's got its
20 own weight schedule.

21 Q Okay. And you did have a little bit of a problem in
22 regards to the trafficking charge turning out to be
23 violent or non-violent?

24 A Yes, sir.

25 Q Because the statute had change?

1 A Yes, sir. The statute change four days before --
2 after I was arrested. It turned into a violent crime
3 four days after I was arrested, sir.

4 Q All right --

5 A As to the fact --

6 Q You and I talked about this and you had stated about
7 you entered into this plea believing that it was a
8 non-violent crime? The trafficking.

9 A Yes, sir. Well, my lawyer told me it was violent, I
10 told him that it was -- it couldn't have been
11 violent -- it wasn't violent until I was in jail
12 because I read it in jail that it changed to be
13 violent. I said, wouldn't that influence it, you
14 know, and make it a non-violent charge?

15 And he said, oh, dada, dada, dada, dada.

16 And I just went ahead with him and trusted him
17 as best I could and...

18 Q Now, you also thought that you were going to be
19 eligible for parole?

20 A Yes, sir.

21 Q And as far as --

22 A I did --

23 Q -- and that was the basis for entering into this plea
24 that you felt like you would have some opportunity to
25 get out earlier?

1 A I did. After I went to court in Pickens for the PCR.

2 Q Uh-huh.

3 A That's what I was told and that's what I was promised
4 from my lawyer. And he even told my sister that I
5 was fixing to get out and they was expecting me to
6 get out like in June or July.

7 Q Yes, sir.

8 A And that was in February. So when that didn't happen
9 I seeked [sic] other counseling and that's how I
10 found you, sir.

11 Q So that's why you brought the action to have it
12 changed from violent to non-violent?

13 A Yes, sir, so I'd have a parole sentence, sir.

14 Q Because you thought if you got it changed from
15 violent to trafficking, to non-violent --

16 A Yes, sir.

17 Q Which was under the statute at the time.

18 A Yes, sir.

19 Q That you would have been eligible for parole?

20 A Yes, sir?

21 Q And were you eligible for parole?

22 A No, sir.

23 Q You're 85 percent?

24 A No, sir, it didn't change my sentence not one day,
25 sir.

1 Q Okay. Now, you stated that this was told to you by
2 counsel, by your attorney or how?

3 A Yes, sir, yes, sir.

4 Q So this was your understanding when you went into the
5 plea?

6 A To?

7 Q When you originally went into this plea to these
8 charges --

9 A The PCR?

10 Q No, the original --

11 A The charges?

12 Q Yes, sir.

13 A I wun't [sic] given -- to begin with, the only offer
14 they offered me was five years non-violent parole.
15 That I was going to take. But when I went -- when
16 they give it to me, that's not what I got.

17 Q All right.

18 A And I had known that they withdrew that, yes, sir.

19 Q You knew that but you still thought that you would be
20 eligible for parole?

21 A Yes, sir.

22 Q All right. Now, Mr. Bowen, you indicated to me that
23 you felt like there was some problem with the
24 deficiency of the indictment.

25 A Well my attorney, he didn't give me the true bill or

1 anything like I asked him. And the indictments. And
2 when I wrote to get them, one of them had the
3 trafficking. It had the 247 Dan Ross Road
4 information inside it. And stamped and everything
5 like that was it. And I said, Surly this can't be.
6 And the sequence of the indictments were in sequence
7 numbers. And that number is a sequence within the
8 sequence of the five or six warrants that they got at
9 the same time. But when I sent to get another one,
10 indictment, they sent me one with the Carrot Creek
11 incident. So they used the same indictment number
12 and the same indictment but I don't know how they do
13 that but I think they reinvent the indictment.

14 Q So you felt like it was the same indictment --

15 A Yes, sir.

16 Q -- that you'd been indicted for the drugs?

17 A Yes, sir.

18 Q Turned --

19 A Yes, sir, they just changed the information in it,
20 yes, sir.

21 Q Okay. Now, I think there's one last thing that you
22 had brought up to me and that you felt like that you
23 had been improperly sentenced under the possession of
24 the schedule four drugs, is that correct?

25 A Yes, sir.

1 Q And why do you feel like you were improperly
2 sentenced on that?

3 A Well, because the -- from what I read in the law
4 book, it only carried -- the charge carries a year or
5 a \$2000.00 fine. And I was sentenced to five years
6 suspended to three years probation. Beyond the
7 guideline of sentencing.

8 Q Okay. And --

9 May I approach, Your Honor?

10 THE COURT: You may.

11 BY MR. THOMAS:

12 Q Mr. Bowen, I'm going to show your sentencing sheet
13 for the possession of schedule four narcotics.

14 A Yes, sir.

15 Q And it says at the top, does it give a range?

16 A Yes, sir. Zero to one year or \$2000.00.

17 Q And what were you sentenced to?

18 A I was sentenced to five years suspended to three
19 probation.

20 Q Now you and I, we looked at the code section?

21 A Yes, sir.

22 Q You and I talked about that today?

23 A Yes, sir.

24 Q And second offense in the code section that I have,
25 second offense carries up to five years?

1 A Yes, sir.

2 Q But you still contend --

3 A I contend that I shouldn't be charged with this
4 anyway because of the illegal search and seizure at
5 the time I was arrested.

6 Q But even if you were --

7 A Even if I were --

8 Q -- you contend you could not have received five years
9 on that charge?

10 A I don't think so not from what I read, no, sir.

11 Q Okay.

12 A Not from the CDR code.

13 Q Yes, sir.

14 A The CDR code 0180, don't carry that.

15 Q Don't carry five years?

16 A No, sir.

17 Q Okay. Now, Mr. Bowen, this is your day and you and I
18 discussed this, this is your one bite at the apple as
19 it would be said.

20 A Yes, sir.

21 Q Is there anything else that you would like to present
22 to the Court that I've missed or that I've forgotten
23 to raise that you feel like is important today?

24 A I'm sure there is and I've mentioned it to you. But
25 there's so much that went on here right now, I'm not

1 sure.

2 Q You feel like we've covered all the important
3 information here?

4 A We've covered a lot of important information here.

5 Q All right, let me look at my notes --

6 A It's probably something I'll remember when I walk off
7 of here.

8 Q That's okay, I'll double check my notes.

9 A I have one other thing, sir.

10 Q Yes, sir.

11 A While you're looking. Equal protection of the law, I
12 was the only one at my house arrested when I wasn't
13 even there. And I was in the vehicle and I was the
14 only one arrested and it wasn't mine and I wasn't
15 driving it. And I was in a house that I was arrested
16 and all the charges were for me. How is that equal
17 protection of the law?

18 Q So you were in somebody else's house and you got
19 arrested?

20 A Yes, sir.

21 Q You were in somebody else's truck and you got
22 arrested?

23 A Yes, sir. I wasn't at home and I got arrested.

24 Q And then the other -- there were three separate
25 incidents and then the other time when it was your

1 house --

2 A Yes, sir.

3 Q You weren't even at home?

4 A That's right, sir.

5 Q All right.

6 MR. THOMAS: I have no further questions, Your
7 Honor.

8 CROSS-EXAMINATION

9 BY MS. RATIGAN:

10 Q Just have a few quick questions for you, Mr. Bowen.

11 A Yes, sir.

12 Q So you testified you had several meetings and
13 discussions with Mr. Farnsworth before you pled
14 guilty?

15 A I did.

16 Q And you discussed with him --

17 A It wasn't about --

18 Q -- the charges the State had against you?

19 A It wasn't discussed about the plea bargain or nothing
20 like that. It was mostly a roll call and him calling
21 me to the courthouse.

22 Q Okay. Well let me go back to my question. Did y'all
23 discuss the State's charges that were pending against
24 you?

25 A Yes, we did.

1 Q Okay. And you told him about this person letting the
2 police into your house. You told him that you were
3 just a passenger in that truck?

4 A Yes, ma'am, I did.

5 Q And you told him kind of your story?

6 A Yes, ma'am, I did.

7 Q Okay. And your testimony is the State came to you
8 with a five year plea offer but by the time you
9 decided to take it it had already been removed?

10 A Well I would have took it right then but I had -- I
11 had pressing issues like my mind to get straight. I
12 wanted to continue my counseling because it was the
13 first time that I had come close to being straight in
14 years, you know. And off drugs.

15 Q Okay. But what I'm saying is when you finally told
16 Mr. Farnsworth, I'm ready to take it, it had already
17 been withdrawn, is that correct?

18 A I told him at the time he told me that I wanted to
19 take it. But it was withdrawed before I got to
20 court.

21 Q Okay. So when did you decide to enter a plea on
22 these charges? Did you want to plea from the very
23 beginning or at some point did you want to go to
24 trial?

25 A I signed that I would plead guilty four days, I

1 think, before we went to court. Mr. Farnsworth
2 called me to the courthouse and I went up there and I
3 signed the plea four days before I went to court, I
4 believe, on Monday.

5 Q And did Mr. Farnsworth tell you that there was no
6 longer a recommendation?

7 A Yes, he did.

8 Q So why did you go ahead and decide to plead guilty
9 that day?

10 A Because he had told me that they wouldn't believe
11 nothing I said anyway. And that I couldn't be part
12 guilty and expect to be found not guilty on the other
13 ones. So I did it out of fear, ma'am.

14 Q Okay. And Mr. Farnsworth, he told you that you would
15 be eligible for parole?

16 A No, he did not.

17 Q But you just thought you would be parole eligible?

18 A Well, I thought that the expo facto laws, I knew a
19 little about it, they changed the sentence while I
20 was in jail and made it a violent crime. I thought I
21 was being non-violent sentence regardless. If they
22 said it was violent, I thought I'd still be eligible
23 for parole. Because to the expo facto clause.

24 MS. RATIGAN: Okay, that's all I have, Your
25 Honor.

1 MR. THOMAS: Your Honor, just one question.

2 THE COURT: Yes, sir.

3 REDIRECT EXAMINATION

4 BY MR. THOMAS:

5 Q Mr. Bowen, in regards to the acceptance of the plea,
6 you told your attorney that you wanted to accept it
7 when he told you about the plea or?

8 A Yes, sir.

9 Q All right. So when you -- when you told him that you
10 wanted to accept the plea, at that point in time you
11 had no knowledge that it had been withdrawn?

12 A Well, it wasn't withdrawn right then.

13 Q You don't even know if it had been --

14 A I didn't know anything except what he told me, sir.

15 Q All right. But this was a short period of time. In
16 other words, he told you about the plea offer and you
17 told him to accept it?

18 A I told him I wanted to accept the plea offer, yes,
19 sir.

20 MR. THOMAS: All right, I have no further
21 questions, Your Honor.

22 EXAMINATION

23 BY THE COURT:

24 Q Let me just ask one follow up question, Mr. Bowen. I
25 thought I heard you allude to something about the

1 time the plea offer was made you were in some sort of
2 treatment for your drugs?

3 A Yes, sir.

4 Q You wanted to be able to continue that?

5 A Yes, sir. I joined a treatment impatient --
6 outpatient, outpatient nine month program. In the
7 Pickens County Health Department. And I was also
8 seeing a psychiatrist at the time. And he was --
9 I -- I was getting off of drugs and the stress of
10 coming to court and all--

11 Q Were you able to complete your treatment before you--

12 A Before I was sentenced? Yes, sir.

13 Q All right. So you were able to get that, what you
14 desired --

15 A Yes, sir. Yes, sir, I sure did --

16 Q -- to finish that treatment, you were able to do
17 that?

18 A Yes, sir, before I got to court I did.

19 Q Okay.

20 A I finished everything in the nine month program and
21 they drug tested me and all occasionally and stuff.
22 And the counseling four days a week, four hours a
23 day. And then when -- about two or three weeks after
24 I finished the treatment I was sentenced. And I was
25 thankful I got the treatment.

1 Q But you relayed that to Mr. Farnsworth that you
2 wanted to complete that treatment?

3 A Yes, sir. Yes, sir, I did.

4 THE COURT: Okay, thank you, very much. You may
5 step down.

6 MR. THOMAS: Your Honor, that's the Applicant's
7 case.

8 MS. RATIGAN: Your Honor, the State would call
9 Mr. Farnsworth.

10 THE CLERK: Mr. Farnsworth, place your left hand
11 on the Bible, please, raise your right hand.

12 DAN FARNSWORTH, after being duly sworn,
13 testified as follows:

14 THE CLERK: Thank you, you may be seated. State
15 your full name for the record.

16 THE WITNESS: Dan J. Farnsworth.

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MS. RATIGAN:

20 Q Mr. Farnsworth, do you recall representing Mr. Bowen
21 on these charges?

22 A I do.

23 Q Now, were you his first attorney?

24 A I really don't know. I thought I was. But when I
25 was involved in the case I don't know anything about

1 Peter Them being his solicitor though, so. But I was
2 his attorney at some point, yeah. And finished up
3 with him, yeah.

4 Q Did you file the appropriate discovery motions?

5 A Yes, I did.

6 Q Did you review those with Mr. Bowen?

7 A Yeah, I'm sure we did that. In fact, you know, I
8 didn't meet with him at the courthouse in Pickens
9 every time. He was -- that was just happened to be
10 days that he was bond carded to be up there. So --
11 but he was coming by my office probably a couple of
12 times a month at least, you know, just to pay and to
13 talk, you know. So the meetings weren't just at the
14 courthouse, you know.

15 Q And did he tell you about the search of his house,
16 that the individual was the one who consented to the
17 search?

18 A I'm not sure I remember that. He may have.

19 Q Do you recall whether you believe there was a triable
20 search and seizure issue with regard to those
21 charges?

22 A It possibly could have been, yeah. But the
23 trafficking charge out of that was gone as I
24 understand it. I never even knew about that charge.
25 To my knowledge. I mean, because it wasn't on the --

1 on the information Ms. Munson gave me when I got
2 involved in the case.

3 Q And did Mr. Bowen tell you about the incident were he
4 says he was a passenger in a truck and ended up
5 picking up a couple of drug charges?

6 A Yeah.

7 Q And again, he told you they weren't his drugs?

8 A Well he may have told me that. But, you know, that's
9 not the test of whether or not, you know, you're in
10 possession of drugs, whether it's yours or not.

11 Q Did you explain to him--

12 A Yeah, I would have explained that, I'm sure.

13 Q Now what was the first plea offer you got from the
14 State in this case?

15 A The first time when I got the case and the first time
16 I talked to Ms. Munson, you know, it was a -- you
17 know, there was this trafficking charge involved
18 there on what was it Creek Road, Carney Creek Road.

19 That based on his record that this would be a third
20 drug offense. And it would be -- Ms. Munson and I
21 agreed that that being the case that he would be
22 looking at a minimum mandatory 25 year sentence.
23 Just on that case.

24 Q So did Ms. Munson make a 25 year offer or was that
25 just...

1 A Well that's what it was and negotiated it down to
2 where he would be allowed to plea to a second offense
3 which would back then would have carried a minimum
4 mandatory five year sentence. And I conveyed that to
5 Mr. Bowen. And, you know, this was -- the main case
6 was the trafficking. You know, these other things,
7 some of them are, you know, 30 day offenses, like the
8 simple assault and battery and this type thing. And
9 the -- I don't think the liquor thing might have been
10 a six month thing or something like that. But--

11 Q So you -- I'm sorry.

12 A Go ahead.

13 Q So you explained to Mr. Bowen that he would be
14 entering a guilty plea to second offenses on all
15 these drug charges?

16 A Yeah. In other words, the thing was Ms. Munson
17 presented to me, I got the thing right here, is that
18 either -- if he wanted to -- if he would -- if she
19 reduced it down to a second offense where it carried
20 a minimum mandatory five instead of 25, he would have
21 to plea to these other charges.

22 Q When he pled guilty there was not a offer of years,
23 is that correct?

24 A No, there was no offer. There was no offer. And,
25 you know, we asked for the some where near the

1 minimum and we got one year over the minimum.

2 Q Did you ever tell Mr. Bowen that if he did not plead
3 guilty that he would get a life sentence?

4 A No, I would have never told him that. What would
5 that have been for? I don't understand that.

6 Q Well he testified that you coerced him into pleading
7 guilty.

8 A Most he could have got was 30 years on that charge.
9 Even if it was -- if he was convicted under the 25
10 minimum mandatory, most he could have got was 30
11 years.

12 Q And your testimony today is that you don't recall
13 there ever being a five year plea off from Peter
14 Them?

15 A I never had a conversation with Peter Them about this
16 case. Ms. Munson was the only solicitor I know
17 involved in it.

18 Q Now Mr. Bowen testified that he wanted to call an ex
19 parole officer as a character witness. Do you recall
20 having that conversation with him?

21 A I remember something about it. In fact, I think he
22 brought her down to my office one time. I can't
23 remember her name. But I think she was going
24 through -- she was having a bunch of problems then.
25 Something about a divorce maybe or custody thing. I

1 think that's what the police went up to her house
2 about that day. She had some young kids over there
3 when this happened. And -- and I'm not sure but she
4 may have been -- she just had some problems. And,
5 you know, I don't think I ever told him no, that he
6 couldn't -- she couldn't speak for him in his plea.
7 But she didn't as far as I can remember.

8 Q In your opinion would there have been any benefit to
9 your case had she spoken at the plea?

10 A I don't think so. I don't think he could have done
11 any better except for if he got five years. That
12 would have been about one year better.

13 Q Did you ever tell Mr. Bowen -- did you ever give him
14 any advice about parole eligibility?

15 A You know, I think he testified a while ago that I
16 told him that this trafficking was violent. And I
17 looked on the sentencing sheet and it's marked
18 violent. And I think I would have probably told him
19 that it was violent. And I'm not sure I did but if
20 he asked I would have told him violent. And I might
21 have been wrong.

22 MS. RATIGAN: That's all I have, Your Honor.

23 THE COURT: Cross-examination?

24 MR. THOMAS: Yes, Your Honor, may it please the
25 Court.

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CROSS-EXAMINATION

BY MR. THOMAS:

Q Mr. Farnsworth, did you look into any issues in regards to, and I know they're three separate incidents, one being his home. Did you look into any possibilities of the offense of unlawful search and seizure there?

A You talking about on the first incident?

Q Yes, sir.

A Where November--

Q Yes, sir.

A Where the trafficking was later dismissed or whatever--

Q Yes, sir.

A I'm sure we talked about it. But again, at the end of the day the situation was the offer was he -- we had put this thing off for about a year and a half, two years. She was ready to -- and that's when he was getting some treatment. I mean, this thing went on and on and on. And she got to the point where y'all are going to either have to plead by a certain day or I'm putting this thing on the trial list. And, you know, as third offense. And so I don't know that -- because of that I don't know that we got very

1 deep into the search and seizure issue.

2 Q Okay. Now, Peter Them, he works with the Solicitor's
3 Office?

4 A Yes, he was assistant solicitor but I know -- I mean,
5 I've had cases with him over there, he's no longer
6 there.

7 Q Yes, sir.

8 A But it wasn't this case, I can tell you that. I
9 never talked to him.

10 Q So you don't remember working with Mr. Them on
11 Mr. Bowen's case?

12 A Never.

13 Q Okay. All right. So you wouldn't have remembered
14 the plea offer to five?

15 A (The witness shook his head.)

16 Q Okay. Now, you went to a bond hearing with
17 Mr. Bowen?

18 A That's correct.

19 Q And do you know if -- or do you remember if Peter
20 Them had been assigned that case?

21 A I think Mr. Them may have done that bond hearing, I
22 don't know.

23 Q Yes, sir.

24 A But he kind of did a lot of them back during that
25 period of time while he was with the Solicitor's

1 Office.

2 Q Okay.

3 A But I don't think each assigned solicitor to a case
4 did that specific bond hearing like we do it in
5 Greenville. They just sent lawyers in here to do
6 them, you know.

7 Q Yes, sir.

8 A But I think he might have done that. Because he made
9 a big deal -- or whoever was doing it made a big deal
10 how his record started in '73 and, you know, went for
11 so long.

12 Q But you don't remember -- you personally don't
13 remember a plea offer from Peter Them?

14 A No, sir, I do not.

15 Q Okay. Now, how about the enhancement to second
16 offense, did you look at that? I mean, in your
17 opinion was it properly enhanced?

18 A According to his record provided to me by the
19 Solicitor's Office it was, yeah.

20 Q So that's something you looked into?

21 A Yeah.

22 Q Okay. And this was a straight up plea by the time
23 you got to court there was no recommendation or no
24 negotiation?

25 A No, wasn't any recommendation. You know, you know,

1 based on what it was, you know, 25 year minimum
2 mandatory, I didn't expect a recommendation. But if
3 I did get one it might be, you know, a little more
4 than six years than what he got. So.

5 Q And I think you testified that you had discussed with
6 Mr. Bowen the fact that he was -- he was just a
7 passenger in the vehicle and that he didn't have
8 ownership of the vehicle? The one where he was --

9 A Yeah, yeah.

10 Q Charged with the possession with intent to
11 distribute, I guess, cocaine and the marijuana?

12 A Yeah.

13 Q You didn't see any potential defenses in that?

14 A Well, let me put it this way. Let me go back to how
15 I ask this thing. This case went on and on. And
16 again, I'm repeating myself but Ms. Munson, the offer
17 that she would make, and I'll read it, The defendant
18 will plead guilty to the following, just like they do

19 in all of them. She list them and those are the ones
20 he pled to. And the State will reduce the following.

21 You know, third offense down to trafficking, second
22 offense. Which carried a minimum mandatory of five
23 years. And my understanding from her, if we didn't
24 plea the day we were over there, that she was going
25 to put this case on the trial docket as soon as the

1 next term of court came up as it was indicted.

2 Q All right.

3 A And well-- well that's all.

4 Q Now my client wanted me to ask you about this and I
5 know that you and I talked about this in some time
6 past and again today. In regards to discovery in
7 your case, you moved and relocated your office in
8 regards to the original file you had for Mr. Bowen is
9 no longer available?

10 A That's correct.

11 Q Okay. So you have not been able to find that?

12 A I told you no.

13 Q Okay. And I contacted you a couple of months ago --

14 A I told you the same thing.

15 Q Yes, sir. And you still haven't been able to --

16 A No, I haven't.

17 Q All right, sir. And I think that Mr. Bowen has asked
18 me, he contacted you about the discovery in this

19 matter, I guess which would have been in your file,
20 the discovery from the State?

21 A Did he contact me?

22 Q Did he contact you and request the discovery from
23 you?

24 A When you talking about recently?

25 Q Sir?

1 A Are you talking about recently?

2 Q No -- well, I think, recently, I guess, within the
3 past six months or year. He says about a year ago he
4 contacted you to try to obtain the discovery.

5 A Yeah, I think he supposedly sent me a letter asking
6 for certain parts of his discovery.

7 Q All right, sir. But you were unable to obtain for
8 him?

9 A For the reason I just stated prior.

10 Q All right, sir.

11 MR. THOMAS: We have no further questions, Your
12 Honor.

13 THE COURT: All right.

14 MS. RATIGAN: I have no further questions or
15 Mr. Farnsworth and the State would rest at this time.

16 THE COURT: Step down, sir.

17 MS. RATIGAN: We ask Mr. Farnsworth to be
18 released.

19 THE COURT: Any objection?

20 MR. THOMAS: No, objection, Your Honor. I just
21 have one thing further rather than as a result of his
22 testimony and recalling my witness, I'll be more than
23 happy to present it to the Court.

24 THE COURT: That will be fine.

25 MR. THOMAS: My client feels like that he was --

1 he feels like he's entitled to the discovery and we
2 attempted to obtain discovery for him. And I've had some
3 problems with that. He felt like when he had written
4 Mr. Farnsworth that he should have gotten it. And he
5 wanted me to bring that the Court's attention.

6 THE COURT: Well I heard other cases that
7 Mr. Farnsworth had that move from one location to another
8 and unfortunately hadn't been able to find the file. I
9 don't know if the Solicitor would still have any files
10 available that they could share with him.

11 MR. THOMAS: I contacted the Solicitor's Office,
12 Your Honor, I also attempted to obtain it and I was unable
13 to obtain it as well. I guess maybe things that I don't
14 have in my file which could potentially be in that file
15 would be drug testing, I don't have. I have all the
16 indictments and all that. I have some of the police
17 reports. But I don't know what all is in that file, Your
18 Honor.

19 THE COURT: Well certainly--

20 MR. THOMAS: My client certainly feels like he
21 would like to have had it.

22 THE COURT: If your relief is granted then
23 certainly you will be entitled to that when they decide to
24 retry you. You will be ready to start all over again and
25 I'll do all I can to expedite my decision on this. I

1 obviously need to review your paper work, the transcripts
2 and so forth and my notes from the hearing, Mr. Bowen.
3 But I'll do my very best to get an Order out soon. So
4 that if the relief is available to you then it would be in
5 a timely manner. So that's certainly within the next 90
6 days, I think that's your release date, you indicated. Or
7 less than 90 days now. So I'll try to expedite my ruling
8 on this case.

9 MR. BOWEN: Thank you, sir.

10 MR. THOMAS: Thank you, Your Honor.

11 MS. RATIGAN: Thank you, Your Honor.

12 (WHEREUPON, the proceedings were concluded.)
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STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)
)
 Edward J. Bowen,)
 S.C.D.C. No. 290274,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 C.A. No. 2010-CP-39-1761

CLERK OF COURT
 PICKENS COUNTY
 SOUTH CAROLINA
 2011 AUG 17 P 3:31

ORDER OF DISMISSAL

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed October 6, 2010. The Respondent made its return and motion to dismiss on December 22, 2010. An evidentiary hearing into the matter was convened on May 12, 2011 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Tommy A. Thomas, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's plea counsel, Daniel J. Farnsworth, Esquire. The Court had before it the transcript of the guilty plea hearing, the records of the Pickens County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the application for post-conviction relief, and the Respondent's return.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Pickens County Clerk of Court. The Applicant was

indicted at the July 2005 term of the Pickens County Grand Jury for three (3) counts of possession of marijuana (2005-GS-39-1375, -1378, -1619), trafficking methamphetamine (2005-GS-39-1376), assault and battery (2005-GS-39-1377), possession of untaxed liquor (2005-GS-39-1379), possession of schedule IV controlled substance (2005-GS-39-1380), possession of schedule II narcotic (2005-GS-39-1381), and possession with intent to distribute (PWID) cocaine (2005-GS-39-1618). He was represented by Daniel J. Farnsworth, Esquire.

Guilty Plea

On October 23, 2006, the Applicant pled guilty. The Honorable Edward W. Miller sentenced the Applicant to concurrent terms of one (1) year for each count of possession of marijuana, second offense, six (6) years for trafficking methamphetamine, second offense, time-served for assault and battery, six (6) months for possession of untaxed liquor, six (6) years for possession of schedule II narcotic, second offense, and six (6) years for PWID cocaine, second offense. Judge Miller levied a consecutive sentence of five (5) years suspended with three (3) years probation for possession of schedule IV controlled substance, second offense. The Applicant did not appeal.

First PCR Application

The Applicant filed a PCR application on October 12, 2007 (2007-CP-39-1518). The Applicant raised the following issues:

1. Ineffective assistance of counsel:
 - a. Failed to investigate the State's unlawful use of a prior conviction.
 - b. Failed to challenge the State's unlawful seizure of personal property.

A hearing was held on February 23, 2009 at the Pickens County Courthouse. Perry H. Gravely, Esquire represented the Applicant. At the hearing, the Applicant stated he wanted to



withdraw all of his PCR issues except for one. The Applicant wanted the Court to order SCDC to interpret his sentence for trafficking methamphetamine (2005-GS-39-1376) as non-violent. The Honorable John C. Few agreed and issued an order filed April 15, 2009. The order stated: (1) SCDC must interpret the trafficking methamphetamine sentence as non-violent and (2) that all other issues were voluntarily withdrawn by the Applicant. The Applicant did not appeal.

State's Motion to Dismiss

On February 24, 2011, the parties appeared before the Honorable Robin B. Stilwell in order for the State to argue its motion to dismiss the PCR application as successive and untimely. Tommy A. Thomas, Esquire represented the Applicant. The Applicant argued he withdrew his first PCR application because he believed the April 15, 2009 order would re-classify him as non-violent within SCDC but that – while SCDC complied with that order and updated their records – he was still classified as violent pursuant to SCDC's internal classification system. In an oral ruling on the date of the hearing, Judge Stilwell: (1) found the Applicant's agreement to withdraw his first PCR application was predicated on incorrect advice, (2) denied the State's motion to dismiss, and (3) ordered the Applicant's issues be addressed in an evidentiary hearing.

ALLEGATIONS

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

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.
3. Newly-discovered evidence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the

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testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly.

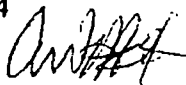
Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel/Involuntary Guilty Plea

The Applicant alleges his guilty plea was involuntary and that he received ineffective assistance of counsel. In a PCR action, “[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence.” Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel’s ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the applicant must prove that counsel’s representation was below the standard of reasonableness and that, but for counsel’s unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

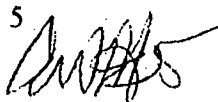
To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When

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determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000).

The Applicant stated the charges in his case stemmed from three (3) separate incidents. The Applicant stated he had several meetings with plea counsel and that they discussed the charges and the State's evidence. The Applicant stated he told plea counsel that the search and seizure at his home (related to the November 2004 charges) was unlawful because he was not there and his roommate allowed police to enter. The Applicant stated he told plea counsel the drugs in the truck (related to the March 2005 charges) were not his. The Applicant stated the indictments were insufficient. The Applicant stated plea counsel coerced him into entering a guilty plea because counsel said he could receive a life sentence. The Applicant stated he wanted to accept the State's original five (5) year plea offer but that it was withdrawn before he could do so (because he was in a drug treatment program at the time). The Applicant stated he wanted plea counsel to present a character witness to explain why he was at her house (when he was arrested on the June 2005 charges). The Applicant stated the solicitor made false statements about his prior convictions during the plea hearing. The Applicant stated his trafficking charge should not have been a second offense because he had no prior trafficking convictions. The Applicant stated his sentence for possession of schedule IV controlled substance, second offense was improper. The Applicant stated that, while plea counsel did not advise him of such, he believed he would be parole eligible.

Plea counsel testified he filed discovery motions on the various charges and discussed both the State's evidence and the Applicant's version of events with the Applicant. Plea counsel

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testified he and the Applicant had numerous meetings about his case and that he was sure they discussed the search and seizure at the Applicant's house. Plea counsel testified the Applicant told him about the arrest in the truck and that he told the Applicant that saying the drugs were not his would not be an effective argument. Plea counsel testified he did not tell the Applicant that he would receive a life sentence if he did not plead guilty. Plea counsel testified he did not believe he was the first attorney on this case and that he did not recall a five (5) year offer from the State. Plea counsel testified the first plea offer he recalled was for a twenty-five (25) year sentence but that it was not accepted. Plea counsel testified the Applicant pled guilty without a sentence recommendation. Plea counsel testified he was aware of the character witness but that he did not believe it would benefit their case if she testified. Plea counsel testified that, based on the Applicant's prior convictions, the drug charges were properly enhanced to second offenses. Plea counsel testified he likely advised the Applicant that he would not be eligible for parole.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds the Applicant's testimony is not credible, while also finding plea counsel's testimony is credible. This Court further finds plea counsel adequately conferred with the Applicant, conducted a proper investigation, and was thoroughly competent in his representation.

The Applicant admitted to the plea judge both that he was guilty and that the facts recited by the solicitor were true. (Plea transcript, p.21; pp.25). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.19-22).

This Court finds the Applicant failed to meet his burden of proving plea counsel did not

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C. W. B.

properly review the case and discuss it with him. Plea counsel testified he filed discovery motions, reviewed that evidence with the Applicant, and discussed the case with him numerous times. The Applicant also testified they had several meetings about his various charges. While the Applicant stated he believed his indictments were insufficient, this Court notes he failed to articulate the perceived deficiencies in those indictments. Regardless, this Court finds the indictments were proper. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005). This Court finds that, in discussing the March 2005 charges, plea counsel and the Applicant discussed the Applicant's argument that the drugs were not his. This Court finds plea counsel properly informed the Applicant that, absent supporting evidence, this was not a valid defense. This Court finds that, in discussing the November 2004 charges, plea counsel and the Applicant would have discussed potential search and seizure issues. During the plea hearing, however, the Applicant confirmed the accuracy of the solicitor's recitation of the facts (and the lawfulness of the search and seizure). (Plea transcript, pp.23-25). Further, it is clear from the transcript that the Applicant entered a knowing and voluntary guilty plea without threats, coercion, or promises. (Plea transcript, pp.19-20; p.22).

This Court finds the Applicant failed to meet his burden of proving plea counsel should have attempted to reinstate the original plea offer. The Applicant stated the original solicitor in ~~this case made a plea offer for five (5) years but that the offer was withdrawn after the case was~~ assigned to a different solicitor. The Applicant stated he was in a drug treatment program at the time so he could not immediately accept this offer, but that he later told plea counsel he wanted to accept it. This Court notes plea counsel did not recall this five (5) year offer. This Court notes the Applicant received an active six (6) year sentence when he pled guilty to a multitude of

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CWAH?

serious charges. Given the circumstances and disputed question of whether there was a five (5) year offer, in no way can plea counsel's performance be deemed ineffective when he secured his client such a favorable outcome. Regardless, this Court does not find credible the Applicant's assertion that plea counsel told him he would receive a life sentence if he did not plead guilty. As noted supra, it is clear from a review of the guilty plea transcript that the Applicant was advised he was pleading guilty without a recommendation and had not been coerced into entering his plea.

This Court finds the Applicant failed to meet his burden of proving he was prejudiced by plea counsel's failure to object to the sentence for possession of schedule IV controlled substance, second offense (2005-GS-39-1380). This Court notes this sentence was suspended with probation and was not the "lead" sentence for which the Applicant received incarceration. This Court concludes, therefore, that the Applicant has suffered no prejudice from plea counsel's failure to object to the sentence.

This Court finds the Applicant failed to meet his burden of proving he was misadvised about parole eligibility. This Court notes that the classification of a crime as violent or non-violent is a collateral consequence of sentencing and a guilty plea is not rendered involuntary due to counsel's failure to inform a defendant of the consequences of a violent crime conviction. See Smith v. State, 329 S.C. 280, 494 S.E.2d 626 (1997). This Court notes plea counsel's testimony that he would have advised the Applicant that his trafficking conviction would be a violent crime. This Court finds the Applicant knew he was pleading guilty to a violent crime and concludes the Applicant's guilty plea was free and voluntary. Regardless, this Court notes parole eligibility is a collateral consequence of sentencing of which a defendant need not be specifically

advised before entering a guilty plea. Randall v. State, 356 S.C. 639, 641, 591 S.E.2d 608, 609 (2004).

This Court finds the Applicant failed to meet his burden of proving plea counsel should have presented the testimony of a character witness. As this alleged witness did not testify at the evidentiary hearing, any discussion regarding what she would have testified about at trial is purely speculative. See, e.g., Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (the South Carolina Supreme Court “has repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness’ failure to testify at trial.”) (emphasis in original).

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in his representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel’s performance.

This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. This Court also concludes the Applicant has failed to meet his burden of proving his guilty plea was not knowing and voluntary. See Frasier v. State, 351 S.C. at 389, 570 S.E.2d at 174.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this


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matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Furthermore, the Applicant's guilty plea was entered knowingly and voluntarily within the mandates of Boykin. Therefore, this PCR application must be denied and dismissed with prejudice.

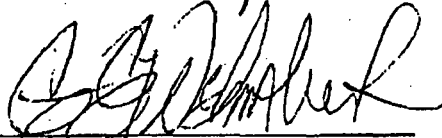
This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.



IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 8th day of July, 2011.



G. Edward Welmaker
Resident Judge
Thirteenth Judicial Circuit

Pickens, South Carolina.

WITNESSES

Henry Campbell

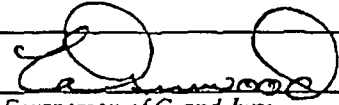
Pickens County Sheriff'S Offic

11/11/2004

ARREST WARRANT NUMBER

1685985

ACTION OF GRAND JURY


Foreperson of Grand Jury

TRUE BILL
Date: 11 19 2005

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-39-1375
JMM
The State of South Carolina

County of PICKENS

COURT OF GENERAL SESSIONS

JULY TERM 2005

THE STATE

vs.

EDWARD JAMES BOWEN

Indictment for
0182

POSSESSION OF MARIJUANA

VIOLATION § 44-53-0370(D)(3)

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
POSSESSION OF MARIJUANA

At a Court of General Sessions, convened on JULY 19, 2005 the Grand Jurors of PICKENS

County present upon their oath:

That EDWARD JAMES BOWEN did in PICKENS County, on or about the 10th day of November, 2004, willfully and unlawfully have in his possession and under his control a quantity of Marijuana. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

COUNTY OF Pickens
 STATE VS.
Edward Bowen
 AKA: _____
 Race: W Sex: M Age: 54
 DOB: 01-19-1952 SS#: _____
 Address: Six Mile, SC 29682
 DL#: _____ SID#: SC00065644

INDICTMENT/CASE#: 2005-65-39-1375
 A/W#: I-685985
 Date of Offense: 11-10-2004
 S.C. Code §: 44-53-370
 CDR Code #: 0182
 CASE RESTORED 0-1 year
 SENTENCE
 PLEA TRIAL +10r
\$200-\$1000
 CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was
 TO: POSS. MARIJUANA 2ND
 in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0182
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST

JUDITH A. MUNSON for: Edward Bowen Defendant
DANIEL J. FARNSWORTH Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 1 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. 73 DAYS
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund

Recipient: _____
 *Fine:

§ 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	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea	\$	\$
3% to County (if paid in installments)	\$	\$ 6.75
TOTAL	\$	\$ 231.75

Other: _____
 Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

April Heron
 Clerk of Court/ Deputy Clerk
 Court Reporter: April Heron

PRESIDING JUDGE EDWARD MCGO
 Judge Code: 2111310
 Sentence Date October 23, 2006

DOCKET NO. 2005-GS-39-1376
JMM

The State of South Carolina

County of PICKENS

COURT OF GENERAL SESSIONS

JULY TERM 2005

THE STATE

vs.

EDWARD JAMES BOWEN

WITNESSES

Mareham Brooks

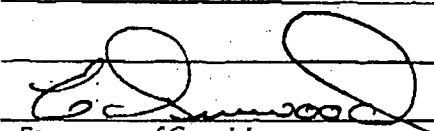
Pickens County Sheriff's Office

6/3/2005

ARREST WARRANT NUMBER

1675782

ACTION OF GRAND JURY


Foreperson of Grand Jury

TRUE BILL
Date JUL 19 2005

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

0452

TRAFFICKING METHAMPHETAMINE

VIOLATION § 44-53-0375(C)(1)

COUNTY OF Pickens
 STATE VS.
Edward Bowen
 AKA: _____
 Race: W Sex: M Age: 54
 DOB: 01-19-1952 SS#: _____
 Address: _____
Six Mile, SC 29682
 DL#: _____ SID#: SC00065644

INDICTMENT/CASE#: 2005-GS-39-1376
 A/W#: I-675782
 Date of Offense: 6-7-2005
 S.C. Code §: 44-53-0375
 CDR Code #: 0452
 CASE RESTORED 5-30y
 SENTENCE
 PLEA TRIAL and \$5000

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: TRAFFICKING METH. 10-28y 2ND OFFENSE
 in violation of § 44-53-375 of the S.C. Code of Laws, bearing CDR Code # 0451
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST:

JUDITH MUNSON Edward P. Bowen DANIEL S. FARNSWORTH
 Plaintiff Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 6 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. 93 DAYS
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____
 Recipient: _____
 *Fine: _____

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea	\$	\$
3% to County (if paid in installments)	\$	\$ 6.75
TOTAL	\$	\$ 231.75

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GEID _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

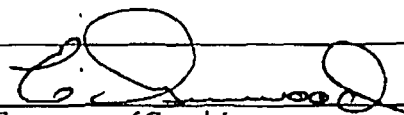
Lynette J. ...
 Clerk of Court/ Deputy Clerk
 Court Reporter: April ...

PRESIDING JUDGE Ed. W. ...
 Judge Code: 2111310
 Sentence Date: October 23, 2006

WITNESSES
Lane Byers
Pickens County Sheriff'S Offic
11/11/2004

ARREST WARRANT NUMBER
1670508

ACTION OF GRAND JURY


Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury Date:

DOCKET NO. 2005-GS-39-1377
JMM
The State of South Carolina

County of PICKENS
COURT OF GENERAL SESSIONS
JULY TERM 2005

THE STATE
vs.
EDWARD JAMES BOWEN

Indictment for
0612
SIMPLE ASSAULT AND BATTERY
VIOLATION § C/L, 22-05-0150,

TRUE BILL
JUL 19 2005

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
SIMPLE ASSAULT AND BATTERY

At a Court of General Sessions, convened on JULY 19, 2005 the Grand Jurors of PICKENS

County present upon their oath:

That EDWARD JAMES BOWEN did in PICKENS County, on or about the 10th day of November, 2004, willfully and unlawfully commit a simple assault and battery upon JOHN B CRAIG, to wit: by hitting and slapping John Bennett Craig about his face and body causing visible injury. This is in violation of the Common Law of the State of South Carolina.

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



SOLICITOR

COUNTY OF Pickens
 STATE VS Edward Bowen
 AKA: _____
 Race: W Sex: M Age: 54
 DOB: 01-19-1952 SS#: _____
 Address: Six Mile, SC 29682
 DL#: _____ SID#: SC00065644

INDICTMENT/CASE#: 2005-65-39-1377
 A/W#: I-670508
 Date of Offense: 11-10-04
 S.C. Code §: COMMON LAW
 CDR Code #: 0612
 CASE RESTORED
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS \$500
 TO: SIMPLE ASSAULT + BATTERY

in violation of § COMMON LAW of the S.C. Code of Laws, bearing CDR Code # 0612
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST

Subscribed for: JUDITH A. MUNSON Defendant: Edward Bowen Attorney for Defendant: DANIEL S. FARNSWORTH

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 93 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. 93 DAYS
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly _____
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient: _____
 *Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ca	\$	\$
3% to County (if paid in installments)	\$	\$ 3.75
TOTAL	\$	\$ 128.75

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Levette M. Patton
 Court Reporter: April Newson

PRESIDING JUDGE: SR W. M. Q
 Judge Code: 2111310
 Sentence Date: October 23, 2006
 SCCA/217 (2/2006)

WITNESSES

Marcham Brooks

Pickens County Sheriff's Office

6/3/2005

ARREST WARRANT NUMBER

1675783

ACTION OF GRAND JURY

[Signature]

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

DOCKET NO. 2005-GS-39-1378

JMM
The State of South Carolina
County of PICKENS

COURT OF GENERAL SESSIONS
JULY TERM 2005

THE STATE
vs.
EDWARD JAMES BOWEN

Indictment for

0182

POSSESSION OF MARIJUANA

VIOLATION § 44-53-0370(D)(3)

SUSPENDS

and Clerk receive driver's license

YES _____ NO

If no, explain *Suspended*

Edward J. Bowen
Defendant

Date:

COUNTY OF Pickens
 STATE VS.
Edward Bowen
 AKA:
 Race: W Sex: M Age: 54
 DOB: 01-19-1952 SS#: _____
 Address: _____
Six Mile, SC 29682
 DL#: _____ SID#: SC00065644

INDICTMENT/CASE#: 200 S-CSS-39-1378
 A/W#: 1-675783
 Date of Offense: 6-3-2005
 S.C. Code §: 44-53-370
 CDR Code #: 0182

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: POSS. MARIJUANA 2ND
 in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0182
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charges: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The pleas: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST: _____

JUDITH M. MUNSON Clerk of Court
Edward Bowen Defendant
DANIEL J. FARNSWORTH Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 1 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 73 DAYS
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient: _____
 *Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea	\$	\$
3% to County (if paid in installments)	\$	\$ 6.75
TOTAL	\$	\$ 231.75

Appointed PD or appointed other counsel, §35.13 TP Requires \$500 be paid to Clerk during probation.

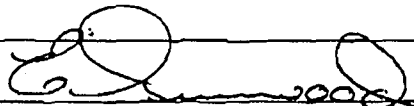
Lyette H. ... Clerk of Court/ Deputy Clerk
 Court Reporter: April Herron

PRESIDING JUDGE ED W. MCCOY
 Judge Code: 2111310
 Sentence Date: October 23, 2006

WITNESSES
PCSO
MARCHAM BROOKS
06/03/2005

ARREST WARRANT NUMBER
1675784

ACTION OF GRAND JURY


Date: TRUE BILL
JUL 19 2005
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury Date:

DOCKET NO. 2005-GS-39-1379
JMM
The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JULY TERM 2005

THE STATE

vs.

EDWARD JAMES BOWEN

Indictment for
0243
UNLAWFUL SALE, MANUFACTURE, ETC. OF
ALCOHOLIC LIQUORS
VIOLATION § 61-6-4025

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
UNLAWFUL SALE, MANUFACTURE, ETC. OF
ALCOHOLIC LIQUORS

At a Court of General Sessions, convened on JULY 19, 2005 the Grand Jurors of Pickens County present upon their oath:

That EDWARD JAMES BOWEN did in Pickens County on or about the 3rd day of June, 2005 unlawfully keep, store or have in his possession, a quantity of untaxed liquor, located on his premises at 248 Carrick Creek Road in Pickens County, South Carolina. This is in violation of §61-6-4010 of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

COUNTY OF Pickens
 STATE VS.
Edward Bowen
 AKA: _____
 Race: W Sex: M Age: 54
 DOB: 01-19-1952 SS#: _____
 Address: Six Mile, SC 29682
 DL#: _____ SID#: SC00065644

INDICTMENT/CASE#: 2005-65-39-1379
 A/W#: I-675784
 Date of Offense: 6-3-2005
 S.C. Code §: 61-6-4025
 CDR Code #: 0243

CASE RESTORED 0-6 months
 SENTENCE or
 PLEA TRIAL \$600-

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS TO: POSS. UNTAXED LIQUOR

in violation of § 61-6-4025 of the S.C. Code of Laws, bearing CDR Code # 0243
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST

JUDITH MUNSON Edward Bowen DANIEL J. FARNSWORTH
 State for Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 6 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 75 DAYS
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient: _____
 *Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv Surcharg)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharg)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharg)	\$100	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea	\$	\$
3% to County (if paid in installments)	\$	\$ 3.75
TOTAL	\$	\$ 128.75

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE ERIN M. MOORE
 Judge Code: 2111310
 Sentence Date: October 23, 2006

Stephanie H. Lathin
 Clerk of Court/ Deputy Clerk
 Court Reporter: April Henson

DOCKET NO. 2005-GS-39-1380
JMM

The State of South Carolina

County of PICKENS

COURT OF GENERAL SESSIONS

JULY TERM 2005

THE STATE

vs.

EDWARD JAMES BOWEN

WITNESSES

Henry Campbell

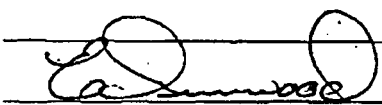
Pickens County Sheriff'S Offic

11/11/2004

ARREST WARRANT NUMBER

1685983

ACTION OF GRAND JURY



Foreperson of Grand Jury

TRUE BILL
Date JUL 19 2005

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

0180

POSSESSION OF A CONTROLLED
SUBSTANCE

VIOLATION § 44-53-0370(D)(2)

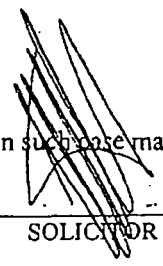
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
POSSESSION OF A CONTROLLED SUBSTANCE

At a Court of General Sessions, convened on JULY 19, 2005 the Grand Jurors of PICKENS
County present upon their oath:

That EDWARD JAMES BOWEN did in PICKENS County, on or about the 10th day of November, 2004, willfully and
unlawfully have in his possession and under his control a quantity of several schedule IV controlled substances, Alprazolam,
Diazepam, Oxazepam and Zolpidem. This is in violation of § 44-53-370 of the South Carolina Code of Laws (1976) as
amended.

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



SOLICITOR

COUNTY OF Pickens
 STATE VS.
Edward Bowen
 AKA: _____
 Race: W Sex: M Age: 54
 DOB: 01-19-1952 SS#: _____
 Address: _____
Six Mile, SC 29682
 DL#: _____ SID#: SC00065644

INDICTMENT/CASE#: 2005-GS-39-1380
 A/W#: I-685983
 Date of Offense: 11-10-04
 S.C. Code §: 44-53-370
 CDR Code #: 0180
 CASE RESTORED 0-1 year
 SENTENCE +10r \$2000
 PLEA TRIAL

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: POSS. SCH. IV CONTROLLED SUBSTANCE (ALPRAZOLAM) 2ND OR SUBSEQUENT
 in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0180
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST:

JUDITH MUNSON (Signature)
 WHEREFORE, Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for 3
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. 73 DAYS
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: MENTAL HEALTH COUNSELING

Recipient: _____
 *Fine:

§ 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	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea	\$	\$
3% to County (if paid in installments)	\$	\$ 6.75
TOTAL	\$	\$ 231.75

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE ED W. MC
 Judge Code: 2111310
 Sentence Date: October 23, 2006

Clerk of Court/Deputy Clerk
 Court Reporter: April Herron

WITNESSES

Henry Campbell

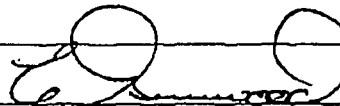
Pickens County Sheriff's Office

11/11/2004

ARREST WARRANT NUMBER

1685984

ACTION OF GRAND JURY

 **TRUE BILL**
JUL 19 2005
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-39-1381

JMM

The State of South Carolina

County of PICKENS

COURT OF GENERAL SESSIONS

JULY TERM 2005

THE STATE

vs.

EDWARD JAMES BOWEN

Indictment for

0178

POSSESSION OF A CONTROLLED
SUBSTANCE

VIOLATION § 44-53-0370(D)(2)

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
POSSESSION OF A CONTROLLED SUBSTANCE

At a Court of General Sessions, convened on JULY 19, 2005 the Grand Jurors of PICKENS

County present upon their oath:

That EDWARD JAMES BOWEN did in PICKENS County, on or about the 10th day of November, 2004, willfully and unlawfully have in his possession and under his control a quantity of a schedule II controlled substance, Oxycodone (Oxycontin). This is in violation of § 44-53-370 of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

COUNTY OF Pickens)
 STATE VS.)
Edward Bowen)
 AKA: _____)
 Race: W Sex: M Age: 54)
 DOB: 01-19-1952 SS#: _____)
 Address: _____)
Six Mile, SC 29682)
 DL#: _____ SID#: SC00065644)

INDICTMENT/CASE#: _____
2005-65-39-1381
 A/W#: I-605904
 Date of Offense: 11-10-04
 S.C. Code §: 44-53-370
 CDR Code #: 0178

CASE RESTORED 0-5 years
 SENTENCE +100
 PLEA TRIAL \$10,000

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: POSS. SCH. II NARCOTIC (OXYCODONE) 3RD OR SUBSEQUENT
 in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0178
 NON VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST _____

JUDITH MUMFSON _____
 Plaintiff Attorney for Defendant
Edward Bowen _____
 Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 6 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.
 CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. 93 DAYS
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient: _____
 *Fines:

§ 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	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea	\$	\$
3% to County (if paid in installments)	\$	\$ 6.75
TOTAL	\$	\$ 231.75

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

Lizette H. Smith
 Clerk of Court/Deputy Clerk
 Court Reporter: April Herron

PRESIDING JUDGE ERW. MCO
 Judge Code: 2111310
 Sentence Date: October 23, 2006

DOCKET NO. 2005-GS-39-1618
JMM

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JULY TERM 2005

THE STATE

vs.

EDWARD JAMES BOWENS

WITNESSES

BARBARA FLORES

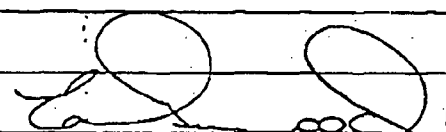
EPD

03/10/05

ARREST WARRANT NUMBER

H 611086

ACTION OF GRAND JURY


Foreperson of Grand Jury

TRISE 8001
Date JUL 19 2005

VERDICT

Foreperson of Petit Jury

Date:

Indictment for

0185

POSSESSION OF COCAINE WITH INTENT TO
DISTRIBUTE

VIOLATION § 44-53-370

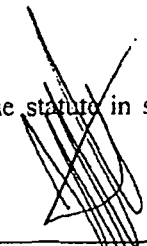
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
POSSESSION OF COCAINE WITH INTENT TO
DISTRIBUTE

At a Court of General Sessions, convened on JULY 19, 2005 the Grand
Jurors of Pickens County present upon their oath:

That EDWARD JAMES BOWENS did in Pickens County on or about the 9th day of March, 2005
possess with intent to distribute a quantity of Cocaine, a controlled substance, such possession not having
been authorized by law. This is in violation of §44-53-370 of the South Carolina Code of Laws (1976) as
amended.

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



SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Pickens VS. STATE

INDICTMENT/CASE#: 2005-65-39-1618

Edward Bowen

A/W#: 14-611086

AKA:

Date of Offense: 3-9-2005

Race: W Sex: M Age: 54

S.C. Code §: 44-53-370

DOB: 01-19-1952 SS#:

CDR Code #: 0165

Address: Six Mile, SC 29682

CASE RESTORED SENTENCE PLEA TRIAL CONVICTED OF or PLEADS 5-30y \$50,000

DL#: SID#: SC00065644

In disposition of the said indictment comes now the Defendant who was TO: PWID COCAINE 2ND OFFENSE

in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0184

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

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

ATTEST: JUDITH MUNSON Defendant DANIEL J. FARNSWORTH Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 6 months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. 73 DAYS The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered PTUP days/hours Public Service Employment Obtain GED Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund Other:

Recipient:

*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like Assessments 107.5%, Conv Surcharges, DUI Surcharges, Public De/Prob, Law Enforce. Funding, Drug Court Surcharges, Breath Test Fee, Vehicle Assessment, and 3% to County.

TOTAL Clerk of Court/ Deputy Clerk Court Reporter:

PRESIDING JUDGE Judge Code: Sentence Date:

WITNESSES

BARBARA FLORES

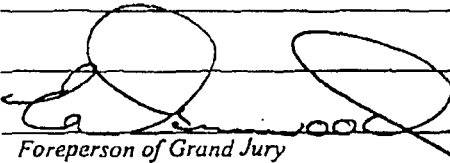
EPD

03/10/05

ARREST WARRANT NUMBER

H 611087

ACTION OF GRAND JURY


Foreperson of Grand Jury

TRUE BILL
Date JUL 19 2005

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2005-GS-39-1619
JMM
The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JULY TERM 2005

THE STATE

vs.

EDWARD JAMES BOWENS

Indictment for

0182

POSSESSION OF MARIJUANA

VIOLATION § 44-53-370

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
POSSESSION OF MARIJUANA

At a Court of General Sessions, convened on JULY 19, 2005 the Grand
Jurors of Pickens County present upon their oath:

That EDWARD JAMES BOWENS did in Pickens County on or about the 9th day of March, 2005
willfully and unlawfully have in his possession and under his control a quantity of Marijuana. This is in
violation of §44-53-370 of the South Carolina Code of Laws (1976) as amended.

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



SOLICITOR

COUNTY OF Pickens
 STATE VS.
Edward Bowen
 AKA:
 Race: W Sex: M Age: 54
 DOB: 01-19-1952 SS#: _____
 Address: _____
Six Mile. SC 29682
 DL#: _____ SID#: SC00065644

INDICTMENT/CASE#: 200 5-65-39-1619
 A/W#: H-611067
 Date of Offense: 3-9-2005
 S.C. Code §: 44-53-370
 CDR Code #: 0182
 CASE RESTORED 0-1 year
 SENTENCE +10r
 PLEA TRIAL \$200. \$1000
 CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was
 TO: POSS. MARIJUANA 2ND OR SUBSEQUENT
 in violation of § 44-53-370 of the S.C. Code of Laws, bearing CDR Code # 0182
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS 17-25-45

The charges: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
 The plea: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
 ATTEST

JUDITH MUNSON Edward Bowen DANIEL J. FARNSWORTH
 Plaintiff Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 1 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: _____
 The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. 93 DAYS
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135

SPECIAL CONDITIONS:

RESTITUTION: Heard, Waived, Ordered
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
 set by SCDPPPS _____

PTUP _____
 _____ days/hours Public Service Employment
 Obtain GED _____
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling _____
 Random Drug/Alcohol testing _____
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

Recipient: _____
 *Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ 6.75
TOTAL	\$	\$ 231.75

Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE EQ. W. M. CO.
 Judge Code: 2111310
 Sentence Date: October 23, 2006

Leah H. Satter
 Clerk of Court/ Deputy Clerk
 Court Reporter: April Herron