

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

—————
Certiorari to Aiken County

Honorable Jennifer B. McCoy, Circuit Court Judge
—————

WILLIAM A. SEAWRIGHT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001087
—————

APPENDIX
—————

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ATTORNEYS FOR RESPONDENT

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State of South Carolina)
) Court of General Sessions
County of Aiken)

2018-GS-02-01273
2018-GS-02--1434

State of South Carolina)
 vs.) Transcript of Record
)
Willie A. Seawright, Jr.)
)
)
Defendant)

August 10, 2018
Aiken, South Carolina

B E F O R E:

Honorable William P. Keesley, Judge

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

Sam Grimes, Assistant Solicitor
Attorney for the State

Victor Li, Assistant Public Defender
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

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E X H I B I T S

Court's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
1	Photographs (5)	X		15
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1 MR. GRIMES: Willie Seawright.

2 WILLIE SEAWRIGHT, being
3 first duly sworn, testified as follows:

4 THE COURT: Are you Willie Albert Seawright, Jr.?

5 MR. SEAWRIGHT: Yes, sir.

6 THE COURT: I have an indictment that charges that in
7 Aiken County, on or about January 13, 2017, in the absence
8 of mitigating circumstances, you willfully and unlawfully
9 failed to stop while driving a motor vehicle on a road,
10 street or highway of the State when a law enforcement
11 officer signaled you to stop by using flashing lights or
12 sirens and the road conditions being such that a
13 reasonable driver would appear, and/or see the signal that
14 resulted in the death of Ny'Zarria, N-Y-'-Z-A-R-R-I-A,
15 Kitchings as a result of your failure to stop. Upon your
16 arraignment on this charge it appears that you wish to
17 enter a plea of guilty to failure to stop for a blue light
18 resulting in death. Is that right?

19 MR. SEAWRIGHT: Yes, sir.

20 THE COURT: The other indictment charges in Aiken
21 County on or about January 13, 2017, you knowingly and
22 unlawfully had in your possession a stolen vehicle you
23 were not entitled to possess, specifically a 1999 Toyota
24 valued at less than \$2,000.00 dollars belonging to Tiffany
25 Johnson. Upon your arraignment on that charge it appears

1 you wish to plead guilty to possession of a stolen vehicle
2 valued at \$2,000.00 dollars or less. Is that correct?

3 MR. SEAWRIGHT: Yes, sir.

4 THE COURT: Mr. Li, have you fully explained to your
5 client the nature and the elements of the offenses, the
6 possible punishment and his constitutional rights
7 including trial by a jury?

8 MR. LI: Yes, Your Honor.

9 THE COURT: Are you satisfied there is a practical
10 basis for both pleas?

11 MR. LI: Yes, Your Honor.

12 THE COURT: You agree with his decision to enter
13 these pleas?

14 MR. LI: Yes, Your Honor.

15 THE COURT: Mr. Seawright, today are you under the
16 influence of any medicine, alcohol, drugs, anything that
17 adversely affects your thinking?

18 MR. SEAWRIGHT: No, sir.

19 THE COURT: Do you suffer from any physical or mental
20 problems that adversely affects your thinking today?

21 MR. SEAWRIGHT: No, sir.

22 THE COURT: So you are clearheaded today, you know
23 what you are doing?

24 MR. SEAWRIGHT: Yes, sir.

25 THE COURT: When you plead guilty you give up

1 important rights including your right to remain silent and
2 your right to a jury trial. Do you understand that?

3 MR. SEAWRIGHT: Yes, sir.

4 THE COURT: If you want a jury trial you are presumed
5 to be innocent. The State has to prove you guilty beyond
6 a reasonable doubt to convict you and you get to see, hear
7 and have your lawyer cross-examine every witness against
8 you. Do you understand all of that?

9 MR. SEAWRIGHT: Yes, sir.

10 THE COURT: If you wanted to testify you can testify
11 but if you chose not to testify the trial Judge would tell
12 the jury that they could not hold your silence against you
13 in any way. Do you understand that?

14 MR. SEAWRIGHT: Yes, sir.

15 THE COURT: And do you understand that for you to be
16 convicted of anything all twelve jurors would have to
17 agree that the State has proven you guilty beyond a
18 reasonable doubt?

19 MR. SEAWRIGHT: Yes, sir.

20 THE COURT: By pleading guilty you give up all of
21 those rights, you give up any defenses you may have, you
22 give up any challenges you may have to the evidence and
23 you admit that the charges are true. Do you understand?

24 MR. SEAWRIGHT: Yes, sir.

25 THE COURT: Do you want a jury trial on either of

1 these cases?

2 MR. SEAWRIGHT: No, sir.

3 THE COURT: All right. Failure to stop for a blue
4 light resulting in death is a felony that carries up to 25
5 years in prison. Do you understand?

6 MR. SEAWRIGHT: Yes, sir.

7 THE COURT: It is classified by the legislature as a
8 violent crime. Do you know that?

9 MR. SEAWRIGHT: Yes, sir.

10 THE COURT: Do you understand that violent offenders
11 are treated differently and you won't be eligible for
12 certain programs or placements that a non-violent offender
13 might be eligible for?

14 MR. SEAWRIGHT: Yes, sir.

15 THE COURT: Classified by the legislature is a
16 no-parole offense. That falls under what is commonly
17 known as truth in sentencing. The end result with a
18 no-parole offense is that a person who pleads guilty to a
19 no-parole offense cannot be released from prison sooner
20 than serving eighty-five percent of the time day per day.
21 Do you understand that?

22 MR. SEAWRIGHT: Yes, sir.

23 THE COURT: That is no guarantee that you get out in
24 eighty-five percent. That is the least time you possibly
25 could. Do you understand?

1 MR. SEAWRIGHT: Yes, sir.

2 THE COURT: When somebody comes out of prison on a
3 no-parole offense they automatically go on community
4 supervision. The person has to successfully complete
5 community supervision. If they fail to do so they can be
6 sent back to prison. Do you understand that?

7 MR. SEAWRIGHT: Yes, sir.

8 THE COURT: You lose your drivers license. Do you
9 understand that?

10 MR. SEAWRIGHT: Yes, sir.

11 THE COURT: If there was a child present in any of
12 this you could be charged with child endangerment and your
13 DNA profile will be put in the central computer registry
14 if you are not in the DNA data base. Do you know those
15 things?

16 MR. SEAWRIGHT: Yes, sir.

17 THE COURT: Possession of a stolen vehicle, less than
18 \$2,000.00 dollars carries up to 30 days in jail. Do you
19 understand that?

20 MR. SEAWRIGHT: Yes, sir.

21 THE COURT: Property offenses graduated, if you
22 violate property laws again you face higher punishment.
23 Do you know that?

24 MR. SEAWRIGHT: Yes, sir.

25 THE COURT: And failure to stop is graduated. If you

1 fail to stop for a vehicle, excuse me, a law enforcement
2 officer in the future by running from a blue light, siren,
3 you could, you will have higher punishment because this
4 will be on your record. Do you know that?

5 MR. SEAWRIGHT: Yes, sir.

6 THE COURT: I need you to listen to the State,
7 please.

8 MR. GRIMES: Your Honor, this incident occurred
9 approxiamtely 12:25, January 13th, 2017, just before
10 January 14th. Chief Goldman of the Sally Police
11 Department was running radar as a vehicle approached
12 approximately five or six miles an hour over the speed
13 limit, this is on Poplar Street. The radar showed the
14 vehicle increased to 44 miles per hour in a 30 mile per
15 hour zone. Sally is a small town, it is basically on the
16 border of our County near Orangeburg. Chief Goldman got
17 behind this vehicle and he actually ran the tag before he
18 attempted to stop the vehicle. The tag came back
19 indicating the vehicle was stolen. At this point they
20 were on Railroad Avenue. He notified the Aiken County
21 Sheriffs Office and South Carolina Highway Patrol and had
22 them in route at that time. He also noticed the vehicle
23 had driven left to center and had gotten up to 68 miles
24 per hour in a 55 mile per hour zone. Chief Goldman began
25 to attempt a traffic stop. He initiated his blue lights

1 and at that time the vehicle did not stop. So he
2 activated his siren. The vehicle increased speed to 124
3 miles per hour in a 35 mile per hour zone in the Town
4 limits of Perry, South Carolina. The vehicle turned right
5 onto Center Street and reached speeds again in excess of
6 100 miles per hour. You can see on the video, Your Honor,
7 that the Defendant's vehicle blows right through a
8 stop-sign at a high rate of speed and over some train
9 tracks. The Defendant then loses control of this vehicle
10 which veers off the right side of the road and hits a
11 tree. The vehicle was cut into two pieces. Essentially,
12 basically everything from the dash forward is removed from
13 the rest of the car. At that time, you can see on the
14 video, the top of the tree falls and lands on top of the
15 car where both the Defendant and the passenger are
16 trapped. At no time during this pursuit or collision did
17 the officer's vehicle touch the Defendant's vehicle. The
18 vehicle involved in this incident was a 1999 Toyota Camry
19 that had been reported stolen at Orangeburg County about a
20 month prior. The owner of that vehicle doesn't know the
21 Defendant. The passenger in that vehicle was 16-year-old
22 Ny'Zarria Kitchings. She was entrapped in that vehicle
23 and she succumbed to her injuries at the scene of the
24 wreck. The Defendant lost both of his legs in the wreck
25 and was taken from the scene and ultimately treated before

1 you today. At the time the Defendant fled from Chief
2 Goldman his drivers license was suspended, he had
3 outstanding warrants for attempted murder and armed
4 robbery as well as associated charges from separate
5 incidents. He was sitting on a pistol and he was driving
6 a stolen vehicle. Your Honor, I am going to hand up some
7 photographs, Defense Counsel has all the photographs in
8 this case but these are a few photographs that kind of
9 depict the scene. This pursuit lasted only about a couple
10 of minutes. At this time we would like to play that
11 pursuit for Your Honor so you can see what occurred.

12 THE COURT: Do you have a copy that we can mark?

13 MR. GRIMES: We can place a copy of this video in
14 evidence or have it as an exhibit if you would like.

15 THE COURT: I think we need to, yes.

16 MR. GRIMES: I don't have it at this moment but we
17 can make a copy.

18 THE COURT: That is fine, you can do it after the
19 hearing.

20 MR. GRIMES: Your Honor, before we start the video,
21 it is only a couple of minutes long and I just want to
22 talk about it before it begins so I won't have to talk
23 about it while you are watching it. But essentially what
24 you see is the front dash cam, Sally Police Department
25 Chief Goldman behind the vehicle. Initially there is no

1 sound, that sound begins to record when the blue lights
2 are activated and you can see the vehicle increasing speed
3 on the video. As he comes through town you will notice a
4 stop-sign toward the end of the pursuit, you will notice a
5 stop sign on the right. There is no stopping at that stop
6 sign, he goes over a bump. You can see the car begin to
7 lose control at that point and ultimately crash into a
8 tree. And as the officer approaches that vehicle the top
9 of the tree falls on top of the vehicle.

10 (Whereupon, a video was played for the Court.)

11 MR. GRIMES: As you can see from the video, a
12 significant portion of this short chase was over 100 miles
13 an hour. This is probably about the most egregious way
14 you can violate the statute. Your Honor, the victim, Ms.
15 Ny'Zarria Kitchings' family is here and her mom, Ms. Wise,
16 presented a note for the Court to read on their behalf.
17 Mr. Li has seen the note.

18 (Whereupon, the Court reads a note from the Victim's
19 family member.)

20 THE COURT: All right, I have read the note.

21 MR. GRIMES: Your Honor, as a result of the plea and
22 the related charges for, well the related charges for
23 reckless homicide, unlawful carrying of a pistol be
24 dismissed as well as unrelated charge of attempted murder,
25 possession of a weapon. The armed robbery charge is still

1 pending and it will be dismissed today as well. That
2 charge was actually adopted by Federal prosecutors. It is
3 my understanding from speaking with AUSA, depending on the
4 sentence of this case that case will be, they won't go
5 forward on that case depending on the sentence of this
6 case. Your Honor, this case, this charge carries a
7 maximum penalty of up to 25 years. The victim's family
8 has indicated that doesn't seem like quite enough. It is
9 hard to imagine a more egregious way to violate the
10 statute. The excessive speeds that are involved, the fact
11 that it is in a stolen vehicle, the fact that he is
12 sitting on a pistol while he is running from the police
13 and the fact that there is a 16-year-old child involved in
14 this wreck and ultimately killed as a result of it.

15 THE COURT: You admit you are guilty of this charge,
16 Mr. Seawright?

17 MR. SEAWRIGHT: Yes, sir.

18 THE COURT: Has anybody, for both charges, you admit
19 you are guilty of both charges?

20 MR. SEAWRIGHT: Yes, sir.

21 THE COURT: Has anybody forced you, threatened you,
22 coerced you in any way to get you to plead against your
23 will?

24 MR. SEAWRIGHT: No, sir.

25 THE COURT: Any plea bargains the State might have

1 made with you, that includes agreements about dropping
2 charges, reducing charges, recommending sentences,
3 anything like that. The State has to tell me about that
4 out here on the record in open court otherwise I don't
5 know anything about it and the law says you lose whatever
6 they haven't told me. Do you understand?

7 MR. SEAWRIGHT: Yes, sir.

8 THE COURT: Mr. Li, are all plea agreements on the
9 record?

10 MR. LI: Yes, Your Honor.

11 THE COURT: I am a little unclear. So the armed
12 robbery, Federal prosecutors will make a decision as to
13 whether to go forward or not, depending on the result of
14 this?

15 MR. GRIMES: Depending on the sentence, Your Honor.

16 THE COURT: The reckless homicide, the attempted
17 murder and you said unlawfully carrying a pistol?

18 MR. GRIMES: The unlawfully carrying a pistol is the
19 pistol he was sitting on at the time of the wreck, that
20 charge will be dismissed as part of this plea.

21 THE COURT: And the attempted murder?

22 MR. GRIMES: The attempted murder will be dismissed
23 as part of this plea.

24 THE COURT: Other than what is on the record, Mr.
25 Seawright, has anybody promised you anything to get you to

1 plead?

2 MR. SEAWRIGHT: No, sir.

3 THE COURT: Are you fully satisfied with your
4 attorney?

5 MR. SEAWRIGHT: Yes, sir.

6 THE COURT: Is there anything that you want your
7 lawyer to do on the case that he has not done, talk to
8 witnesses, interview people, explain the law to you,
9 anything at all?

10 MR. SEAWRIGHT: No, sir.

11 THE COURT: Have you had enough time to meet with Mr.
12 Li and talk with him so that he can represent you
13 properly?

14 MR. SEAWRIGHT: Yes, sir.

15 THE COURT: Have you had enough time to make up your
16 own mind about all of this?

17 MR. SEAWRIGHT: Yes, sir.

18 THE COURT: Do you have any complaint of any kind
19 against your attorney, law enforcement officials, anybody
20 who dealt with your case?

21 MR. SEAWRIGHT: No, sir.

22 THE COURT: Mr. Seawright has made a free, knowing,
23 voluntary and intelligent decision, waived his rights and
24 plead guilty, he has done so upon the advise of counsel
25 with whom he is fully satisfied. There is a factual basis

1 for both pleas. Get the Court Reporter to mark these.

2 COURT REPORTER: Yes, sir. Judge, you want these
3 marked as Court's exhibits?

4 THE COURT: Yes, the photographs can be marked as 1.
5 They are going to give you a video at some point to mark.

6 COURT REPORTER: Yes, sir. Okay.

7 (Whereupon, Court's 1, 2 and 3 were marked for
8 identification only.)

9 THE COURT: Mr. Li.

10 MR. LI: Thank you, Your Honor, may it please the
11 Court.

12 THE COURT: Yes, sir.

13 MR. LI: Your Honor, Willie Seawright is 22 years
14 old. He made it to the 12th grade. He has absolutely no
15 record. Your Honor, the events that happened on January
16 the 13th of 2017 were life changing, life taking and
17 tragic. There is nothing that Willie could do to take
18 back the events that happened. I know he regrets it every
19 day. He has extreme sorrow and just grief over his
20 actions, his actions that day. He makes no excuses about,
21 he has never made an excuse about it, has always accepted
22 responsibility and has owned up to the mistakes that day.
23 Your Honor, when he wakes up in the morning, when he eats
24 lunch, when he uses the bathroom, when he goes to sleep he
25 is constantly reminded of that, there is not a day in his

1 life he can go by without being reminded of the mistake of
2 that day. He looks down and he has no legs. And I know,
3 Your Honor, that that is not the same as losing the life
4 of a 16-year-old, losing the life of a child, a daughter,
5 a sister. Your Honor, in terms of punishment, in terms of
6 learning a lesson I don't, I don't know there could be a
7 greater sentence given by God to imprison Mr. Seawright
8 from his own body, without the use of his legs from his
9 own actions. Every time he looks down he is constantly
10 reminded of that. Your Honor, not only that he, Ms.
11 Ny'Zarria, they were getting along, they loved each other,
12 they were in a relationship and there has always been
13 times that Mr. Seawright has always asked to speak, to be
14 able to speak to the victim's family or talk to them, or
15 to apologize or to write a letter. And I have always
16 advised him not to, just as his attorney. But he has
17 always wanted to apologize and talk to them and express
18 his sorrow and sympathy towards what happened that night.
19 Your Honor, I know that Mr. Seawright would like to speak
20 to the Court. I would ask that the Court take into
21 consideration the purposes of sentencing which will be
22 rehabilitation, deterrence, punishment, from respect to
23 the law and to protect the public. Your Honor, we know
24 that Mr. Seawright has been punished. This is a, this
25 tragic event was the doing of his own actions. But, Your

1 Honor, taking into consideration other factors. He will
2 never be able to drive a car again, he will never be able
3 to repeat the actions, he will be basically, if he were to
4 get out of prison, Your Honor, he is stuck at home. He
5 does not have a criminal record. I don't want to address
6 the charges that are being dismissed today, Your Honor,
7 but they are not related to this incident. Your Honor, he
8 has no criminal record. I have known Mr. Seawright, I
9 have known his family, he does not have a criminal mind,
10 he does not have a deviant sole to commit deviant behavior
11 other than the incident, the mistake out of fear, out of
12 ignorance, out of immaturity that happened that cost a
13 16-year-old her life. I would ask you to take into
14 consideration the other purposes of sentencing, to have
15 mercy on Mr. Seawright, to take into account that he has
16 lost both of his legs. I am not trying to drive sympathy
17 through the Court because the other side lost a whole
18 life. I get that so I am not trying to say that is more
19 important or he deserves more sympathy but just to take
20 that into consideration. And we ask that you take into
21 consideration the fact that we did not ask for that video
22 to be played. Mr. Seawright knew what happened that day.
23 We do not want to put the family through a trial, we do
24 not want to waste the Court's time, we owned up to it, we
25 took the plea with no real deal. We took, we are making a

1 straight-up plea, he accepts responsibility, he has from
2 the beginning. It was never the Solicitor's fault,
3 constantly working on the case and a manner of timing to
4 get it done. We ask that you take into consideration the
5 fact that he is taking the plea, he is owning up to his
6 mistakes that he made that day. And if you would, Your
7 Honor, Mr. Seawright would like to address the Court and I
8 know his family would like to address the Court as well.

9 THE COURT: Sure. You want to say anything?

10 MR. SEAWRIGHT: Yes. I want to let the family know I
11 am truly sorry and I acted out of fear, I still accept
12 full responsibility and I never wanted that to happen, it
13 just happened.

14 THE COURT: Someone else wishes to speak? What is
15 your name?

16 FAMILY MEMBER: Ledon.

17 THE COURT: Laudanun?

18 FAMILY MEMBER: L-E-D-O-N.

19 THE COURT: I am sorry. What would you like to tell
20 me?

21 FAMILY MEMBER: I have known Willie since he was a
22 baby. I can't begin to fathom what the family is going
23 through. My heart goes out to them. He has accepted
24 responsibility and this is a no win situation, it is a
25 catch 22, we lost all the way around. We just ask that

1 the Court have mercy on him.

2 THE COURT: Thank you, sir.

3 MR. LI: And, Your Honor, I believe that is all the
4 family would like to speak. We just respectfully ask the
5 Court for something in the 10's, Your Honor, something
6 less than 20. We understand the wishes of the family and
7 we beg the Court for mercy.

8 MR. GRIMES: Your Honor, for the record, he does have
9 a disorderly conduct conviction from 2014. Your Honor,
10 Ms. Kitchings Aunt has indicated she would like to speak
11 to the Court.

12 THE COURT: All right. What is your name?

13 MS. MERIT: My name is Tonya Merit. I just want to
14 say that he took something so precious from us. She was
15 so smart and everything. And if he loved her just as much
16 as we did it only would have took thirty seconds to let
17 her out of that car, just thirty seconds. We still don't
18 know the reason why he didn't let her out. And if he
19 loved her that much he would have did that. Because he
20 took something away that was so dear to us. You know, I
21 mean he said he did it out of fear and I understand that
22 but eventually all the things that was said that he done
23 did it, he was going to get caught anyway. Fear won't let
24 you go out and commit all of these crimes, then you fear
25 that you are going to get caught. And she was too dear to

1 us, it wouldn't have took that long to just let her out.
2 And that is truly the reason, we don't even understand why
3 he didn't do that. And her mother, we want to know he
4 just didn't let her out of the car.

5 THE COURT: He didn't want to get caught.

6 MS. MERIT: But fear--

7 THE COURT: I am not testifying but it is pretty
8 obvious why he didn't stop, he didn't want to get caught.

9 MS. MERIT: So, he just, he took somebody so dear
10 from us and no amount of time could ever replace that. I
11 know he comes from a good family, I know his family and I
12 don't think he was raised like that because he does have a
13 good mother and he does have a good father. We lost
14 somebody so dear to us. That is all.

15 THE COURT: Thank you, Ma'am. Anything else from the
16 State?

17 MR. GRIMES: No, Your Honor.

18 THE COURT: Anything else from the Defense?

19 MR. LI: No, Your Honor.

20 THE COURT: All right, Mr. Seawright, since the
21 failure to stop resulted in death is a violent crime and a
22 felony, that is going to bar you from transporting,
23 shipping or receiving or possessing any firearm or
24 ammunition in the future. Do you understand that?

25 MR. SEAWRIGHT: Yes, sir.

1 THE COURT: So I am making a specific finding on the
2 record about that. And if you wish to appeal anything
3 from this proceeding you have to do it in writing, it is a
4 very short timeframe, so if you have any desire whatsoever
5 or think you might have a desire to file a appeal you tell
6 Mr. Li to file it for you. Do you understand?

7 MR. SEAWRIGHT: Yes, sir.

8 THE COURT: If nothing further the Court accepts the
9 plea. The sentence on possession of a stolen vehicle is
10 30 days in the county jail plus cost and assessments,
11 restitution is deferred. The sentence on failure to stop
12 is 25 years in the South Carolina Department of
13 Corrections plus costs and assessments. The sentences run
14 concurrently, restitution is deferred. Good luck to you,
15 sir.

16 MR. GRIMES: Thank you, Your Honor. Your Honor, one
17 other matter, in regards to, the video itself is about
18 fifteen minutes long, I think we played less than three
19 minutes of it for Your Honor. The rest of it is not
20 really relevant but if we can make all of it a Court
21 exhibit or just try to cut that first three minutes or so.

22 THE COURT: You can make it all a Court's exhibit.
23 For the record, the part I saw started when the officer
24 was following the car and then the car speeding and
25 through the crash. If you have got a notation on there as

1 to what time I can, I didn't write that down. I know it
2 was around midnight.

3 MR. GRIMES: Yes, Your Honor. We started at the
4 beginning of the video and ended it just after Officer
5 Goldman arrived or his vehicle stopped and the top of the
6 tree fell. We stopped playing it here in the courtroom.

7 THE COURT: You mean afterwards.

8 MR. GRIMES: Right.

9 THE COURT: I stopped seeing it at the time the tree
10 fell on the car.

11 MR. GRIMES: Thank you, Your Honor.

12 *** END OF REQUESTED TRANSCRIPT OF RECORD ***

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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of Newberry)

I, Joy E. Holston, Official Court Reporter for the Eighth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the County of Aiken, South Carolina on the 10th day of August, 2018.

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

June 2, 2019

Joy Holston

Joy E. Holston, Court Reporter

My Commission expires: May 2, 2026

2017A021100021
2017A021100020

ELECTRONICALLY FILED - 2019 Apr 05 3:42 PM - AIKEN - COMMON PLEAS - CASE#2019CP0200826

FORM 5

STATE OF SOUTH CAROLINA)
)
County of AIKEN)

IN THE COURT OF COMMON PLEAS

Willie A. Seawright, Jr., #377348,)
)
Applicant,)

C/A No. _____

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 to 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 Kirkland Correctional Institution, E-B1-27;
4344 Broad River Road, Columbia, SC 29210
2. Name and location of Court which imposed sentence Aiken County
Court of General Sessions, Aiken, SC 29802
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number(s) (if known) upon which and the offense(s) for which sentence was imposed:
 - (a) Unknown: FTS For Blue Light w/Death; 2018GS1201273
 - (b) Unknown: Poss. of Stolen Vehicle 2018GS0201434
 - (c) Unknown: Unlawfully Carrying a Firearm / Driving Under Susp.

WAW

5. The date upon which sentence was imposed and the terms of the sentence:
- (a) On or about 8/14/2018; FTSFBL W/Death - 25 Years
- (b) On or about 8/14/2018; Poss. of Stolen Vehicle; Time Served
- (c) On or about 8/14/2018; Unlawfully Carrying/DUS Time Served
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Yes
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence? NO
8. If you answered yes to (7), list:
- (a) the name of each court to which you appealed:
- i N/A
- ii N/A
- iii N/A
- (b) the result in each such Court to which you appealed:
- i N/A
- ii N/A
- iii N/A
- (c) the date of each such result:
- i N/A
- ii N/A
- iii N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i N/A
- ii N/A

iii N/A

9. If you answered no to (7), state your reasons for not so appealing:
- (a) NO ISSUES PRESERVED FOR APPEAL/DIDN'T KNOW OF APPEAL RIGHTS
 - (b) NO ISSUES PRESERVED FOR APPEAL/DIDN'T KNOW OF APPEAL RIGHTS
 - (c) NO ISSUES PRESERVED FOR APPEAL/DIDN'T KNOW OF APPEAL RIGHTS
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) See Pages 3(a) et seq., attached hereto
 - (b) See Pages 3(a) et seq., attached hereto
 - (c) See Pages 3(a) et seq., attached hereto
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Pages 3(a) et seq., attached hereto
 - (b) See Pages 3(a) et seq., attached hereto
 - (c) See Pages 3(a) et seq., attached hereto
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-conviction relief? NO
 - (c) any petition in the United States Supreme Court for writ of certiorari other than petitions, if any, already specified in (8)? NO
 - (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered yes to any part of (12), list with respect to each petition, motion, or application:
- (a) the specific nature thereof:
 - i. N/A
 - ii. N/A

10 & 11. GROUNDS AND SUPPORTING FACTS

- I. Seawright was deprived of his right to the Effective Assistance of Counsel that he is guaranteed under the Sixth and Fourteenth Amendments of the Constitution of the United States, and Article I, § 3 of the Constitution of South Carolina as set out more specifically below:
 - A. The guilty plea is invalid in that it was taken in violation of Applicant's Federal and State Due Process rights whereas the plea was not knowingly, voluntarily, and, intelligently entered, was entered due to Seawright being denied the Effective Assistance of Defense Counsel he is guaranteed under the State and Federal Constitutions and he was prejudiced to the extent that but for counsel's unprofessional conduct, Seawright would not have pled guilty and would have insisted on having his case tried before a Judge and jury of his peers.
 1. Seawright did not want to plead guilty and wanted to have his case tried before a Judge and jury, however, defense counsel induced the plea whereas counsel informed Seawright, among other things, that what they discussed was attorney/client privilege and that he was not to talk to anyone about what they discussed, but during one of those discussions counsel told Seawright that he [counsel] knew the Judge very well, had talked with the Judge, and the Judge agreed that upon Seawright entering a guilty plea, some charges would be dropped and he [the Judge] would sentence Seawright to a sentence between eight (8) and fifteen (15) years in prison.
 2. Seawright relied on counsel's promise and advice when he decided to plead guilty in exchange for a sentence of 8 to 15 years and other considerations, such as having other charges dismissed, however, the Judge sentenced Seawright to twenty-five (25) years, and dismissed other charges, but counsel never took any action to correct the error related to the agreement.
 3. Counsel told Seawright that he was to answer the questions that the Judge was going to ask about the plea, in accordance with what was expected so the Judge would accept the plea.
 4. Counsel did not explain to Seawright that by entering a plea of guilty to the charges that the law held that Seawright was admitting all of facts constituting the crime(s) charged and was agreeing to be sentenced, and, Seawright didn't otherwise know these facts, or he would not have entered the plea without having some other assurance that the Judge was going to abide by the agreement.
 5. Had Counsel properly informed Seawright of the facts stated above, Seawright would not have entered a guilty plea until he was able to ensure that the Judge knew of the promises and any potential misunderstandings that occurred.

6. At the plea hearing, Seawright answered the Judge each time the Judge asked a question, the way he thought he needed to do in order to have the Judge accept the plea because he was not given any other legitimate alternative to pleading guilty whereas his counsel hurried him to plead guilty and deprived him of all the information necessary for him to make a knowing and intelligent choice among the alternatives available to him at that time, to include a threat that if he didn't plead guilty, then they would pick a jury and put him on trial right there, with an attorney who was unprepared.

B. Counsel provided ineffective assistance when he failed to inform Seawright that in pleading guilty Seawright was entering into a binding contract which admitted his guilt, consented to him being sentenced, and of which would, among other things, act to prevent him from challenging his conviction and sentence based upon facts outside the record, or greatly hinder his ability to do so.

1. A guilty plea is like a contract and is binding on the State and anyone who enters into that contract, however, Seawright did not know this event though Judges, Lawyers and other trained in the law may know this fact, and neither counsel nor the trial Judge informed him of this fact prior to or during the plea taking process.

2. Had Applicant been informed that he was entering into the same as a binding contract and informed that he was required to bring any concerns to the Judge's attention at the time of the plea and on the record, Applicant would have brought to the court's attention during the plea, that his counsel told him about the attorney/client privilege and told him not to discuss their conversations with anyone, and about the deal that counsel had told Applicant for the eight (8) to fifteen (15) years, that occurred off the record, and he would have asked for a written plea agreement that he is now informed and believes is required by law or court rules.

3. Counsel knew that a written plea agreement was required if he negotiated a plea deal with the prosecution and the trial Judge had agreed to the agreement, but counsel failed to use a written plea agreement as, based upon information and belief, either court rules or the law requires and of which counsel surely is well aware, because that would have alerted Applicant to the fact that the Judge did not agree to a sentence of between 8 and 15 years.

4. Applicant was prejudiced in that he is serving a twenty-five year sentence when he was promised a sentence between eight (8) and fifteen (15) years by his counsel, and had counsel told him prior to the plea that he was going to be sentenced to 25 years, he would not have pled guilty, would have insisted on going to trial and the outcome would have been different.

3(b)

- C. Counsel was ineffective in failing to point out to the court that the Due Process Clause of the South Carolina Constitution affords a person more protection than the Due Process Clause of the U.S. Constitution, and thus, counsel and/or the court should have been required to inform Seawright relevant to his guilty plea hearing, and on the record, that by pleading guilty, he is entering into a binding contract and that if any promises were made, or there are some possible misunderstandings the Defendant [Seawright] thinks the Court should be made aware of, despite what counsel may have said about keeping discussions quiet or secret, that this is his one opportunity to ask the Judge questions and make inquiries, on the record or be forever bound by the guilty plea contract and waiver of all rights associated with the contract.
1. Based upon information and belief, the Constitution of the State of South Carolina offers more protection to citizens of the State of South Carolina than does the Federal Constitution.
 2. Based upon information and belief, as it pertains to the Due Process Clause of the State Constitution, Due Process is flexible and calls for such procedural protections as the particular situation demands.
 3. The guilty plea process as applied to Seawright necessarily required more heightened procedural protections than provided by the Federal Constitution.
 4. Seawright was given information by his counsel that tended to manipulate him because Seawright was led to believe that the Judge was going to go along with the agreement for an eight (8) to fifteen (15) year sentence, but Seawright was also provided information which encouraged him to refrain from informing the Judge about any deals, secrets or misunderstandings during the plea taking process, e.g., not to violate the attorney/client privilege; that counsel knew the Judge and a deal was made off the record; just answer the questions so the Judge will accept the plea; etc., etc., etc., and the lawyer failed to obtain a written plea agreement when counsel knew he is required to use a written plea agreement.
 5. At the most, the Judge should have informed Seawright that he was entering into a contract and that if he had any concerns, especially about any promises or misunderstandings, regardless of whether or not he thought those concerns should be kept secret, he needed to state those concerns on the record or face a high hurdle trying to assert those concerns at a subsequent hearing.
 6. At the least, counsel's actions constitute "undue influence" whereas counsel provided Seawright with correct information, but while simultaneously withholding other vital information in which to obtain counsel's desired result. The Judge should have been required, under the State Constitution, to make further inquiries before accepting the guilty plea.

7. Applicant is confused as to how a guilty plea can satisfy "Due Process" when lawyers and Judges with years of experience in dealing with the law may, as a practice or policy permit a person who is untrained in the law [Mr. Seawright], to **unknowingly** enter into a contract that includes the waiver of several fundamental constitutional rights without taking the very few minutes that it would take to ensure that he is aware that he is in fact entering into a contract and he must state any concerns he has on the record at that time, before the judge accepts the guilty plea.

8. Had counsel or the presiding Judge told Seawright in plain terms, that he was entering into a binding contract, the terms of the contract before he entered into it, and the consequences of entering into a contract, Seawright would not have pled guilty, would not have waived his Federal and State Constitutional Rights and would have insisted on going to trial.

D) Counsel failed to ensure that Seawright was made aware of the Maximum sentence he would face if he entered a plea of guilty.

1. Seawright did not know of a statutory requirement that he must serve two (2) years of community supervision and pay a supervision fee in addition to the eight (8) to fifteen (15) years that he was promised that he would receive and counsel did not inform him of this statutory requirement;

2. Had counsel informed Seawright that he was required to serve an additional two (2) years of community supervision and pay a supervision fee, and, be subject to re-incarceration if he failed to complete the community supervision or violated the conditions of community supervision, as required by statute, and had counsel not led him to believe that he was only going to receive eight (8) to fifteen (15) years in prison, Seawright would not have pled guilty and would have insisted on going to trial.

3. Seawright is prejudiced in that he is serving a twenty-five (25) year sentence, must serve an additional two (2) years of community supervision and pay a supervision fee, and, be subject to re-incarceration if he violates the conditions of community supervision as required by statute, and had counsel not led him to believe that he was only going to receive eight (8) to fifteen (15) years in prison and not misled Seawright, and had counsel submitted a written plea agreement as required, Seawright would not have pled guilty, would have insisted on going to trial, and the evidence supporting Seawright's assertions would be in the State's own files.

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

(c) the disposition thereof:

i. N/A

ii. N/A

iii. N/A

iv. N/A

(d) the date of each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

14. Has any ground set forth in (10) been presented previously to this or any other Court, State or Federal, in any petition, motion or application which you have filed? NO

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

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
- (b) the proceeding in which each ground was raised:
- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) For all Grounds raised in the instant PCR Action, A PCR
- (b) Application is the first and only remedy available under
- (c) State Law in which to raise the claims set forth herein.
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? I don't think I was Arraigned
- (b) your trial, if any? Yes - Guilty Plea Trial
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions, or applications with respect to this conviction, which you filed? N/A
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. N/A in that I don't believe that I was arraigned and I do not think that I appeared before a Magistrate Judge.

ii. Li Law Firm, LLC; Victor Li Esquire
P.O. Box 7284; Columbia, SC 29202

iii. Li Law Firm, LLC; Victor Li Esquire
P.O. Box 7284; Columbia, SC 29202

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

i. I don't think I appeared before a Magistrate Judge

ii. Guilty Plea Negotiations and Plea Colloquy

iii. Sentencing

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

Applicant seeks to have the guilty plea and sentence, vacated, set aside or reversed and to have the cases against him dismissed and/or such other and further relief that this Court deems fair, just, and proper.

20. Are you now under sentence from any other court that you have not challenged? No

STATE OF SOUTH CAROLINA)
)
County of AIKEN)

VERIFICATION

I, Willie A. Seawright, Jr., 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 at this time 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.

Willie A. Seawright, Jr.
Willie A. Seawright, Jr.,

SWORN to and subscribed to before me

this 13 day of March, 2019.

Melissa Sping
Notary Public For South Carolina

My Commission Expires: Dec. 1, 2025

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

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

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

Willie Seawright
Willie A. Seawright, Jr.

SWORN to and subscribed to before me

this 13 day of March, 2019.

Yulisia Opina
Notary Public For South Carolina

My Commission Expires: Dec. 1, 2025

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN)	FOR THE SECOND JUDICIAL CIRCUIT
)	
Willie A. Seawright, Jr., #377348,)	
)	
)	2019-CP-02-00826
Applicant,)	
)	
v.)	RETURN
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

In response to the application for post-conviction relief (PCR) filed on April 5, 2019, the State (Respondent) would respectfully show this Court:

I. Procedural History

Willie A. Seawright, Jr. (Applicant) is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Aiken County Clerk of Court. During its June 2018 term, the Aiken County Grand Jury indicted Applicant for failure to stop for a blue light resulting in death (indictment # 2018-GS-02-01273) and possession of a stolen vehicle (indictment # 2018-GS-02-01434). At the time of Applicant’s indictment, Applicant had outstanding arrest warrants stemming from a separate incident.¹ Assistant Solicitor Sam Grimes of the Second Circuit Solicitor’s Office prosecuted the case. Assistant Public Defender Victor Li of the Second Circuit Public Defender’s Office represented Applicant.

¹ It appears from the record that the outstanding arrest warrants were for: (1) armed robbery (arrest warrant # 2016-A02-11100145); (2) two counts of attempted murder (arrest warrant # 2016-A02-11100140/ 146); (3) two counts of possession of a weapon during a violent crime (arrest warrant # 2016-A02-11100141/144). However, during the guilty plea hearing Assistant Solicitor Grimes indicated that federal prosecutors were waiting to hear the results of Applicant’s guilty plea hearing before determining whether they would go forward with Applicant’s armed robbery charge, but that Applicant’s attempted murder and unlawful carrying of a pistol charges were being dropped as a result of Applicant’s August 10, 2018, guilty plea.

On August 10, 2018, Applicant plead guilty to the failure to stop for a blue light resulting in death and possession of a stolen vehicle charges before the Honorable William P. Keesley. Judge Keesely sentenced Applicant to thirty days in county jail plus costs and assessments, restitution deferred, for the possession of a stolen vehicle charge, and a concurrent sentence of twenty five years' imprisonment plus costs and assessments, restitution deferred, for the failure to stop for a blue light charge. Applicant did not appeal his guilty pleas or sentence.

II. Factual Background

On January 13, 2017, Chief Goldman of the Sally Police Department was running radar as a vehicle approached approximately five or six miles per hour over the speed limit on Poplar Street. (GP Tr. 8). The radar showed the vehicle increased to a speed of 44 miles per hour in a 30 mile per hour zone. (GP Tr. 8). Chief Goldman followed Applicant and ran the license plate before he attempted to pull Applicant over. (GP Tr. 8). The inquiry revealed that the vehicle was stolen. (GP Tr. 8). Chief Goldman notified Aiken County Sheriff's Office and South Carolina Highway Patrol about his pursuit. (GP Tr. 8). Subsequently, Applicant began driving 68 miles per hour in a 55 mile per hour zone. (GP Tr. 8). Chief Goldman began to attempt a traffic stop by initiating his blue lights. (GP Tr. 8). However, Applicant did not pull over. (GP Tr. 9). Chief Goldman then activated his siren. (GP Tr. 9). Thereafter Applicant's speed increased to 124 miles per hour in a 35 mile per hour zone. (GP Tr. 9). Applicant then turned right onto Center Street in excess of 100 miles per hour. (GP Tr. 9). Thereafter, it can be seen on video that Applicant ran through a stop-sign at a high rate of speed. (GP Tr. 9). Applicant then lost control of the vehicle, causing the vehicle to veer off the right side of the road and hit a tree. (GP Tr. 9). The vehicle was cut in half by the tree. (GP Tr. 9).

As a result of this incident, the passenger of the vehicle (Victim) was killed. (GP Tr. 9). At the time of the incident, Applicant's license was suspended, he had outstanding warrants for

attempted murder and armed robbery as well as associated charges from separate incidents. (GP Tr. 10). Applicant was sitting on a pistol and he was driving a stolen vehicle. (GP Tr. 10).

The vehicle involved in this accident was a 1999 Toyota Camry that had been reported stolen in Orangeburg County a month prior. (GP Tr. 9). The owner of the vehicle does not know Applicant. (GP Tr. 9).

III. Current Application

In his Application for post-conviction relief, Applicant makes several allegations, which Respondent interprets as the following:

A. Ineffective Assistance of Counsel

1. Counsel informed Applicant that he could not discuss his case with the judge due to attorney/client privilege, and that he had to tell the judge “what was expected” so that the Judge would accept the plea.
2. Counsel promised Applicant that he would receive a sentence between eight and fifteen years, but was ultimately sentenced to twenty-five years. Counsel failed to obtain a “written plea agreement” to ensure that Applicant would receive a sentence between eight and fifteen years.
3. Counsel failed to take any “corrective action” regarding Applicant’s twenty-five year sentence.
4. Counsel failed to inform Applicant that he was required to serve two years of community supervision and pay a supervision fee
5. Counsel did not inform Applicant that by pleading guilty, Applicant was admitting all facts constituting the crimes charged and was agreeing to be sentenced.

B. Involuntary Guilty Plea

1. Applicant did not want to plead guilty but was “induced” to plead guilty because counsel “hurried” him to plead guilty and “deprived him of all the information necessary for [Applicant] to make a knowing and intelligent choice.”

Applicant seeks “to have the guilty plea and sentence vacated, set aside or reversed and to have the cases against him dismissed and/or such other and further relief that this Court deems fair, just, and proper.”

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

IV. Response to Allegations of Ineffective Assistance of Counsel

In his Application, Applicant alleges various claims of ineffective assistance of counsel, however these allegations are without merit. The Sixth Amendment to the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amend. VI; Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). In a post-conviction relief action, an applicant bears the burden of proving the allegations in his or her application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland, 466 U.S. 668. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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

at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the applicant must show there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test for any of his ineffective assistance of counsel claims. At the guilty plea hearing, Li testified that he fully explained the nature and elements of the offenses, the possible punishment, and his constitutional rights with Applicant. (GP Tr. 4). Furthermore, Applicant testified he understood that by pleading guilty he was giving up his constitutional rights including his right to remain silent and his right to a jury trial. (GP Tr. 8-9). Applicant testified he was aware that failure to stop for a blue light resulting in death constituted a felony and a violent crime that carried up to twenty-five years in prison. (GP Tr. 6). Applicant testified he understood that he would not be eligible for certain programs or placements that a non-violent offender might be eligible for. (GP Tr. 6). Applicant testified that by pleading guilty to failure to stop for a blue light he would not be eligible for parole sooner than after serving eighty-five percent of his sentence, and that there was no guarantee that he would get out of prison after serving eighty-five percent of his sentence. (GP Tr. 7). Applicant testified he understood he would automatically be required to go on community supervision and would be required to successfully complete that supervision. (GP Tr. 7).

Furthermore, Applicant testified he was guilty of the offenses and no one threatened or coerced him to plead guilty. (GP Tr. 12). Applicant testified that, other than having other charges dropped, Applicant was not promised anything to get him to plead guilty. (GP Tr. 13-14). Applicant testified he was satisfied with Counsel's representation and there was nothing else he

wanted Li to do for his case. (GP Tr. 14). Applicant further testified he had enough time to speak with Li and he had enough time to make up his mind regarding whether or not he wanted to plead guilty. (GP Tr. 14). Finally, Applicant testified he did not have any complaints about Li, law enforcement officials, or “anybody who dealt with [his] case.” (GP Tr. 14).

However, the allegations of ineffective assistance of counsel probably raise questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. Response to Claim of Involuntary Guilty Plea

Applicant asserts his guilty plea was involuntarily entered, however the records from Applicant’s plea proceeding fully support that Applicant’s guilty plea was entered freely, voluntarily, and knowingly. This allegation is without merit.

In post-conviction relief cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing: (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel’s errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging his or her guilty plea was induced by ineffective assistance of counsel must prove that counsel’s advice was not “within the competence demanded of attorneys in criminal cases.” Hill v. Lockhart, 474 U.S. 52, 56 (1985).

“A guilty plea is a solemn, judicial admission of the truth of the charges against an individual; thus, a criminal inmate’s right to contest the validity of such a plea is usually, but not invariably, foreclosed.” Dalton v. State, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Blackledge v. Allison, 431 U.S. 63, 74 (1977)). “Indeed, where a thorough colloquy is

conducted, courts must exercise caution in setting aside the guilty plea.” Garren v. State, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); see Jamison v. State, 410 S.C. 456, 469-71, 765 S.E.2d 123, 129-30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instructing that caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”). Statements made during the plea should be considered conclusive unless the defendant presents reasons why she should be allowed to depart from the truth of those statements. Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

In Applicant’s case, the record fully supports the knowing and voluntary nature of Applicant’s plea. Applicant indicated he was pleading guilty voluntarily because he was guilty. (GP Tr. 12). He also testified no one forced, coerced, or promised him anything in exchange for his guilty plea. (GP Tr. 12). Applicant testified that he was not suffering from any physical or mental problem that would have adversely affected his ability to plead guilty, nor was he under the influence of any drugs or alcohol. (GP Tr. 4).

Accordingly, the record conclusively refutes Applicant’s allegation his plea was involuntary. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

VI. Any Future Amendments

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the

State at an evidentiary hearing pursuant to the Uniform Post-Conviction Relief Act² and Rule 71.1 of the South Carolina Rules of Civil Procedure. *See also* Rules 15(a)–(b), SCRCP. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRCP. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. *See* Rule 15(a), SCRCP.

VII. Response to Any and All Other Allegations

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

² S.C. Code Ann. §§ 17-27-10 to -160.

VIII. Request for an Evidentiary Hearing

WHEREFORE, having made its return, Respondent request that an evidentiary be held on the claims of ineffective assistance of counsel and involuntary guilty plea.

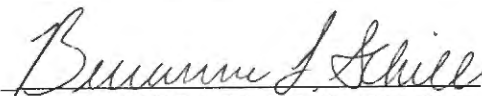
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BRIANNA L. SCHILL
Assistant Attorney General

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

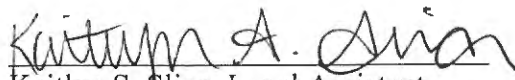
June 13th, 2019

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN)	
)	
)	2019-CP-02-00826
)	
WILLIE A. SEAWRIGHT, #377348,)	
)	
Applicant,)	
)	
vs)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	
_____)	

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

Arthur K. Aiken, Esquire
Aiken & Hightower
2231 Devine Street, Suite 201
Columbia, South Carolina 29205

DATED this the 13th day of June, 2019.


 Kaitlyn S. Slice, Legal Assistant
 For Respondent

AIKEN & HIGHTOWER, PA

Attorneys at Law
2231 Devine Street, Suite 201
Columbia, SC 29205
Phone: 803-799-5205
Fax: 803-799-5206

Arthur K. Aiken

A. Bea Hightower

September 27, 2019

Robert J. Harte
Aiken County Clerk of Court
109 Park Ave SE,
Aiken, SC 29801

Re: Re: Willie A. Seawright, Jr. #377348 v. State of South Carolina
C/A # 2019-CP-02-00826

Dear Mr. Harte:

I have enclosed the original and one (1) copy of the Applicant's Amendment to Application in the above-mentioned matter. Please file the original and return the filed copy to me in the enclosed paid SASE.

By copy of this correspondence sent by email and mail to the attorney for the State, Assistant Attorney General Brianna Schill, I am serving her with a copy of the Amendment. I invite you and Ms. Schill to call or email if either of you have any questions.

Thank you for your help.

Sincerely,


Arthur K. Aiken
art@aikenandhightower.com

Enclosures: as stated

cc: Brianna L. Schill (via U.S. Mail and email/with enclosure)
Willie A. Seawright, Jr. (via U.S. Mail)

**STATE OF SOUTH CAROLINA
COUNTY OF AIKEN**

**COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT**

<p>Willie A. Seawright, Jr, #377248,</p> <p>Applicant</p> <p>vs.</p> <p>State of South Carolina,</p> <p>Respondent.</p>	<p>Case No.: 2018-CP-02-00826</p> <p>AMENDMENT TO PCR APPLICATION</p>
---	--

The Applicant, Willie A. Seawright, Jr. (Seawright), amends his PCR Application filed in the above captioned case to add the following:

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

Seawright amends his response to item 10 to add the following:

d. Ineffective assistance of trial counsel

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

Seawright amends his response to Item 11 to add the following:

d. Ineffective assistance of trial counsel

i. Seawright's guilty plea was not made with or based on advice of competent counsel.

ii. Seawright's guilty plea was not intelligently made.

iii. Trial counsel did not prepare Seawright's case for trial, and Seawright was left with no choice but to plead guilty.

- iv. Trial counsel did not discuss the elements of the offense or potential defenses with Seawright.
- v. Trial counsel never discussed the advantages and disadvantages of a trial versus the advantages and disadvantages of a plea with Seawright so that Seawright could make an informed choice of whether to enter a plea or try his case.
- vi. Trial counsel did not investigate Seawright's case.
- vii. Trial counsel did not tell Seawright the possible penalty for his offense.
- viii. Trial counsel had Seawright sign the Sentencing Sheet without explaining it to him.

The above deficiencies prejudiced Seawright in that but for these deficiencies, Seawright would not have pled guilty

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

Seawright amends his response to Item 19 to state the following:

Order vacating conviction and sentence.

Furthermore, Seawright requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the hearing that have not been specifically addressed in the Application or this Amended Application.

Respectfully Submitted,

AIKEN & HIGHTOWER, P.A.

BY:  _____

ARTHUR K. AIKEN

2231 Devine Street, Suite 201

Columbia, SC 29205

Phone: 803-799-5205

Fax: 803-799-5206

Email: art@aikenandhightower.com

ATTORNEYS FOR APPLICANT

Columbia, South Carolina
September 27, 2019

**STATE OF SOUTH CAROLINA
COUNTY OF AIKEN**

Willie A. Seawright #377348,

Applicant,

vs.

State of South Carolina

Respondent.

**COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT**

Case Number: 2018-CP-02-00826

CERTIFICATE OF SERVICE

I certify that on September 27, 2019, I served the Applicant's Amendment to Application in this case on the government by delivering a copy of the Motion to the Office of the Attorney General by mail addressed to Assistant Attorney General Brianna L. Schill, PO Box 11549, Columbia, SC 29211 and by emailing a copy addressed to briannaschill@scag.gov



Arthur K. Aiken
Aiken & Hightower, PA
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Columbia, SC 29205
Tel: 803-799-5205
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Columbia, South Carolina
September 27, 2019

1 State of South Carolina) Court of Common Pleas
 2 County of Aiken) Second Judicial Circuit
 3
 4 Willie A. Seawright, Jr.,) Transcript of Record
)
 5 Petitioner/Applicant,) 2019-CP-02-00826
)
 6 vs.)
)
 7 State of South Carolina,)
)
 8 Respondent.)

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June 2, 2021
 Aiken, South Carolina

B E F O R E:

The Honorable Jennifer B. McCoy, Judge

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

Arthur K. Aiken, Esquire
 On behalf of the Petitioner/Applicant

Michael J. Neubauer, Assistant Attorney General
 On behalf of the State of South Carolina

Proceedings recorded by DCRP
 Transcribed by: Stacy S. Johnson,
 Circuit Court Reporter

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I N D E X

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	<u>ID.</u>	<u>EVD.</u>
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Petitioner/Applicant's 2 Sentencing Sheet	19	19

1 (The following proceedings were held June 2, 2021,
2 beginning at 11:00 AM.)

3 THE COURT: All right. Is this Seawright now we're
4 gonna take up?

5 MR. NEUBAUER: Yes, Your Honor.

6 THE COURT: All right. This is the -- Case Number
7 2019-CP-02-00826 in the Matter of Willie A. Seawright's
8 Post-Conviction Relief proceeding.

9 I'll ask the attorneys, once again, to state their
10 names and the parties they represent beginning with the
11 State.

12 MR. NEUBAUER: My name is Michael Neubauer on behalf
13 of the State.

14 THE COURT: All right. And how do you spell your
15 last name for the court reporter?

16 MR. NEUBAUER: N-E-U-B-A-U-E-R.

17 THE COURT: Thank you.

18 MR. AIKEN: And I'm Arthur K. Aiken for the
19 Applicant, Willie Seawright.

20 THE COURT: Thank you so much.

21 All right. Present for the record is Mr. Seawright.
22 Good morning.

23 THE APPLICANT: Good morning.

24 THE COURT: All right. I'll hear from the State on
25 the kind of procedural background first. That would be

1 helpful.

2 MR. NEUBAUER: May it please the Court?

3 The next matter is Willie Seawright versus State
4 of South Carolina. In June 2018, the Aiken County
5 Grand Jury indicted Applicant for failure to stop for
6 a blue light resulting in death, Indictment Number
7 2018-GS-02-01273, and possession of a stolen vehicle,
8 Indictment Number 2018-GS-02-01434.

9 At the time of Applicant's indictment, Applicant
10 had outstanding arrest warrants stemming from a
11 separate incident. Assistant Solicitor Grimes indicated
12 Applicant's attempted murder and possession of a weapon
13 warrants would be dismissed as a result of his plea;
14 however, Assistant Solicitor Grimes indicated the Federal
15 prosecutors were awaiting the results of his guilty
16 plea to determine whether they would go forward with an
17 armed robbery charge Applicant was facing. However, all
18 charges were dropped as a result of Applicant's plea.

19 On August 10, 2018, Applicant pled guilty to
20 failure to stop for a blue light resulting in death and
21 possession of a stolen vehicle before the Honorable
22 William P. Keesley. Judge Keesley sentenced Applicant
23 to twenty-five years for the failure to stop for a blue
24 light and thirty days plus costs and assessments for
25 possession of a stolen vehicle. Applicant did not appeal

1 his guilty plea or sentence.

2 On April 5, 2019, Applicant brought an Application
3 for Post-Conviction Relief alleging ineffective
4 assistance -- ineffective assistance of counsel. Counsel
5 informed Applicant that he could not discuss his case
6 with the judge due to attorney/client privilege and that
7 he had to tell the judge what was expected so the judge
8 would accept the plea.

9 Counsel promised Applicant he would receive a
10 sentence between eight and fifteen years, but was
11 ultimately sentenced to twenty-five years.

12 Counsel failed to obtain a written plea agreement
13 to ensure Applicant would receive a sentence between
14 eight and fifteen years.

15 Counsel failed to take any corrective action
16 regarding Applicant's twenty-five year sentence.

17 Counsel failed to inform Applicant he was required
18 to serve two years of community supervision and pay a
19 supervision fee.

20 Counsel did not inform Applicant that by pleading
21 guilty he was admitting all facts constituting the crime
22 charged and agreeing to be sentenced.

23 And an involuntary guilty plea allegation.
24 Applicant did not want to plead guilty, but was induced
25 to plead guilty because counsel hurried him to plead

1 guilty and deprived him of the information to make a
2 knowing and intelligent choice.

3 On September 27, 2019, Applicant, through his
4 counsel, Arthur Aiken, filed an amended return alleging
5 ineffective assistance of counsel. Applicant's guilty
6 plea was not made with or based on advice of competent
7 counsel. Applicant's plea was not intelligently made.
8 That the trial counsel did not prepare Applicant's case
9 for trial. Applicant was left with no choice but to
10 plead guilty. Trial counsel did not discuss the elements
11 of the -- of the offense or potential defenses. Trial
12 counsel never discussed the advantages and disadvantages
13 of a trial versus the advantages and disadvantages of a
14 plea. Trial counsel did not investigate Applicant's
15 case. Trial counsel did not tell Applicant the possible
16 penalty of the offense and trial counsel hadn't -- or had
17 Applicant sign the sentencing sheet without explaining it
18 to him.

19 As requested relief, Applicant is seeking an order
20 vacating his convictions and his sentences.

21 THE COURT: Okay. All right. Thank you so much.

22 And just for the record to make sure the record's
23 clear, what -- what does failure to stop for a blue light
24 resulting in death carry in the state of South Carolina?

25 MR. AIKEN: Twenty-five years, Your Honor.

1 THE COURT: Twenty-five?

2 MR. AIKEN: Yes.

3 THE COURT: And, of course, possession of a stolen
4 vehicle is typically a -- what?

5 MR. AIKEN: It was 2,000 or less, so it was thirty
6 days.

7 THE COURT: So that was a thirty-day, so he was
8 maxed out -- maxed out on that charge.

9 Okay.

10 All right, Mr. Aiken. I'm happy to hear from you.

11 MR. AIKEN: May it please the Court, Your Honor?

12 I think, first of all, I need to make a statement
13 for the record concerning Mr. Seawright's decision about
14 whether to go forward.

15 As -- as was indicated, multiple charges were
16 dismissed as part of the plea. Two, in particular,
17 could be troubling down the road. One is an attempted
18 murder and one's an armed robbery. Not to mention
19 the fact the Federal government was anticipating the
20 possibility at least of proceeding against Mr. --
21 Mr. Seawright presumably on the Hollenbach robbery
22 theory or something like that if he --

23 THE COURT: Okay. On that vein, I'm glad you --
24 which of these charges were indicted? All three of
25 these other charges?

1 MR. NEUBAUER: No, Your Honor. At this -- or
2 through my research I did not see an indictment for
3 any --

4 THE COURT: Any --

5 MR. NEUBAUER: -- of these charges. It seems that
6 they were pending or possibly --

7 THE COURT: They were all pending the grand jury
8 process at the time he took this plea?

9 MR. NEUBAUER: Yes. Yes, Your Honor.

10 THE COURT: Okay. But, of course, they could later
11 be indicted?

12 MR. NEUBAUER: Yes, Your Honor.

13 THE COURT: Okay.

14 All right. Go ahead.

15 MR. AIKEN: I -- I just want to make sure that it's
16 clear in the record by a statement of Mr. Seawright that
17 he understands that all of this is -- all of what has
18 been dismissed can come back --

19 THE COURT: Right.

20 MR. AIKEN: -- if he's -- if he prevails in his PCR.

21 THE COURT: Okay. Well, let's talk about attempted
22 murder. It's zero to thirty; is that right?

23 MR. AIKEN: That's correct.

24 THE COURT: All right. Possession of a weapon, of
25 course, is a five-year charge. The armed robbery is

1 another zero to thirty; is that right?

2 MR. AIKEN: Ten to thirty.

3 THE COURT: Ten to thirty. Thank you. A minimum
4 of ten to thirty. All right.

5 All right. So, Mr. Seawright, it's incumbent on
6 me to tell you a couple of things before we go forward
7 this morning, okay?

8 THE APPLICANT: Yes, ma'am.

9 THE COURT: And you may have heard this before,
10 and that's fine, but it bears repeating so I'm gonna
11 tell it to you again anyway. You need to understand
12 before we go forward that if you, quote unquote, win
13 this PCR, you go through -- your best case scenario is
14 that you're right back to square one. In other words,
15 I don't get to resentence you, I don't get to hear the
16 facts. That's not what my job is, okay? So your best
17 case scenario would be to go back to square one as if
18 this hadn't happened yet.

19 Now you'd be facing the same charges you faced
20 before; however, as you heard us go over you would be
21 facing these other charges potentially as well, and
22 those would include charges for attempted murder,
23 possession of a weapon during the commission of a
24 violent crime, as well as an armed robbery charge.

25 Now the State could seek to go to trial or prove

1 you guilty on -- on any or all of those charges, and
2 you need to understand that.

3 The attempted murder, as we just discussed, carries
4 up to thirty years. Of course, the possession of a
5 weapon charge carries a five-year sentence. The armed
6 robbery charge carries anywhere from a minimum of ten
7 up to thirty years. You could receive time, of course,
8 upon conviction or a guilty plea of these charges,
9 considerable time, as well as initial strikes on your
10 record. These are violent charges and serious charges.
11 Attempted murder is violent and serious, as well as
12 armed robbery being a violent and serious charge in
13 South Carolina, so this would incur strikes.

14 Of course, those would also mandate that you serve
15 at least 85 percent of whatever time you could get on
16 those charges, okay?

17 Now I don't know what the State intends to do,
18 you know, if you were to get back to square one. I
19 can't speak for the State or the solicitor's office,
20 but it's my job to tell you that that is at least a
21 very distinct possibility were your PCR application
22 today to be successful and it's my job to make sure
23 that you understand that.

24 THE APPLICANT: Yes, ma'am.

25 THE COURT: Do you want some more time to talk

1 about all this with your lawyer?

2 THE APPLICANT: No, ma'am.

3 THE COURT: Okay. Do you understand everything
4 I've just explained to you?

5 THE APPLICANT: Yes, ma'am.

6 THE COURT: Okay. Do you have any questions of me?

7 THE APPLICANT: No, ma'am.

8 THE COURT: Okay. Mr. Aiken, anything else you
9 needed to put on the record?

10 THE APPLICANT: No, Your Honor. Thank you.

11 THE COURT: Sure.

12 All right.

13 MR. AIKEN: The Applicant calls Mr. Seawright to
14 the stand.

15 THE COURT: Okay.

16 And he can go up or he can stay where he is. As
17 long as we can all hear him, that's fine.

18 MR. AIKEN: Well, I'll move down here, so, if
19 that's all right.

20 THE CLERK: Mr. Seawright, please raise your right
21 hand.

22 (Whereupon, Willie A. Seawright, Jr., was duly
23 sworn by the Clerk of Court.)

24 THE COURT: Thank you.

25 WILLIE A. SEAWRIGHT, JR.,

1 Q. Okay. Did you want to plead guilty?

2 A. No, sir.

3 Q. Let me -- let me get this microphone a little closer
4 to you.

5 A. All right.

6 Q. Speak up so everybody can hear you, okay?

7 So you didn't want to plead guilty?

8 A. No, sir.

9 Q. Why -- why did you plead guilty?

10 A. Because he told me -- he said I could get anywhere
11 from eight to fifteen years, but if I go into the guilty
12 plea, I will -- I mean, if I go into trial, I will get the
13 max, twenty-five years.

14 Q. So he said he felt like you would get the maximum of
15 twenty-five if you took it to trial?

16 A. Yeah.

17 Q. And what did he say about the eight to fifteen years?

18 A. He said if I go into the plea -- if I take the plea,
19 zero to twenty-five, I would get anywhere from eight to
20 fifteen years, but if I went to trial I would get the max,
21 twenty-five years.

22 Q. Did -- did he tell you you were absolutely gonna get
23 the eight to fifteen years?

24 A. Yeah, he said he was almost positive -- positive that
25 I would get eight to fifteen years.

1 Q. Okay. Did he say there was some kind of agreement for
2 that eight to fifteen years?

3 A. No, sir, not that I remember.

4 Q. But he seemed pretty confident?

5 A. Yes, sir.

6 Q. Because he said he'd spoken to the judge?

7 A. I can't exactly remember because I left all my papers
8 at the county jail, but my mother was supposed to go pick
9 them up. But they never called her to go pick them up. I
10 had a visit the same day they had transferred to their own
11 department of corrections, but they never called to pick
12 up my paperwork. I had everything documented.

13 Q. Now on -- during the plea, did the judge ask you
14 whether there was any kind of agreement about your
15 potential sentence?

16 A. Yes, sir.

17 Q. And -- and what did you say in response to that?

18 A. I said no.

19 Q. Well, why did you say no?

20 A. I had to follow what my lawyer told me to say.

21 Q. What did your lawyer tell you to say?

22 A. He said agree with everything -- agree -- agree with
23 everything. That's the only way the judge would take the
24 plea.

25 Q. So if you disagreed with something as you understood

1 it, then the judge would probably not take your plea?

2 A. Yes, sir.

3 Q. Did you want to plea with the eight to fifteen-year
4 range?

5 A. Yes, sir.

6 Q. Did you want to plea to twenty-five?

7 A. No, sir.

8 Q. If you had understood there was no eight to
9 fifteen-year range, would you have taken the case to
10 trial?

11 A. Yes, sir.

12 Q. Tell me what you understood your plea to be. Did
13 you understand it to be a contract?

14 A. No, not really, but -- I don't know.

15 Q. Well, let me ask you this. When you -- when you
16 decided to plea, was there some understanding of when the
17 case would go to trial if you didn't plea?

18 A. No, sir.

19 Q. Did you have a discussion of the attorney/client
20 privilege with Mr. Li?

21 A. Oh, yes, sir.

22 Q. What did he tell you about the attorney/client
23 privilege?

24 A. Like whatever we discussed was like between us and
25 like -- I can't...

1 Q. Did he tell you not to disclose any of that?

2 A. Yes, sir.

3 Q. If -- if you had -- if you had not been given that
4 advice, would you have said something about your
5 understanding about the eight to fifteen years?

6 A. Yes, sir.

7 Q. Would you have said something about it if you'd been
8 told -- told just to agree with the judge to let the plea
9 go through?

10 A. I don't know.

11 Q. I'm sorry. That -- that wasn't a good question.

12 If you had not been told just agree with the judge
13 so the plea will go through, would you have said something
14 about the eight to fifteen-year range.

15 A. Oh, yes, sir.

16 Q. I mean, did -- did you understand that that was your
17 one opportunity to raise that issue?

18 A. No, sir.

19 Q. You didn't understand that?

20 A. (No audible response.)

21 Q. Did you understand -- or did anybody -- did Mr. Li
22 explain to you community supervision?

23 A. Not that I remember.

24 Q. He didn't explain to you that -- that you would have
25 two years of community service if you ever got released and

1 if you violated you'd go back to prison?

2 A. Not that I remember.

3 Q. He never explained that to you?

4 A. Not that I remember.

5 Q. Okay. Did you understand that based on the community
6 supervision rules you could actually end up serving the
7 whole twenty-five years?

8 A. No, sir.

9 Q. No -- nobody ever explained that to you?

10 A. No, sir.

11 Q. But did somebody say to you that you would have to
12 serve 85 percent without the possibility of early release?

13 A. Yes, sir.

14 Q. Okay. But nobody said hey, guess what, you -- you
15 could serve a hundred percent of your sentence?

16 A. Not that I remember.

17 Q. Well, if you understood at the time of your plea that
18 you could based on the rules serve a hundred percent of
19 whatever you got sentenced to, would you have pled guilty?

20 A. No, sir.

21 Q. Now, Mr. Seawright...

22 MR. AIKEN: Can you mark these? This is 1 and 2.

23 (Petitioner/Applicant's Exhibit Numbers 1 and 2
24 were marked for identification.)

25 BY MR. AIKEN:

1 Q. Mr. Seawright, I'm showing you what's been marked
2 Exhibit 1. My question is, is that the sentencing sheet
3 for failure to stop for a blue light conviction?

4 A. Yes, sir.

5 Q. Okay. And I'm showing you what's been marked as
6 Exhibit 2. My question is, is that the sentencing sheet
7 for your possession of a stolen vehicle conviction?

8 A. Yes, sir.

9 Q. Did you sign those documents?

10 A. Yes, sir.

11 THE COURT: We're gonna have to get Petitioner to
12 either speak up or he can move his mask down while
13 he's speaking.

14 MR. AIKEN: All right.

15 THE COURT: You know, it's up to y'all to figure
16 that out.

17 MR. AIKEN: Yeah, why don't -- why don't you take
18 your mask off so they can hear you better.

19 THE APPLICANT: Uh-huh.

20 THE COURT: Ask him one more time if he -- about
21 the sentencing sheet just for the court reporter if you
22 don't mind.

23 BY MR. AIKEN:

24 Q. Exhibits 1 and 2, are those the sentencing sheets for
25 your -- your convictions?

1 A. Yes, sir.

2 MR. AIKEN: I move to admit those in evidence.

3 THE COURT: Any objection to the sentencing sheet
4 being marked as Exhibits 1 and 2?

5 MR. NEUBAUER: No, Your Honor.

6 THE COURT: All right. Without objection, they'll
7 be admitted.

8 (Petitioner/Applicant's Exhibit Number 1 and 2,
9 sheets, were admitted into evidence.)

10 BY MR. AIKEN:

11 Q. Now did Mr. Li explain those sentencing sheets to you?

12 A. Not that I remember.

13 Q. Did Mr. Li investigate your case?

14 A. I can say a little. A little.

15 Q. Well, did Mr. Li explain to you the advantages and
16 disadvantages of the plea and the advantages and
17 disadvantages of a trial? In other words --

18 A. Oh, yes, sir.

19 Q. -- did he tell you what was good about a plea and what
20 was bad about a plea?

21 A. Yes, sir.

22 Q. Did he tell you what was good about a trial and what
23 was bad about a trial?

24 A. Yes, sir.

25 MR. AIKEN: That's all I have, Your Honor.

1 THE COURT: Okay. Cross-examination.

2 MR. NEUBAUER: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. NEUBAUER:

5 Q. Mr. Seawright, do you remember how many times you met
6 with your attorney?

7 A. No, sir, not the exact number.

8 Q. Yes, sir. And did Mr. Li explain the plea to you,
9 that he'd discussed with the solicitor about you pleading
10 guilty to failure to stop for a blue light and possession
11 of a stolen vehicle under \$2,000 and what the State was
12 willing to drop as a result of that plea?

13 A. Yes, sir, after we discussed other things.

14 Q. Yes, sir. Do you recall telling Judge Keesley that
15 you'd not been threatened by anyone or promised anything
16 to plead guilty?

17 A. Yes, sir.

18 Q. Do you remember Judge Keesley asking if there were any
19 other plea dis -- or, I guess, terms of the plea that were
20 not on the record?

21 A. Yes, sir.

22 Q. And do you remember telling him that no, everything
23 was on the record?

24 A. Yes, sir.

25 Q. Do you remember telling Judge Keesley you had plenty

1 of time to speak with your attorney?

2 A. Yes, sir.

3 Q. And that your attorney did everything you asked him
4 to?

5 A. Yes, sir.

6 Q. And that you were satisfied with his services?

7 A. Yes, sir.

8 Q. Did you ever review discovery with Mr. Li?

9 A. I think. Yes, sir.

10 Q. And you watched the dash cam footage from the police
11 car of the chase?

12 A. Yes, sir.

13 Q. And do you remember having any discussions with Mr. Li
14 about possible defenses?

15 A. Yes, sir. That was, I think, the day I got here he --
16 he told me.

17 Q. And you discussed plea offers with Mr. Li, correct?

18 A. Yes, sir.

19 Q. Did he -- and you've said that he thought that you
20 would get between eight and fifteen, but he did not --

21 A. Yes.

22 Q. -- guarantee you that?

23 A. Yes. I was told -- at first I was told either four,
24 five or six while getting the rest of my charges threw out.

25 Q. All right.

1 A. I told him I would take a jury -- jury trial on my
2 other charges because I know they -- they wouldn't stick in
3 court, but...

4 Q. But there was no actual agreement for eight to fifteen
5 years. That was just what he was hoping to get, correct?

6 A. That's what he told me when I came. When I decided to
7 take the plea, he said if I take the plea I'll get anywhere
8 from eight to fifteen, but if I didn't take the plea and I
9 go to trial I would get the max.

10 Q. Yes, sir. Do you recall waiving your constitutional
11 rights; your right to a jury trial, the right to remain
12 silent, your right to challenge the State's evidence
13 against you?

14 A. Yes, sir.

15 Q. Do you recall the judge informing you that failure
16 to stop for a blue light resulting in death was a violent
17 crime?

18 A. Yes, sir.

19 Q. And that you wouldn't be eligible for certain programs
20 or placements that nonviolent offenders would be eligible
21 for?

22 A. Yes, sir.

23 Q. Do you recall being informed that failure to stop for
24 a blue light was a no-parole offense and you'd be required
25 to complete 85 percent of your sentence before being

1 eligible for release?

2 A. Yes, sir.

3 Q. And do you recall the judge telling you that you would
4 be required to go on community supervision when you were
5 released from jail?

6 A. I don't remember, but it's...

7 Q. I'd direct the Court's attention to page 7 of the plea
8 transcript.

9 And do you recall the judge informing you that failure
10 to complete your community supervision could cause you to
11 be sent back to jail?

12 A. I -- yes, sir.

13 Q. And do you recall the judge telling you about your
14 right to appeal?

15 A. Yes, sir.

16 Q. And did you ever tell Mr. Li that you wished to
17 appeal?

18 A. Yes, sir, but he told --

19 Q. You did?

20 A. -- he told me the best -- my best route would be to
21 do a PCR.

22 Q. So you -- but you -- after that conversation, did
23 you then tell Mr. Li that you still wanted to pursue an
24 appeal?

25 A. Yes, sir. I wanted to try the PCR first because he

1 said that would be my best bet.

2 Q. Do you recall Judge Keesley at the time of your plea
3 saying that if you wanted to appeal that you had a very
4 limited timeframe to do it?

5 A. I don't really remember.

6 Q. I'd direct the Court's attention to page 21 of the
7 plea transcript.

8 Back to the -- back to Judge Keesley's discussions
9 with you regarding the violent -- or the non-parole offense
10 for failure to stop for a blue light resulting in death,
11 do you recall Judge Keesley telling you that 85 -- the
12 85 percent mark was not a guarantee that you would be
13 released after 85 percent of your sentence, that was just
14 the least possible time that you could serve?

15 A. Yes, sir.

16 MR. NEUBAUER: At this point I have no further
17 questions.

18 THE COURT: All right. Any redirect?

19 REDIRECT EXAMINATION

20 BY MR. AIKEN:

21 Q. Did Judge Keesley ever tell you that you could end up
22 serving a hundred percent of your sentence?

23 A. No, I thought it was 85 percent.

24 Q. But did he ever tell you you could -- you could serve
25 a hundred percent?

1 A. Not that I remember.

2 MR. AIKEN: Okay. That's all I've got.

3 THE COURT: Okay.

4 MR. AIKEN: Thank you, Judge.

5 THE COURT: Okay.

6 MR. NEUBAUER: Very briefly on recross if you don't
7 mind, Your Honor.

8 THE COURT: Okay.

9 RECCROSS EXAMINATION

10 BY MR. NEUBAUER

11 Q. I'd like to draw the Court's attention to page 6 of
12 the guilty plea transcript.

13 Do you recall Judge Keesley stating there was no
14 guarantee that you'd get out in 85 percent, that is the
15 least time possible you can serve?

16 A. I can't remember.

17 MR. NEUBAUER: Thank you. No further questions.

18 THE COURT: Okay.

19 (Witness excused.)

20 THE COURT: All right. Any other witnesses,
21 Mr. Aiken, the Applicant would call?

22 MR. AIKEN: Nothing further from the Applicant,
23 Your Honor.

24 THE COURT: Okay.

25 All right. Anything from the State? Does the

1 State have any witnesses it wishes to call?

2 MR. NEUBAUER: Yes, Your Honor.

3 The State would call Victor Li.

4 THE COURT: Okay.

5 THE CLERK: Raise your right hand.

6 (Whereupon, Victor K. Li was duly sworn by the
7 Clerk of Court.)

8 THE CLERK: Please take a seat in the witness box
9 and state your full name for the Court.

10 THE WITNESS: Victor K. Li, L-I.

11 VICTOR K. LI,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. NEUBAUER:

15 Q. Good afternoon, Mr. Li.

16 A. Good afternoon.

17 Q. You -- you represented Mr. Seawright on the charges
18 for failure to stop for a blue light resulting in death and
19 possession of a stolen vehicle, correct?

20 A. Yes, sir.

21 Q. Do you recall how many times you met with
22 Mr. Seawright?

23 A. I don't recall exactly, but it was a good -- it was
24 a good many. He was down at Charleston County Detention
25 Center, so it was a little bit more difficult to get down

1 there, but I did meet him with a -- a good many occasions.

2 Q. Yes, sir. And did you discuss the charges with
3 Mr. Seawright during those meetings?

4 A. Yes, sir.

5 Q. And did you discuss the indictments and the elements
6 of the indictments that he was facing?

7 A. Yes, sir.

8 Q. And were there any bases that you could see for
9 challenging the indictments?

10 A. No, sir.

11 Q. Did you review the possible punishments and the
12 maximum sentences that he could be facing for each charge?

13 A. Yes, sir.

14 Q. And you discussed his constitutional rights with him?

15 A. Yes.

16 Q. Did you discuss the State's burden of proof and the
17 evidence that they had against him?

18 A. Yes.

19 Q. Did he ever indicate to you that he didn't understand
20 the discussions about the charges or his rights?

21 A. No, sir.

22 Q. Do you remember what type of investigation you did
23 into this case?

24 A. For the -- for the other charges like the attempted
25 murder, the armed robbery charges, there was a good bit

1 of discovery in that, so we did send an investigator. I
2 talked with -- one of the attempted murder ones, the victim
3 was a relative of -- of Mr. Seawright's and so I -- I
4 contacted the momma of -- Mr. Seawright's mom to try and
5 get in touch with the -- the victim, had some discussion
6 there.

7 A lot more of the investigation and the background
8 work was done on those cases because those -- those cases
9 were actually very weak for the State. The State had a
10 really bad case on all of those charges. They were garbage
11 cases.

12 But in terms of the failure to stop for a blue light,
13 the only investigation I did outside of the discovery that
14 was provided was we did hire an investigator and we
15 attempted to contact the victim -- you know, the victim's
16 family, I guess -- the victim's family to see how they were
17 feeling about the case, see what kind of -- what kind of
18 mood they were -- what kind of posture they were in in
19 regards to sentencing and -- you know, and stuff like that,
20 but they refused to talk with him and so we didn't press on
21 any further. But we did -- we did make an attempt to do
22 that. I believe the investigator we hired was George
23 Poulin to do that, but it didn't come out -- it was very --
24 it was pretty pointless because they didn't want to us and
25 they were pretty mad.

1 But other than that, for the -- for the failure to
2 stop for a blue light there was really just the video and
3 so to answer your question, yes, an investigation on the
4 other charges, but for the -- for the failure to stop for
5 a blue light, there wasn't a ton of investigation.

6 Q. Yes, sir.

7 A. So yes and no, I guess.

8 Q. Yes, sir. Now did you review discovery with
9 Mr. Seawright --

10 A. Yeah.

11 Q. -- and review the -- you guys reviewed the video of
12 the incident?

13 A. Yes.

14 Q. Did you discuss Applicant's version of the facts of
15 the case? Did he have any alternative story that he
16 presented to you?

17 A. About the -- the failure to stop for a blue light?

18 Q. Yes, sir.

19 A. No.

20 Q. So you said the -- for the failure to stop for a blue
21 light, the -- there was a video of the incident. Was
22 there any real other evidence that the State had in this
23 incident?

24 A. No. When -- when his mom first came -- came down to
25 my office to hire me, she was -- she didn't have -- and

1 this wasn't her fault. She didn't have the whole picture
2 either. So she thought there may have been -- that the
3 police -- the police car may have, you know, used excessive
4 force in knocking him off the road or -- and like bumped
5 his back seat -- or bumped the back of his car and causing
6 him to fly off the road, so we -- we were pretty hyped up
7 about that, going oh, man, that's a good a case and, you
8 know, we could -- we could see some inroads into exploring
9 that, but once the solicitors provided the video to us that
10 was nowhere near the case. He was outrunning the -- he was
11 outrunning the police officer and there was no touch at
12 all. Throughout the whole video, it was a long chase,
13 there was no touching at all. So that -- that was probably
14 our only legal, you know, kind of space to maneuver there,
15 but once we saw the video the officer didn't come close to
16 ramming him off the road or anything. And I'm not saying
17 his momma was telling me a falsehood. He -- she did not
18 know the full story at that time either, so that -- that's
19 the -- that was the -- you know, the most of that, you
20 know.

21 Q. Yes, sir. And did you enter into any negotiation with
22 the State on behalf of Mr. Seawright?

23 A. I mean, it wasn't really much of a plea negotiation.
24 He -- he -- they agreed to drop all the stuff. And, in
25 fact, until the very last minute Sam wanted to make him

1 plea to the gun charge. I remember that. And then I think
2 at the very last minute he took off the gun charge because
3 I kept telling him to -- I didn't want to -- you know, we
4 didn't want to -- I was telling him to try to get as many
5 charges dismissed as possible, but I told him because we
6 didn't -- you know, it was pointless, we didn't want to do
7 the paperwork, I was giving him some excuses to drop it and
8 he finally did drop the -- the gun charge at the very end.
9 So he just kept the two charges related to that incident,
10 which, you know, is it a plea agreement? Yes. Is it a
11 good plea agreement? No, you know. But there was an
12 agreement that we had discussed. Nothing in writing
13 though. That was our -- that was to the -- that was --
14 all of our agreement was that. No mention of time or
15 anything.

16 Q. Yes, sir. So you said there was no mention of time
17 and there was no written agreement. In -- in your prior
18 work in Aiken, have you ever received a written plea
19 agreement from the solicitor's office?

20 A. No. I -- I've received some e-mails and stuff, but
21 nothing formal like in Federal court. There's no written
22 plea agreements that I -- that I can recall.

23 Q. And you conveyed all of your plea discussions to
24 Mr. Seawright, correct?

25 A. Yes.

1 Q. And he understood the discussions that you had with
2 the solicitor and that there was no sentencing guarantee
3 that he was given?

4 A. I mean, I know where he's getting the eight to fifteen
5 thing from because I told him that, you know, that's what
6 we're gonna ask for. You know, that is definitely what
7 we're gonna ask for. I told him we're not gonna get out
8 with no jail time and if we ask for something ridiculous
9 like three or four, then the judge -- the judge would just
10 laugh at us, you know, and so I said -- I said, you know,
11 we're gonna ask for eight to fifteen and I think we'd be
12 happy with eight to fifteen.

13 So I know where he's getting that number from for
14 sure, but there was definitely no promises made and when
15 we went in, you know, he knew it was an open -- in my mind
16 it looked like he understood that it was an open plea, you
17 know, but I know where he's getting that -- that range from
18 because I kept mentioning to him that's what we're gonna
19 hope for, you know. I think if we get anything between
20 eight and fifteen I think it's a win for us, you know, I
21 think it's a -- it's a good number if we could get that, so
22 that's what we're shooting for. I don't remember exactly
23 what I asked the judge for, but I believe maybe I -- I
24 threw out the numbers eight to fifteen or may some other
25 number, you know. But that -- that's where he's getting

1 that number from and it's true I asked -- I told him that
2 that's what we'd be hoping for. But he knew -- he knew it
3 was -- it was kind of an open plea and his momma knew that
4 it was an open plea.

5 Q. Yes, sir. And Mr. Seawright had an opportunity to
6 discuss the plea offer or the offer to plea with family or
7 advisors or --

8 A. I don't know. I don't -- I don't know. I can't
9 answer that.

10 Q. Yes, sir. All right. And whose decision ultimately
11 was it to plead guilty in this case?

12 A. It was Mr. Seawright's and his momma was very -- his
13 momma was a very good -- not as -- a very -- a very nice
14 lady and I know they talk a lot, so. I -- I talked to the
15 momma all the time and so she knew it was an open plea as
16 well, but I don't know if Mr. Seawright told -- talked to
17 her about it, but I talked to momma about it.

18 Q. Yes, sir. And were you prepared to go forward with a
19 trial on these charges if that was necessary?

20 A. If it was necessary, yes, but not at that time. I
21 mean, we -- I -- there was no prep at that time because Sam
22 had never told me it was on the -- it was coming up on the
23 docket or anything like that. It was just -- you know, if
24 he had told me that, we would have, you know, prepped for
25 the trial, but at that point there was no actual prep yet.

1 Q. Yes, sir. And did you feel that pleading guilty would
2 be in Mr. Seawright's best interest?

3 A. Unfortunately, yes. I think that -- we saw -- we saw
4 the video and I feel terrible that he got the max after a
5 plea, which I think is ridiculous, but I thought the only
6 chance to not get the max, the only theoretical chance to
7 not get the max, was to plead, and so that's what we did.
8 I think a jury would have found him guilty and I think the
9 judge would have, you know, given him the max for sure
10 after wasting the Court's time on a pretty obvious case and
11 I thought the only possible chance was to beg for mercy
12 from the judge, that maybe the victims wouldn't be jumping
13 up and down about, you know, wanting the max. Well, they
14 did ask for the max, I think, but I -- I saw it as our only
15 way possible to not get twenty-five.

16 Q. Yes, sir. Prior to Mr. Seawright's plea hearing,
17 did you ever tell him how he was to answer the Court's
18 questions?

19 A. I don't -- I don't remember. I usually just tell
20 them to answer honestly when they ask if they have any
21 questions. I probably did tell him to agree with the
22 judge, but not in any secret kind of way. You know, I'm
23 not -- I'm not saying like -- I didn't tell him in a -- in
24 a -- in a deceptive way to do that. I just tell them that,
25 you know, answer the -- answer the questions that the judge

1 asks you honestly, you know, if you have any questions, ask
2 me. You know, I didn't -- I didn't make it seem like it
3 was a hidden thing that he shouldn't openly question the
4 judge about anything.

5 Q. Do you recall discussing Mr. Seawright's appeal with
6 him?

7 A. Yes.

8 Q. And did he tell you that he wanted to appeal the plea?

9 A. No, I -- I did not. I told him that the PCR route was
10 the best because -- I did explain to him that PCR tolls the
11 time to -- extends the time to file an appeal, so after
12 your PCR's done, it will give you a chance to appeal. But
13 he never told me that he wanted to appeal at that point.

14 Q. And if he had told you that he wanted to appeal, would
15 you have filed a notice to appeal on his behalf?

16 A. Yes.

17 MR. NEUBAUER: I beg the Court's indulgence for
18 just one second.

19 BY MR. NEUBAUER:

20 Q. Now did you ever tell Mr. Seawright not to discuss his
21 case with the judge due to attorney/client privilege?

22 A. No. Maybe he's referring -- maybe he's referring to
23 -- I think maybe in one of those talks he wanted to write
24 the judge a letter or something like that. And I'm not --
25 I'm not -- I'm not positive on that, but there was never

1 anything during the plea that I told him not to discuss,
2 you know, the details of the case and I don't remember --
3 I don't remember telling him not to do that.

4 Q. Yes, sir. And one of the allegations by Mr. Seawright
5 is that you failed to take any corrective action regarding
6 his twenty-five-year sentence. Was there any corrective
7 action or anything that you could have done additionally to
8 help address this issue?

9 A. I guess -- I guess theoretically I could have filed a
10 motion to -- a motion to resentence -- or reconsider
11 sentencing and I did not do that. I don't know if he was
12 gonna ask me to, but that's something I could have done.
13 But I -- I didn't -- I didn't do it because he didn't
14 really ask me to do it.

15 Q. Yes, sir.

16 A. I didn't think we were gonna get anywhere with Judge
17 Keesley anyway, so. But I didn't do that, correct.

18 Q. In any of your discussions with him regarding his
19 plea, did you inform him that by pleading guilty he was
20 admitting to the facts of the crime and he was going to
21 subject himself to being sentenced by the Court?

22 A. No, I did not tell him that. I thought that was
23 self-explanatory, so the answer to your question is no, I
24 did not specifically address that to him. I figured that
25 the colloquy and the -- I just thought that was a given,

1 so I didn't. I did not tell him that.

2 Q. And did you have any discussions with him where you
3 rushed him or kind of forced him into a corner where he was
4 told to plead guilty instead of pursuing a trial in this
5 matter?

6 A. No. We had talked -- Sam and I had talked about the
7 case and then we had -- I'd gone down to Charleston to the
8 detention center and talked to him about it. I mean, it
9 felt kind of rushed when we were in here that day because
10 he was in the back room and I -- because he couldn't come
11 out here, I had to go back in there and -- and fill out
12 paperwork with him, and that seemed kind of rush, but that
13 wasn't the first time we had talked about a plea or
14 anything like that. He knew -- he knew that he gonna plea
15 from a couple of -- I don't want to say months, but maybe
16 weeks beforehand. And -- and -- and he knew -- he knew
17 there was some -- he knew -- he knew it was an open plea,
18 but it did feel rushed the day of.

19 Q. Now either the day that he pled or prior to that, did
20 you have any discussions with Mr. Seawright regarding the
21 sentencing sheets that he would potentially sign?

22 A. No.

23 Q. So you did not discuss it then, this is the sentencing
24 sheet, this is what you're gonna be pleading guilty to?

25 A. Oh, no. Yeah, about the details. I mean, I didn't --

1 I didn't taken an example -- I did not take an example
2 sentencing sheet.

3 Q. Yes, sir.

4 A. I never do that. I mean, I don't do it with any
5 clients.

6 Q. Yes, sir.

7 A. But I did go over the charges, yes. He knows the
8 charges -- he knew the charges that were -- he was pleading
9 to.

10 Q. Yes, sir.

11 A. Right, but not the exact sentencing sheet.

12 Q. Yes, sir.

13 MR. NEUBAUER: I have no further questions at this
14 time.

15 CROSS-EXAMINATION

16 BY MR. AIKEN:

17 Q. Mr. Li, did you discuss community supervision at all
18 with Mr. Seawright?

19 A. I did not.

20 Q. Did you explain to him that under the rules of
21 community supervision he could end up doing a hundred
22 percent of his twenty-five-year sentence?

23 A. I did not.

24 MR. AIKEN: Okay. Thank you.

25 THE COURT: Any further questions from the State?

1 MR. NEUBAUER: No, Your Honor.

2 THE COURT: Okay. You may have a seat, Mr. Li.

3 And any objection to this witness being dismissed?

4 MR. NEUBAUER: No, Your Honor.

5 MR. AIKEN: None from us.

6 THE COURT: Okay. You can go about your business.

7 Thank you. Nice to see you.

8 THE WITNESS: Nice to see you.

9 (Witness excused.)

10 THE COURT: Any other witnesses from the State?

11 MR. NEUBAUER: No, Your Honor.

12 THE COURT: Okay. Thank you.

13 I'm happy to hear from the State if they have any
14 remarks or arguments they'd like me to hear at this time.

15 MR. NEUBAUER: Just very briefly. There are two
16 matters that -- or sorry. Regarding the community
17 supervision, though Mr. Li did not directly address that
18 with Mr. Seawright, that was covered by the Court during
19 the plea colloquy.

20 I beg the Court's indulgence.

21 THE COURT: Uh-huh.

22 MR. NEUBAUER: Pursuant to Wolfe v. State, it has
23 been established that any information that may not have
24 been conveyed during conversations with an attorney
25 could be corrected by a plea col -- or by the plea

1 colloquy from the judge; therefore, it's the State's
2 contention that Mr. Seawright prior to pleading guilty
3 was informed of the requirement of community supervision
4 and that his failure to complete that could require him
5 to serve the entirety of his sentence.

6 THE COURT: Okay. You're discussing, I guess,
7 page 6 of the plea transcript --

8 MR. NEUBAUER: Yes, Your Honor.

9 THE COURT: -- as far as the colloquy portion that
10 begins at line 15 of that page?

11 MR. NEUBAUER: Yes, Your Honor.

12 THE COURT: Okay.

13 Do you want to kind of take these up piece by piece?

14 Mr. Aiken, do you want to respond to that?

15 MR. AIKEN: I've -- I've looked over the plea
16 transcript fairly carefully. If they can point out to
17 me where the judge said you can serve a hundred percent
18 of your sentence under community supervision, then --
19 then I'll be happy to look at it.

20 THE COURT: Oh, okay.

21 MR. AIKEN: I don't think that's in there.

22 THE COURT: Let's see.

23 MR. NEUBAUER: On page 7 of the -- well, it's kind
24 of --

25 THE COURT: Well, it looks like at the bottom of

1 page 6, I've just gone through it, beginning at line 23,
2 Judge Keesley says to Mr. Seawright, quote, there is
3 no guarantee that you'd get out in 85 percent. That is
4 the least time you possibly could. Do you understand?
5 To which Mr. Seawright responds at the top of page 7,
6 yes, sir. They go on to discuss community sus --
7 supervision and Judge Keesley says, and I quote, if they
8 fail to do so they can be sent back to prison. Do you
9 understand that? To which Mr. Seawright responds yes,
10 sir.

11 So I don't think he verbatim says the term
12 100 percent --

13 MR. AIKEN: Correct.

14 THE COURT: -- but I do think he got -- you know,
15 there was certainly coverage of that topic in the
16 colloquy.

17 MR. NEUBAUER: Your Honor --

18 THE COURT: Go ahead, Mr. Neubauer. I'm happy to
19 hear from you. Anything else?

20 MR. NEUBAUER: I apologize. Just in addition to
21 that, it's the State's argument that community supervision
22 is a collateral consequence of Mr. Seawright's guilty
23 plea and Mr. Li would have had no obligation to advise
24 him on that.

25 THE COURT: All right. Anything else from the

1 State at this time?

2 MR. NEUBAUER: No, Your Honor.

3 THE COURT: Anything from Mr. Aiken?

4 MR. AIKEN: No, Your Honor.

5 THE COURT: Okay. Well, I have certainly reviewed
6 this transcript carefully and I have to say it's probably
7 one of the better pe -- plea colloquies I've had the
8 opportunity to review as a circuit court judge in terms
9 of what Judge Keesley covered during his plea. I find
10 he was very thorough. I find he went over everything on
11 the record that the statutes require, that our case law
12 contemplates certainly, and I find that Mr. Seawright
13 gave Judge Keesley no reason to believe he didn't
14 understand what he was doing that day. He certainly
15 gave the judge no reason to believe that he was under
16 duress. Judge Keesley gave him an opportunity to tell
17 him if there was any plea bargains made or anything that
18 wasn't already in the record. He responded no. The
19 attorney actually responded yes, Your Honor, when Mr.
20 -- when Judge Keesley asked in front of the petitioner,
21 you know, are all plea agreements on the record, Mr. Li
22 indicated yes, Your Honor. That's on page 13 of the
23 transcript.

24 They discussed briefly the possible Federal
25 investigation right after that on page 13. The solicitor

1 responded that depending on the sentence, you know, I
2 think the -- the Federal prosecutor would make a
3 decision as to whether to go forward or not.

4 Obviously this was a -- a difficult case. Mr. Li
5 made that clear based on his testimony today on the
6 record. I mean, this was a case where this was
7 essentially all captured on video. That video was
8 presented to the Court at the time of the plea as
9 discussed at the end of the transcript as well. I
10 know Judge Keesley saw the video. There was obviously
11 also a letter from the victim's family referenced that
12 the judge reviewed prior to his making a sentencing that
13 day in court.

14 So while it's -- this notion of an eight to
15 fifteen-year range I find -- I'm -- I'm sure that the
16 defense attorney did tell him your -- his client that
17 was his goal that day and -- and that would be reasonable
18 for that to be a goal. I find nothing credible that
19 makes me believe he was promised that. Certainly nothing
20 in the record indicates that that was a promise that was
21 made. And when you do plea to a charge, it's -- it's
22 gone over -- they go over on the record. It's even
23 written on the sentencing sheet what it carried, zero
24 to twenty-five years. This is one of those charges in
25 South Carolina that's very broad and the reason it's

1 broad is to give the trial court great discretion in
2 sentencing and all of the facts and circumstances that
3 go into -- into what a trial court uses to craft a
4 sentence is within the purview of the trial court. And
5 certainly Judge Keesley is a wise judge. He's been on
6 the bench a long time, he's seen a lot of cases, you
7 know.

8 But there's nothing in the record that makes me
9 believe that counsel was in any way ineffective or that
10 the plea was made unintelligently or involuntarily, so
11 respectfully the petition today is denied and I'd ask
12 the State to craft an order to that effect and get it
13 to my office within the next week, all right?

14 MR. NEUBAUER: Yes, Your Honor. Thank you.

15 THE COURT: Thank you very much.

16 MR. NEUBAUER: Thank you.

17 THE COURT: All right. Good luck, Mr. Seawright.

18 MR. AIKEN: Thank you, Your Honor.

19 THE COURT: Uh-huh.

20 MR. AIKEN: It's a pleasure to appear in front of
21 you.

22 THE COURT: Always a pleasure to see you as well.

23 MR. AIKEN: Thank you, Your Honor.

24 (Whereupon, the proceedings were concluded at
25 11:54 AM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned case in Circuit Court on June 2, 2021, recorded by the Digital Court Reporter Program, and transcribed by me to the best of my ability.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

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

December 1, 2021

1s/ Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

ELECTRONICALLY FILED - 2019 Apr 05 3:42 PM - AIKEN - COMMON PLEAS - CASE#2019CP0200826

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Aiken
STATE VS.

INDICTMENT/CASE#: 2018GS0201273

Willie Albert Seawright Jr

A/W#: 2017A0211100021

AKA:

Date of Offense: 1/13/2017

Race: Black Sex: M Age: 22

S.C. Code §: 56-05-0750(C)(2)

DOB: SS#:

CDR Code #: 2398

Address:

0-25 years

City, State, Zip:

SENTENCE SHEET

DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Traffic / Failure to stop for a blue light, death results

In violation of § 56-05-0750(C)(2) of the S.C. Code of Laws, bearing CDR Code # 2398
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST: Samuel Davis Solicitor, 77509 SC Bar# Willie Seawright Defendant, Attorney for Defendant, 75429 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

Set by SCDPPPS

Recipient:

*Finc:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/cv
3% to County (if paid in installments)	\$ 3.00

TOTAL \$ 103.00

Clerk of Court/ Deputy Clerk Kateri Williams

Court Reporter: WTB/ Holston

EXHIBIT
Chadwick
to CWP
for Pleas

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

mnts. of \$ beginning

\$ paid to Public Defender Fund

Other:

Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees.

Presiding Judge William L. Hocking

Judge Code: 205D

Sentence Date: AUGUST 10, 2018

FINDING ON RECORD THAT THIS IS A VIOLATION CRIME AND

FELONY THAT CARES HIM FROM TRANSPORT, SHIPPING,

RECEIVING, OR POSSESSING ANY FIREARM OR AMMUNITION

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Aiken
STATE VS.

INDICTMENT/CASE#: 2018QS0201434

Willie Albert Seawright Jr

A/W#: 2017A0211100020

AKA:

Date of Offense: 1/13/2017

Race: Black Sex: M Age: 22

S.C. Code §: 16-21-80

DOB: [REDACTED] SSN: [REDACTED]

CDR Code #: 3466

Address: [REDACTED]

City, State, Zip: [REDACTED]

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

SENTENCE SHEET 0-30 days

*CDL Yes No CMV Yes No Hazmat Yes No

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was TO: Possession of a Stolen Vehicle \$2,000 or less

In violation of § 16-21-80 of the S.C. Code of Laws, bearing CDR Code # 3466
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory OPS § 17-23-45
(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST: Daniel Briss 77509 Solicitor SC Bar; Willie Seawright Defendant; Attorney for Defendant 75429 SC Bar

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____

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

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

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135. Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ _____ plus 20% fee: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____
 Set by SCDPPPS _____

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

*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	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Provisio (Public Def/Probation)	\$300	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-3-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75
TOTAL		\$ 128.75

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

\$ _____ paid to Public Defender Fund

Other: _____

Clerk of Court/ Deputy Clerk: Katli Williams
Court Reporter: Joy Holston
SCCA/17 (04/2018)

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

Presiding Judge: William P. Sluder

Judge Code: 205D

Sentence Date: AUGUST 10, 2018

Deputy Clerk: [Signature]

STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)
)
 Willie A. Seawright, #377348,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE SECOND JUDICIAL CIRCUIT

2019-CP-02-00826

ORDER OF DISMISSAL

STATE OF SOUTH CAROLINA
 COUNTY OF AIKEN

I, Robert J. Harre, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

AUG 18 2021

Robert J. Harre
 C.C.P. & G.S., Aiken County, S.C.
 Deputy Clerk
Charlea Griffen Plowden

This matter comes before the Court by way of an application for post-conviction relief filed on April 5, 2019. The State (Respondent) filed a Return on June 13, 2019, requesting an evidentiary hearing. An evidentiary hearing into the matter was convened on June 2, 2021, at the Aiken County Courthouse in Aiken, South Carolina before the Honorable Jennifer B. McCoy. Applicant was present at the hearing and represented by Arthur Aiken, Esquire. Assistant Attorney General Michael Neubauer of the South Carolina Attorney General's Office appeared on behalf of Respondent. At the hearing, Applicant testified on his own behalf. Victor Li, Esquire, also testified. After a review of the record and all evidence presented, this Court finds Applicant has failed to meet his requisite burden of proof of establishing any constitutional or statutory violations or deprivations to entitle him to relief. Accordingly, this Court denies and dismisses this application with prejudice. Specific findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code of Laws are set forth below.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. During its June 2018 term, the Aiken County Grand Jury indicted Applicant for failure to stop for a blue light resulting in death (2018-GS-02-01273), and possession of a stolen vehicle (2018-GS-02-

FILED 8.18 20 21

Robert J. Harre **CNP**
 C.C.P. & G.S.
Charlea Griffen Plowden
 Deputy Clerk

JBM/1

01434)¹. Assistant Solicitor Sam Grimes of the Second Circuit Solicitor's Office prosecuted the case. Assistant Public Defender Victor Li (Counsel) of the Second Circuit Public Defender's Office represented Applicant.

On August 10, 2018, Applicant pleaded guilty without negotiations to failure to stop for a blue light resulting in death and possession of a stolen vehicle before the Honorable William P. Keesley. Judge Keesley sentenced Applicant to thirty days in county jail for the possession of a stolen vehicle charge, and a concurrent sentence of twenty-five years' imprisonment for failure to stop for a blue light resulting in death. Applicant did not appeal his guilty pleas or sentence.

SUMMARY OF FACTS

On January 13, 2017, Chief Goldman of the Sally Police Department was running radar as a vehicle approached approximately five or six miles per hour over the speed limit on Poplar Street. (GP Tr. p. 8). The radar showed the vehicle increasing to a speed of 44 miles per hour in a 30 mile per hour zone. (GP Tr. p. 8). Chief Goldman followed Applicant and ran the vehicle's license plate before he attempted to pull Applicant over, which revealed that the vehicle was stolen. (GP. Tr. p. 8). Chief Goldman notified the Aiken County Sheriff's Office and South Carolina Highway Patrol about his pursuit. (GP Tr. p. 8). Subsequently, Applicant began driving 68 miles per hour in a 55 mile per hour zone. (GP Tr. p. 8). Chief Goldman attempted a traffic stop by initiating his blue lights, however Applicant did not pull over his vehicle. (GP Tr. p. 8-9). Chief Goldman then

¹ At the time of Applicant's indictment, Applicant had outstanding arrest warrants stemming from a separate incident (armed robbery, two counts of attempted murder, and two counts of possession of a weapon during the commission of a violent crime). However, during Applicant's guilty plea hearing Assistant Solicitor Sam Grimes indicated the attempted murder and possession of a weapon charges would be dismissed as a result of Applicant's guilty plea. Assistant Solicitor Sam Grimes further clarified that federal prosecutors were waiting to hear the result of the guilty plea hearing before determining whether they would dismiss the armed robbery charge against Applicant.

activated his siren, and Applicant's speed increased to 124 miles per hour in a 35 mile per hour zone. (GP Tr. p. 9). Applicant then turned right onto Center Street at a speed in excess of 100 miles per hour. (GP Tr. p. 9). Thereafter, Applicant ran through a stop-sign at a high rate of speed, then lost control of the vehicle causing the vehicle to veer off the right side of the road and hit a tree. (GP Tr. p. 9). The vehicle was cut in half by the tree. (GP Tr. p. 9).

The passenger of the vehicle (Victim) was killed. (GP Tr. p. 9). At the time of the incident, Applicant's license was suspended, and Applicant had outstanding warrants for attempted murder and armed robbery as well as associated charges from separate incidents. (GP Tr. p. 10). Applicant was sitting on a pistol and was driving a stolen vehicle. (GP Tr. p. 10). The vehicle involved in this incident was a 1999 Toyota Camry that had been reported stolen in Orangeburg County a month prior. (GP Tr. p. 9).

ALLEGATIONS RAISED

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

1. Ineffective Assistance of Counsel
 - a. Counsel informed Applicant that he could not discuss his case with the judge due to attorney/client privilege, and that he had to tell the judge "what was expected" so that the Judge would accept the plea.
 - b. Counsel promised Applicant that he would receive a sentence between eight and fifteen years, but was ultimately sentenced to twenty-five years. Counsel failed to obtain a "written plea agreement" to ensure that Applicant would receive a sentence between eight and fifteen years.
 - c. Counsel failed to take any "corrective action" regarding Applicant's twenty-five year sentence.
 - d. Counsel failed to inform Applicant that he was required to serve two years of community supervision and pay a supervision fee.
 - e. Counsel did not inform Applicant that by pleading guilty, Applicant was admitting all facts constituting the crimes charged and was agreeing to be sentenced.

2. Involuntary Guilty Plea

- a. Applicant did not want to plead guilty but was “induced” to plead guilty because counsel “hurried” him to plead guilty and “deprived him of all the information necessary for Applicant to make a knowing and intelligent choice.”

As requested relief, Applicant states he is seeking “to have the guilty plea and sentence vacated, set aside or reversed and to have the cases against him dismissed and/or such other and further relief that this Court deems fair, just, and proper.”

On September 27, 2019, Applicant, through his attorney, filed an amended application alleging:

1. Ineffective Assistance of Trial Counsel

- a. Seawright’s guilty plea was not made with or based on advice of competent counsel;
- b. Seawright’s guilty pleas was not intelligently made;
- c. Trial counsel did not prepare Seawright’s case for trial, and Seawright was left with no choice but to plead guilty;
- d. Trial counsel did not discuss the elements of the offense or potential defenses with Seawright;
- e. Trial counsel never discussed the advantages and disadvantages of a trial versus the advantaged and disadvantages of a plea with Seawright so that Seawright could make an informed choice of whether to enter a plea or try his case;
- f. Trial counsel did not investigate Seawright’s case;
- g. Trial counsel did not tell Seawright the possible penalty for his offense;
- h. Trial counsel had Seawright sign the Sentencing Sheet without explaining it to him.

At the evidentiary hearing, Applicant stated he was going forward on the allegations set forth in his original application and his amended application.

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses, evaluated their credibility, and weighed the testimony and evidence accordingly in its discussion below. Further, this Court has reviewed the Clerk of Court records regarding the subject convictions, the guilty plea transcript, the application for post-conviction relief, the amended application for post-conviction relief, and the legal arguments made by the attorneys. Set forth

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

1. Ineffective Assistance of Counsel

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Petitioner, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Petitioner has the burden of proving the allegations in his PCR action, and when alleging counsel was constitutionally ineffective, he must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result.” Strickland, 466 U.S. at 686. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Petitioner must prove counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Petitioner must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced Petitioner such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness

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

Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from a rigid rule of representation. Rather, Strickland requires the applicant to prove "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed to the defendant by the Sixth Amendment." Id. at 697. The function of the PCR court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney." Id. at 690. "[W]hen counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." Smith v. State, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010) (citing Caprood v. State, 338 S.C. 103, 110, 525 S.E.2d 514, 517 (2000)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel." Hill, 474 U.S. 52; cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel).

When reviewing a guilty plea, the analysis of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show counsel's representation fell below the objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58-59. The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58-59.

Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." *Id.* at 59. This inquiry "focuses on a defendant's decision making" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, 582 U.S. ____ (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372.

- a. *Counsel informed Applicant that he could not discuss his case with the judge due to attorney/client privilege, and that he had to tell the judge "what was expected" so that the judge would accept the plea.*

Applicant alleges his attorney told him that he could not discuss his case with the judge, due to an existing attorney-client privilege. Additionally, Applicant alleges his attorney told him to tell the judge "what was expected" so that the judge would accept the plea. This Court finds these allegation are without merit.

Applicant testified he spoke with Counsel regarding attorney client privilege, and was informed by counsel that "whatever we discussed was between us" and that he could not disclose any of that information to anyone else, including the judge. Applicant testified he would have spoken up about his belief he would not receive more than fifteen years if counsel had not given him that advice.

Counsel testified he met with Applicant and discussed Applicants case. Counsel testified he did discuss attorney client privilege with Applicant, but he did not tell Applicant that he could not disclose any information to the plea judge. Counsel testified Applicant wanted to write the judge who was handling his plea hearing a letter. However, Counsel testified he told Applicant to

not write the judge a letter prior to his plea. Counsel testified he did not tell Applicant how to answer the court's questions, but Counsel testified he probably told Applicant to be honest, and that he should not question or argue with the judge. Counsel testified he usually tells his clients to answer the court's questions honestly and to let Counsel know if they have any questions.

This Court finds Applicant's allegation is without merit. This Court finds Counsel's testimony credible. Counsel credibly testified he discussed attorney-client privilege with Applicant, however he did not tell Applicant he could not disclose the terms of his plea agreement with the Court. Counsel testified he told Applicant to not argue with Judge Keesley at Applicant's plea, however he did not tell Applicant to answer yes to all of Judge Keesley's questions. Applicant has failed to show his counsel was deficient. Applicant testified he spoke with Counsel prior to entering his guilty plea. Counsel testified he told Applicant not to write the plea judge a letter, and he told Applicant to be honest and not to question or argue with Judge Keesley during his plea hearing, and instead to let Counsel know of any concerns. Applicant was properly advised about the attorney-client privilege, and what privileged communications meant. Counsel provided general advice to Applicant regarding his interactions with Judge Keesley, however Counsel did not direct Applicant to answer Judge Keesley's questions with a specific response.

This Court finds Applicant has failed to show how Counsel's advice was deficient. Applicant additionally has failed to show Counsel's performance prejudiced Applicant. Although Applicant testified he felt he couldn't say anything to Judge Keesley regarding his sentence, Applicant has offered no explanation for why he did not tell Counsel that he felt the plea was not what he agreed to prior to appearing in court. Applicant has failed to provide any evidence to show his counsel was ineffective for telling Applicant not to discuss his case with the judge, and that he

had to tell the judge "what was expected". Therefore, this claim is denied and dismissed with prejudice.

- b. Counsel did not tell Applicant the possible penalty for this offense. Counsel promised Applicant that he would receive a sentence between eight and fifteen years, but was ultimately sentenced to twenty-five years. Counsel failed to obtain a "written plea agreement" to ensure that Applicant would receive a sentence between eight and fifteen years.*

Applicant alleges his counsel was ineffective failing to advise him of the possible penalty for his offenses. Applicant asserts he was promised a sentence between eight-and-fifteen years, but was ultimately sentenced to twenty-five years. Additionally, Applicant alleges his counsel was ineffective because he failed to obtain a written plea agreement for eight-to-fifteen years. This Court finds these allegations are without merit.

Applicant testified he did not want to plead guilty. Applicant testified he discussed plea offers with Counsel, and Applicant wanted a sentence between four-to-six years and to have his other charges dismissed. Applicant testified Counsel told him that he could get eight to fifteen years if he pleaded guilty, but if he went to trial he would get the maximum possible sentence. Applicant further testified Counsel said he was almost positive that Applicant would receive a sentence between eight-and-fifteen years. Applicant testified Counsel did not tell him there was an agreement for a sentence between eight-and-fifteen years, nor was Applicant promised a specific sentence, but Applicant stated Counsel seemed pretty confident that Applicant's sentence would be between eight-and-fifteen years. Applicant testified he wanted to plead guilty to a sentence ranging between eight-and-fifteen years, and he would not have pleaded guilty if he had known he could receive up to twenty-five years. Applicant did not dispute before this Court that he was aware of the range of sentences that could be imposed if he pleaded guilty, however he testified he believed he would receive a sentence between eight-to-fifteen years. Applicant

testified at his evidentiary hearing that he told the plea court that he understood he could be subject to the maximum possible penalty if he pleaded guilty, but also testified that he made this affirmation at plea counsel's direction. Applicant testified he recalled telling the plea judge he understood he could receive a sentence up to twenty-five years for Failure to Stop for a Blue Light, Death Resulting. GP Tr. p. 6. Applicant further testified he recalled the plea judge's explanation that he would have to serve at least eighty-five percent of his sentence. GP Tr. p. 6. Applicant also testified he recalled telling the plea judge he understood he could receive a sentence up to thirty days for Possession of a Stolen Vehicle. GP Tr. p. 7.

Counsel testified he entered into plea negotiations with the Solicitor's Office, but the solicitor handling the case did not engage in much negotiation. Counsel testified the Solicitor's Office agreed to drop all the other pending charges Applicant was facing except for the two charges related to the car chase. Counsel testified he did not receive any plea offers referring to a specific sentencing range. Counsel credibly testified that he informed Applicant of the sentencing range for the underlying charge and, though he told Applicant that his professional opinion was that Applicant would possibly receive a sentence of eight-to-fifteen years, he told Applicant his plea was an "open plea" and he could face up to twenty-five years. Counsel further testified the Solicitor's Office in Aiken County does not usually extend formal, written offers, and Counsel conveyed all plea discussions with Applicant. Counsel testified he told Applicant they would ask the court for eight-to-fifteen years. Counsel testified he told Applicant he would not receive a probationary sentence, but Counsel would ask the court for a sentence in the eight-to-fifteen year range, and they would hope for the best possible result. Counsel testified he believed Applicant understood the plea was an open plea, and he could be sentenced up to the statutory maximum.

The Due Process Clause of the United States Constitution requires that a defendant enter a guilty plea voluntarily, knowingly, and intelligently. Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999) (citing Boykin v. Alabama, 395 U.S. 238 (1969)). The defendant must be aware of, among other things, the maximum possible penalty that could be imposed. *Id.* (citations omitted). “Wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made.” Stalk v. State, 375 S.C. 289, 302, 652 S.E.2d 402, 408 (Ct. App. 2007), *aff’d as modified*, 383 S.C. 559, 681 S.E.2d 592 (2009) (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 371 (1997)). A colloquy with a guilty plea court can cure an alleged deficiency in advice given to a defendant by his lawyer. Holden v. State, 393 S.C. 565, 575, 713 S.E.2d 611, 616 (2011) (citations omitted) (concluding that any alleged deficiency in plea counsel’s advice to Holden was cured by the plea court’s colloquy), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

This Court finds Applicant’s allegation is without merit. Applicant has failed to show how Counsel’s performance was deficient. Applicant testified that he was never told by Counsel that he would receive a specific sentence. Applicant testified he was not guaranteed a specific sentence, however he believed that he would receive a sentence between eight-and-fifteen years. Counsel testified he told Applicant he would ask the court for a sentence between eight-and-fifteen years, however he also informed Applicant that he was entering an open plea and could receive a sentence up to twenty-five years. The plea court engaged in thorough colloquy with Applicant and clearly stated the applicable sentencing range, which Applicant told the plea court he understood. GP Tr. p. 6-7. The assistant solicitor requested at the guilty plea hearing that Judge Keesley impose a

twenty-five year sentence, which served as further indication to Applicant that it was possible that by pleading guilty he could be imprisoned for more than eight-to-fifteen years. GP Tr. p. 12.

Additionally, Applicant has failed to show how Counsel's performance prejudiced Applicant. The plea court explained to Applicant the charges he was pleading guilty to, the possible sentences, the fact that Failure to Stop for a Blue Light, Death Resulting was a violent and no-parole offense, and Applicant would be required to serve at least eighty-five percent of his sentence before he would be released from prison. GP Tr. p. 6-7. Though Applicant testified he felt confident he would receive a sentence between eight-to-fifteen years, Applicant acknowledged he was not promised that he would receive a sentence within this range. Counsel testified he informed Applicant he was entering an open plea and could receive a sentence up to twenty-five years. The plea court additionally informed Applicant, prior to accepting his guilty plea, that Applicant could receive a sentence up to twenty-five years, and Applicant would be required to serve at least eighty-five percent of the sentence he received before being released from prison. GP Tr. p. 6-7. Though Applicant testified he would not have pleaded guilty if he knew he could receive twenty-five years, this Court finds Applicant's testimony is not credible.

Applicant has given this Court no compelling reason to allow him to retract his statements at his guilty plea hearing about his understanding of the possible sentencing range, even if it is clear that Applicant is motivated to disavow this affirmation now because he did not receive as lenient a sentence at the guilty plea hearing as he had hoped. The evidence before this Court establishes that Applicant was aware the sentence imposed by Judge Keesley could exceed fifteen years' imprisonment, despite Applicant's hope that it would not. Therefore, this claim is denied and dismissed with prejudice.

c. Counsel failed to take any “corrective action” regarding Applicant’s twenty-five year sentence.

Applicant asserts Counsel was ineffective because he failed to take any corrective action regarding Applicant’s twenty-five year sentence. This Court finds this allegation is without merit.

Applicant testified he believed he would receive a sentence between eight-and-fifteen years. Applicant testified he would not have pleaded guilty if he knew that he could receive a sentence of twenty-five years. Applicant provided no testimony indicating he told Counsel after his sentencing that he misunderstood the possible consequences of his guilty plea, that he was unhappy with his sentence, or that he asked Counsel to file a motion to reconsider his sentence.

Counsel testified Applicant was aware the plea was an “open plea” and Applicant could receive a sentence up to twenty-five years. Counsel acknowledged he could have filed a motion to reconsider Applicant’s sentence, but he did not do so. Counsel testified he was not asked to file a motion to reconsider by Applicant. Counsel further explained that he did not feel that a motion to reconsider would have been successful with the plea judge.

This Court finds Applicant’s allegation is without merit. This Court finds Applicant has failed to show how Counsel was deficient. Applicant did not direct Counsel to file a motion, and Counsel testified he felt such a motion would be futile. “[D]ecisions primarily involving trial strategy and tactics may be made by trial counsel.” Abney v. State, 408 S.C. 41, 48, 757 S.E.2d 544, 547 (Ct. App. 2014). What motions to file and “whether to put on evidence so as to preserve the final word in closing argument” are also strategic and tactical decisions to be made by trial counsel. Id. (citing Wright v. State, 322 Ga. App. 622, 745 S.E.2d 866, 868 (2013)).

Applicant has failed to prove Counsel’s advice was not within the range of competence demanded of attorneys in criminal cases. Though Applicant was hoping for a lesser sentence than he received, Applicant was informed prior to his plea that he would be facing up to twenty-five

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years. This Court views Counsel's testimony as credible, and Counsel was not deficient by choosing to not file a motion to reconsider. Counsel has testified he did not file a motion to reconsider because he felt it would not have been successful with Judge Keesley following Applicant's guilty plea. Applicant has additionally failed to establish he was prejudiced by Counsel's advice. Applicant's sentence of twenty-five years fell within the statutory sentencing range for Failure to Stop for a Blue Light, Death Resulting as set out in section 56-5-570 of the South Carolina Code. Additionally, Applicant failed to provide any evidence or information to Counsel, or the Court, which would have changed his sentence. The Court finds Applicant has failed to demonstrate ineffective assistance of counsel based on Counsel's failure to take corrective action following Applicant's guilty plea. Therefore, this claim is denied and dismissed with prejudice.

d. Counsel failed to inform Applicant that he was required to serve two years of community supervision and pay a supervision fee.

Applicant alleges his counsel was ineffective for failing to inform Applicant he would be required to serve two years of community supervision and pay a supervision fee as a result his guilty plea. This Court finds this allegation is without merit.

Applicant testified he did not recall if Counsel explained that he would have to serve community supervision once he was released from prison. Applicant further testified he did not understand that based on the community supervision rules, he could end up serving all twenty-five years of his sentence. Applicant further testified that if he knew he could serve one-hundred percent of his sentence, he would not have pleaded guilty. On cross-examination Applicant testified he did not remember the plea judge discussing community supervision at his plea hearing. Additionally, Applicant testified he did not remember the plea judge telling him that if he did not complete the community supervision program, he could go back to jail for the remainder of his sentence.

Counsel agreed he did not discuss community supervision with Applicant, nor did he inform Applicant that community supervision could cause Applicant to serve one hundred percent of his sentence.

“Participation in a community supervision program is a collateral consequence of sentencing, and thus counsel was not ineffective in failing to inform defendant about the program when advising him to plead guilty.” Jackson v. State, 349 S.C. 62, 63-64, 562 S.E.2d 475, 475-76 (2002). A colloquy with a guilty plea court can cure an alleged deficiency in advice given to a defendant by his lawyer. Holden v. State, 393 S.C. at 575, 713 S.E.2d at 616 (citations omitted) (concluding that any alleged deficiency in plea counsel’s advice to Holden was cured by the plea court’s colloquy). For a plea hearing to cure deficient advice, the plea hearing must unambiguously address and resolve the incorrect advice. Robinson v. State, 422 S.C. 78, 88, 810 S.E.2d 32, 38 (2018).

This Court finds Applicant has failed to show Counsel was ineffective for failing to inform Applicant that he would be required to serve two years of community supervision and pay a supervision fee. It is well established that community supervision is a collateral consequence of a guilty plea, and Counsel will not be found to be ineffective for failing to advise an applicant of a collateral consequence. See Jackson v. State, 349 S.C. at 63-64, 562 S.E.2d at 475-76. Applicant has failed to demonstrate how Counsel was deficient, or how Counsel’s failure to discuss this collateral consequence prejudiced Applicant. Additionally, this Court finds the plea judge discussed this collateral consequence with Applicant prior to accepting Applicant’s guilty plea, and Applicant was therefore aware of this collateral consequence prior to entering his guilty plea. GP Tr. p. 7. This Court finds Applicant’s allegation that Counsel was ineffective for failing to

inform Applicant he was required to serve two years of community supervision and pay a supervision fee is without merit. Therefore, this claim is denied and dismissed with prejudice.

e. Counsel did not investigate or prepare Applicant's case for trial, and Applicant was left with no choice but to plead guilty.

Applicant alleges his counsel provided constitutionally ineffective assistance for failing to properly prepare a defense for trial and for failing to investigate Applicant's case. This Court finds these allegations are without merit.

At his evidentiary hearing, Applicant testified Counsel investigated his case "a little." However, Applicant did not provide any evidence or present witnesses to show what Counsel could have investigated that would have provided a defense at trial. On cross-examination, Applicant testified he reviewed discovery with Counsel and watched the dash cam video of his arrest. Applicant testified he also discussed possible defenses with Counsel.

Counsel testified he investigated all of the charges Applicant was facing, including charges unrelated to the incident Applicant pleaded guilty to. Counsel testified he contacted Applicant's mother as he attempted to get in touch with the victim's family. Counsel testified he hired an investigator to meet with the family of the victim, but the victim's family refused to speak with Counsel's investigator. Counsel testified he reviewed the dash cam video of the incident with Applicant. Counsel further testified he discussed the possibility that police used excessive force during Applicant's arrest. However, Counsel testified that after he viewed the dash cam footage of the incident, he realized the officer never touched Applicant's car, and he felt there was no need to investigate this issue further. At Applicant's evidentiary hearing, Counsel testified Applicant's case was not set for a trial at the time of Applicant's plea. Counsel testified he would have done more extensive trial preparations if this case had been in a trial posture. However Applicant

indicated to Counsel for several weeks that Applicant intended to plead guilty and did not want to proceed to trial.

Counsel has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary. Strickland v. Washington, 466 U.S. at 691. Thus, “[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State.” McKnight v. State, 378 S.C.33, 46, 661 S.E.2d 354, 360 (2008). To establish counsel failed to adequately prepare for trial, applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998). An applicant is not entitled to relief where no evidence is presented at the PCR hearing to show how additional preparation would have had any possible effect on the result at trial. Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997). Moreover, counsel’s decision not to investigate should be assessed for reasonableness under all the circumstances with heavy deference to counsel’s judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). “[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed as of the time of counsel’s conduct.” Strickland, 466 U.S. at 690.

This Court finds Applicant has failed to show Counsel was ineffective for failing to properly investigate this case or prepare for trial. Applicant has failed to show how Counsel’s performance was deficient. Applicant acknowledged he discussed discovery with Counsel, and Counsel investigated his case. Additionally, Counsel testified about the investigation that he conducted, including hiring a private investigator to try to speak with the family of the deceased

victim. Counsel also testified he would have engaged in more intensive trial preparation if the case had been in a trial posture, but Applicant decided to plead guilty several weeks ahead of the plea hearing, and the case was never set for a trial date. Moreover, Applicant has failed to produce any evidence or testimony showing what Counsel could have discovered through further investigation or preparation, and therefore, Applicant has failed to show how he was prejudiced by Counsel's performance. Accordingly, this claim is denied and dismissed with prejudice.

f. Counsel did not discuss the elements of the offense or potential defenses with Applicant.

Applicant alleges his counsel provided constitutionally ineffective assistance for failing to discuss the elements of the offenses or potential defense with Applicant. This Court finds this allegation is without merit.

Applicant provided no testimony to support his allegation that Counsel was ineffective for failing to discuss the elements of the offense with which Applicant was charged. Applicant testified he spoke with Counsel about possible defenses to the charges prior to his guilty plea.

Counsel testified he discussed the charges Applicant was facing along with the elements of each charge with Applicant. Counsel testified he discussed the indictments and did not see any basis for challenging the indictments. Additionally, Counsel testified he discussed possible defenses with Applicant; however after reviewing discovery and the dash cam footage from Applicant's arrest, he did not feel there were any defenses available to Applicant for these charges.

Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he or she is waiving; the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin v. Alabama, 395 U.S. 238, 243 (1969). Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived."

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Pittman v. State, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of the plea and the charges against him or her. Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); see also Boykin v. Alabama, 395 U.S. at 243 (Courts must make sure defendants have “a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought, and forestalls the spin-off of collateral proceedings that seek to probe murky memories.”). A colloquy with a guilty plea court can cure an alleged deficiency in advice given to a defendant by his lawyer. Holden v. State, 393 S.C. at 575, 713 S.E.2d at 616. In evaluating the voluntariness of a guilty plea, the court must consider both the guilty plea transcript and the record established during the post-conviction relief hearing. Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

This Court finds Applicant has failed to show Counsel was ineffective for failing to discuss the elements of Applicant’s charges along with any possible defenses. Applicant testified he discussed possible defenses with Counsel. Applicant failed to provide any evidence to support his allegation that Counsel failed to discuss the elements of the charges Applicant was facing. Conversely, Counsel credibly testified he discussed the charges Applicant was facing along with any defenses that may be presented. Additionally, at Applicant’s guilty plea, the plea judge asked Counsel if he discussed the nature and elements of the offenses, and Counsel confirmed he did without objection from Applicant. GP Tr. p. 4. Applicant was asked by Judge Keesley, and confirmed he understood the charges he was pleading guilty to. GP Tr. p. 6-8. Applicant has failed to establish how Counsel’s performance was deficient, or how Applicant was prejudiced by Applicant’s performance. Therefore this allegation is denied and dismissed with prejudice.

- g. Counsel never discussed the advantages and disadvantages of a trial versus the advantages and disadvantages of a plea with Applicant so that Applicant could make an informed choice of whether to enter a plea or try his case.***

Applicant alleges his counsel failed to discuss the advantages and disadvantages of pleading guilty versus proceeding to trial. This Court finds this allegation is without merit.

Applicant testified he did not want to plead guilty. Further, Applicant testified he only pleaded guilty because he believed that he would receive a sentence between eight-to-fifteen years. Applicant testified he did not know when his case would have gone to trial if he had not pleaded guilty. On cross-examination, Applicant admitted Counsel explained the advantages and disadvantages of pleading guilty versus proceeding to trial.

Counsel testified he discussed the charges with Applicant, along with the possible punishments and any possible defenses. Counsel testified he felt the plea was in Applicant's best interest, and ultimately it was Applicant's decision to plead guilty. Counsel testified he was prepared to proceed to trial if Applicant decided he did not want to plead guilty.

In evaluating issues concerning guilty pleas, this Court will consider the entire record, including the transcript of the guilty plea proceeding and the evidence presented at the post-conviction relief hearing. Roddy v. State 339 S.C. 29, 528 S.E.2d 418 (2000).

This court finds Applicant has failed to show Counsel was ineffective for failing to discuss the advantages and disadvantages of pleading guilty versus proceeding to trial. Applicant, through his testimony, admits his attorney discussed the advantages and disadvantages of pleading guilty versus proceeding to trial. Therefore, Counsel was clearly not deficient, and Applicant has failed to meet his burden of proving he received ineffective assistance. Therefore, this allegation is denied and dismissed with prejudice.

- h. Counsel had Applicant sign the sentencing sheet without explaining it to him.***

Applicant alleges his counsel was ineffective for failing to explain the sentencing sheet before Applicant signed. This Court finds this allegation is without merit. Specifically, this Court finds credible Counsel's testimony that he discussed the charges Applicant was pleading to prior to Applicant signing his sentencing sheet.

Applicant at his evidentiary hearing testified that he does not recall discussing the sentencing sheet with Counsel prior to his plea.

Counsel testified he did not take an example sentencing sheet to Applicant when they discussed the sentencing sheet. However, Counsel testified he discussed the charges Applicant was pleading to and the consequences of Applicant pleading guilty and signing a sentencing sheet.

This Court finds this allegation is without merit. Applicant was informed of the charges he was pleading guilty to prior to entering his guilty plea. Additionally, this Court finds Applicant was aware of the consequences of his guilty plea prior to signing the sentencing sheet. Though Counsel did not provide Applicant with an example of the sentencing sheet, Applicant was aware of the consequences of his guilty plea prior to entering his plea and signing his sentencing sheets. Applicant has failed to demonstrate how Counsel's performance was deficient, or how Applicant was prejudiced by Counsel's performance. Therefore, this allegation is denied and dismissed with prejudice.

2. Involuntary Guilty Plea

Applicant's guilty plea was not knowing and intelligently 'made to the court.' Counsel did not inform Applicant that by pleading guilty, Applicant was admitting all facts constituting the crimes charged and agreeing to be sentenced.

Applicant asserts his plea was not knowingly and intelligently made to the court. Applicant argues his plea was not made with or based on advice of competent counsel. Applicant additionally asserts his counsel failed to inform Applicant that by pleading guilty, Applicant was admitting all

facts constituting the crimes charged and agreeing to be sentenced. This Court finds these allegations are without merit.

“[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced.” Reed v. Becka, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. Boykin v. Alabama, 395 U.S. 238 (1969); Pittman v. State, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. Brady v. United States, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant’s choice. *Id.* at 755; see also United States v. Smith, 440 F.2d 521, 528–529 (7th Cir.) (Stevens, J., dissenting) (explaining that voluntariness relates to the trustworthiness of the admission of guilt and binding character of the waiver of the constitutional protections which would be available to the accused if he elected to stand trial).

The test for determining the validity of a guilty plea is “whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” North Carolina v. Alford, 400 U.S. 25, 31 (1970). The State may properly encourage guilty pleas either by being more lenient to those who enter such pleas, Brady, 397 U.S. at 750–53, or by increasing the risks of punishment on those who do not. Alford, 400 U.S. at 37 (1970); cf. United States v. Cox, 464 F.2d 937, 942 (6th Cir. 1972) (“It is well established that a guilty plea is not rendered invalid because it represents a compromise by defendant, thrusts a difficult judgment upon him, or is motivated by fear of greater punishment.” (citing Brady, 397 U.S. 742)). An applicant who enters a plea on the

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advice of counsel may “only attack voluntary, knowing and intelligent character of the plea by showing that plea counsel’s representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel’s errors, the [applicant] would not have pled guilty, but would have insisted on going to trial.” Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (citing Hill, 474 U.S. 52).

The voluntariness of a guilty plea, however, “is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.” Harres v. Leeke, 282 S.C. at 133, 318 S.E.2d at 361. In evaluating an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. Wolfe v. State, 326 S.C. at 165, 485 S.E.2d at 370.; cf. Rayford v. State, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that, where the transcript of the guilty plea proceeding refuted applicant’s claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant’s claim his lawyer misadvised him).

Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he or she is waiving; the right to a jury trial, the right to confront one’s accusers, and the privilege against self-incrimination. Boykin, 395 U.S. at 243. Additionally, the defendant “must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” Pittman, 337 S.C. at 599, 524 S.E.2d at 624. To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of the plea and the charges against him or her. Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); see also Boykin

v. Alabama, 395 U.S. at 243 (Courts must make sure defendants have “a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought, and forestalls the spin-off of collateral proceedings that seek to probe murky memories.”). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harris v. Leeke, 282 S.C. at 134, 318 S.E.2d at 361.

Applicant testified he did not want to plead guilty, and only pleaded because he believed he would receive a sentence between eight-to-fifteen years. Applicant testified he spoke with Counsel regarding the advantages and disadvantages of pleading guilty versus proceeding to trial. Applicant testified if he knew he could receive a twenty-five-year prison sentence by pleading guilty, he would not have pleaded and instead proceeded to trial. Applicant testified he just said yes to everything during the plea hearing because Counsel told him to agree and answer affirmatively to all questions the court asked at Applicant’s plea hearing.

On cross-examination, Applicant testified he remembered discussing discovery with Counsel. Applicant agreed he spoke with Counsel regarding a plea, and he understood Counsel was not promising a sentence between eight-and-fifteen years. Applicant testified he told the plea judge he did not need more time to talk with his attorney prior to pleading guilty. GP Tr. p. 14. Applicant testified he recalled telling the plea judge he was not threatened or promised anything to get him to accept the plea. GP Tr. p. 13-14. Applicant testified he recalled telling the plea judge he was pleading guilty on his own free will. GP Tr. p. 12-13. Applicant testified he recalled telling the plea judge Counsel did everything Applicant wanted him to do. GP Tr. p. 14. Applicant testified he recalled the plea judge informing him of his charges, the maximum sentence his charge carried, and the plea agreement Applicant and the State agreed to which included the dismissal of multiple

pending charges. GP Tr. p. 11-13. Applicant testified he recalled the plea judge informing Applicant of his right to appeal his plea, but he had a short period of time to appeal his plea. GP Tr. p. 21. Applicant further testified he recalled the plea judge discussing his constitutional rights, including the right to remain silent, the right to confront witnesses, and the right to challenge the State's evidence against him. GP Tr. p. 5.

Counsel testified he had discussions about a plea deal early into his representation of Applicant, and Applicant initially did not want to accept a plea. Counsel testified he explained the pros and cons of going to trial or accepting a plea, and left the ultimate decision to Applicant. On cross-examination, Counsel testified he reviewed discovery with Applicant including the dash cam footage of the incident leading to Applicant's arrest. Counsel testified he discussed Applicant's constitutional rights and stated Applicant was well aware of his rights. Counsel testified he discussed with Applicant the fact that the plea offer did not include any recommendation regarding sentencing, but it did include the dismissal of multiple other pending charges. Counsel testified he felt Applicant was not under any more pressure than any other criminal defendant. Counsel testified that he did not inform applicant that he was admitting the facts constituting the crime because he felt it was self-explanatory, and it was ultimately covered in the plea colloquy. Counsel testified it was Applicant's choice to plead guilty, and Counsel would have been prepared to go to trial if Applicant chose to not enter the plea.

This Court finds Applicant's allegation to be without merit. Applicant was aware of the crimes he was charged with, and the possible penalties if he was convicted. The Court finds Applicant was informed of the terms of the plea offer from the State, and he knew accepting this plea would result in the dismissal of multiple pending charges. The Court further finds Applicant was aware that there was no sentencing recommendation or negotiation, and Applicant could

receive a sentence of up to twenty-five years. The record reflects Applicant had ample opportunity to speak with his counsel prior to and during the plea hearing, Applicant was informed of his constitutional rights by Counsel and the plea judge, and Applicant made an informed decision to plead guilty. GP Tr. p. 5 Applicant was informed by the court at his guilty plea that by pleading guilty Applicant was admitting the charges against him were true. GP Tr. p. 5. Applicant was additionally informed by the court at his plea hearing that by pleading guilty he may be sentenced to twenty-five years for Failing to Stop for a Blue Light, Death Resulting, and thirty days for Possession of a Stolen Vehicle. GP Tr. p. 6-7.

This Court finds Applicant made an informed decision to plead after being informed of the facts which lead to Applicant's charge for Failure to Stop for a Blue Light, Death Resulting, and Applicant has failed to show his plea was not knowingly and intelligently made. Additionally Applicant has not provided any evidence, outside of his own self-serving testimony, to indicate he would have rejected the plea offer, and proceeded to trial, if he was provided with more information. Therefore, Applicant's claim is denied and dismissed with prejudice.

CONCLUSION

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

The Court notes Applicant must file and serve a notice of appeal within thirty days from post-conviction relief counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCR, provides that if Applicant wishes to

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seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED THAT:

1. The application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant is to remain in the custody of the Respondent.

AND IT IS SO ORDERED this 9 day of August, 2021.

J. McCoy
 JENNIFER B. MCCOY
 Presiding Judge
 Second Judicial Circuit

Charleston, South Carolina

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WITNESSES

Salley Police Department

J E Goldman

Law Enforcement Case #: 17-0051

DOCKET NO. 2018GS0201273

The State of South Carolina

County of Alken

COURT OF GENERAL SESSIONS

SBG

ARREST WARRANT NUMBER

JUNE TERM 2018

2017A0211100021

Filed June 7 2018

Robert P. White
C.C.P. & G.S.

THE STATE

vs.

Ann Sanders
Deputy Clerk

WILLIE ALBERT SEAWRIGHT JR

ACTION OF GRAND JURY

True Bill

James Lee

Foreperson of Grand Jury
Date: June 7, 2018

CDR #: 2398

Indictment for

**FAILURE TO STOP FOR BLUE LIGHT
RESULTING IN DEATH**

VERDICT

§ 56-05-0750(C)(2)

Foreperson of Petit Jury
Date:

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
FAILURE TO STOP FOR BLUE LIGHT
RESULTING IN DEATH

§ 56-05-0750(C)(2)

At a Court of General Sessions, convened on June 11, 2018, the Grand Jurors of Aiken County present upon their oath:

That **WILLIE ALBERT SEAWRIGHT JR**, did in Aiken County, on or about January 13, 2017, in the absence of mitigating circumstances, wilfully and unlawfully fail to stop while driving a motor vehicle on a road, street or highway of the state for a law enforcement vehicle after being signaled to do so by means of a flashing light and/or siren, and the road conditions were such that a reasonable driver could hear and/or see the signals, and did cause the death of one [REDACTED] as a result of said failure to stop, all in violation of Section 56-5-750(C)(2), *Code of Laws of South Carolina*, (1976) as amended.

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


J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Aiken)
STATE VS.)

Willie Albert Seawright Jr)

AKA: _____)

Race: Black Sex: M Age: 22)

INDICTMENT/CASE#: 2018GS0201273

A/W#: 2017A0211100021

Date of Offense: 1/13/2017

S.C. Code § : 56-05-0750(C)(2)

CDR Code #: 2398

0-25 years
SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

CONVICTED OF or PLEADS

TO: Traffic / Failure to stop for a blue light, death results

in violation of § 56-05-0750(C)(2) of the S.C. Code of Laws, bearing CDR Code # 2398

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST:

Genevieve Davis
Solicitor

77509
SC Bar#

Willie Albert Seawright Jr
Defendant

Victory
Attorney for Defendant

75429
SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 25 days/months/years or under the Youthful Offender Act not to exceed _____ years

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

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

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

CONCURRENT or CONSECUTIVE to sentence on:

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

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$ 100.00
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114 (BUI Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ca
3% to County (if paid in installments)	\$ 3.00

TOTAL \$ 103.00

Clerk of Court/ Deputy Clerk Katie Williams

Court Reporter: Joy Holston

SCCA/217 (04/2018)

PTUP _____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

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

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

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

Presiding Judge William P. Hoadley

Judge Code: 2050

Sentence Date: AUGUST 10, 2018

FINDING ON RECORD THAT THIS IS A VIOLENT CRIME AND FELONY THAT BARS HIM FROM TRANSPORTING, SHIPPING, RECEIVING, OR POSSESSING ANY FIREARM OR AMMUNITION

WITNESSES

Salley Police Department

J E Goldman

Law Enforcement Case #: 17-0051

SBG

ARREST WARRANT NUMBER

2017A0211100020

FILED June 7 2018

Robert J. White
C.C.P. & G.S.

Ann Sanders
Deputy Clerk of

ACTION OF GRAND JURY

True Bill

[Signature]

Foreperson of Grand Jury
Date: June 7, 2018

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018GS0201434

The State of South Carolina

County of Aiken

COURT OF GENERAL SESSIONS

JUNE TERM 2018

THE STATE

vs.

WILLIE ALBERT SEAWRIGHT JR

CDR #: 3466

Indictment for

POSSESSION OF STOLEN VEHICLE

§ 16-21-80

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
POSSESSION OF STOLEN VEHICLE

§ 16-21-80

At a Court of General Sessions, convened on June 11, 2018, the Grand Jurors of Aiken County present upon their oath:

That **WILLIE ALBERT SEAWRIGHT JR** did in Aiken County on or about January 13, 2017, knowingly and unlawfully have in his possession a stolen vehicle which he was not entitled to possess, to wit: 1999 Toyota Camry Solara valued at less than Two Thousand Dollars and belonging to [REDACTED] All in violation of §16-21-80 of the Code of Laws of South Carolina (1976), as amended.

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



J. STROM THURMOND, SOLICITOR

ELECTRONICALLY FILED - 2019 Apr 05 3:42 PM - AIKEN - COMMON PLEAS - CASE#2019CP0200826

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Aiken
STATE VS.

INDICTMENT/CASE#: 2018GS0201434

Willie Albert Seawright Jr

A/W#: 2017A0211100020

AKA: _____

Date of Offense: 1/13/2017

Race: Black Sex: M Age: 22

S.C. Code § : 16-21-80

CDR Code #: 3466

SENTENCE SHEET 0-30 days

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Possession of a Stolen Vehicle \$2,000 or less

CONVICTED OF or PLEADS

in violation of § 16-21-80 of the S.C. Code of Laws, bearing CDR Code # 3466
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST: Samuel Brines 77509 Willie Seawright 75429
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,

for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable; the balance is suspended with probation for _____

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

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

The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP

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

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	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)		\$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Katelin Wilkman

Court Reporter: Joy Holston

SCCA217 (04/2018)

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Presiding Judge William P. Clardy

Judge Code: 205D

Sentence Date: AUGUST 10, 2018