

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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May 06 2022

S.C. SUPREME COURT

—————
Certiorari to Spartanburg County

Honorable H. Steven DeBerry IV, Circuit Court Judge

—————
SAM BUNCH,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001068

—————
APPENDIX
—————

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ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

The State,)
-vs-) TRANSCRIPT OF RECORD
Sam Lee Copeland Bunch,) 2018-GS-42-4545-4551
Defendant.) August 29, 2018
Spartanburg, South Carolina

B E F O R E :

HONORABLE J. DERHAM COLE, JUDGE

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

TATYANA STEPANOVNA USTIMCHUK, ESQUIRE
Attorney for the State

JAMES A. CHEEK, ESQUIRE
Attorney for the Defendant

Linda D. Moffitt
Circuit Court Reporter

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Guilty plea -- page 3.

No sworn testimony; no exhibits entered into evidence.

1 MS. USTIMCHUK: Thank you, Your Honor. May it please
2 the Court.

3 Before Your Honor is Sam Lee Copeland Bunch. He's
4 represented by Attorney James Cheek of the public
5 defender's office.

6 He's before Your Honor on seven indictments:
7 18-GS-42-4545 for the offense of possession with intent to
8 distribute cocaine within a half mile; 18-GS-42-4546 for
9 possession with intent to distribute marijuana;
10 18-GS-42-4547 for possession with intent to distribute
11 cocaine; 18-GS-42-4548 for resisting arrest A;
12 18-GS-42-4549 for possession with intent to distribute
13 cocaine base; 18-GS-42-4550 for the offense of possession
14 with intent to distribute marijuana within half mile;
15 18-GS-42-4551 for possession with intent to distribute
16 cocaine base within half mile.

17 Your Honor, the marijuana is his first offense. He's
18 pleading as charged.

19 The PWID cocaine and PWID cocaine base are his third
20 offenses. He's pleading to second offenses. And he's
21 waiving presentment to the grand jury on all of these
22 indictments.

23 We're recommending concurrent sentencing, Your Honor.

24 THE COURT: You are Sam Lee Copeland Bunch?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Mr. Cheek is your lawyer?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You've heard the solicitor read the
4 indictments and the charges.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand what they are?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Did Mr. Cheek go over each of these
9 indictments with you and explain to you what the state
10 claims you did?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Did he also tell you what kind of
13 sentences you could receive if you were convicted or if you
14 pled guilty to each of these charges?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did you tell him everything you know about
17 the facts that relate to the allegations?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Did y'all determine whether or not you had
20 a defense to any one or more of the charges?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you have a defense to any?

23 THE DEFENDANT: No, sir.

24 THE COURT: Did Mr. Cheek explain to you that you have
25 a right for these matters to be presented to and considered

1 by the Spartanburg County Grand Jury?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Did he tell you that these have not been
4 to the grand jury?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And you appear to have initialed a form
7 indicating you wanted to waive your right to have these
8 presented to the grand jury. Is that true?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Did you understand what you were waiving
11 and giving up when you initialed the form?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And that's what you wish to do, is waive
14 your right?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did he also explain to you that you had
17 the right to remain silent?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand what that means?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you wish to give that right up in order
22 to enter a plea of guilty?

23 THE DEFENDANT: No, sir.

24 THE COURT: Okay. well, if you don't want to give up
25 your right to remain silent then --

1 THE DEFENDANT: Oh, yes, sir, yes, sir.

2 THE COURT: -- you can remain silent, but I won't be
3 able to ask you anything because I can't get any answers.

4 THE DEFENDANT: Okay. Yes, sir.

5 THE COURT: Do you want to answer my questions?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. So you're giving up your right
8 to remain silent?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Did Mr. Cheek also explain to you that you
11 have a right to confront and to examine any witness in
12 court that would provide evidence against you as it relates
13 to these charges?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you understand when you plead guilty
16 you give up your right to confront those witnesses?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Is that what you wish to do?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Did Mr. Cheek explain to you that you have
21 a right to have a jury trial and for 12 jurors to consider
22 the evidence in your cases and to decide whether or not
23 you're guilty of the crimes the state claims you committed?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand when you plead guilty

1 you give up your right to have a jury make that decision?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Is that what you wish to do?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Has anybody promised you anything that
6 caused you to make your decision to plead guilty?

7 THE DEFENDANT: No, sir.

8 THE COURT: Has anybody threatened you or forced you
9 or placed any pressure upon you?

10 THE DEFENDANT: No, sir.

11 THE COURT: Are you pleading guilty freely and
12 voluntarily?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And is it your desire to plead guilty to
15 each of these charges?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And are you doing so because you did
18 commit each of the crimes just as they are described in
19 each of the separate indictments?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you understand that possession with
22 intent to distribute cocaine within a half mile of a school
23 carries up to ten years in jail and a fine of \$10,000?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Do you understand that it's also

1 designated and classified as a serious offense under the
2 law?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand the significance of that
5 designation?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you also understand that possession
8 with intent to distribute marijuana as a first offense
9 carries up to five years in jail and a fine of \$5,000?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you understand possession with intent
12 to distribute crack cocaine within one-half mile of a
13 school or park also carries, again, up to ten years in jail
14 and a fine of \$10,000 and it's classified as a serious
15 offense?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Do you also understand that possession
18 with intent to distribute cocaine second offense carries up
19 to 30 years in jail and a fine of \$50,000 and provides for
20 a minimum sentence of not less than five years in jail?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you also understand that you -- the
23 crime of possession with intent to distribute marijuana
24 within a half mile of a school also carries up to ten years
25 in jail?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Carries more than the possession with
3 intent to distribute marijuana carries.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you understand?

6 And you have an additional possession with intent to
7 distribute crack cocaine second offense. It carries
8 between five and thirty and \$50,000.

9 And the remaining indictment is resisting arrest,
10 which carries up to one year in jail.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Understanding that, do you still want to
13 go forward with your guilty pleas?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You're 39 years old?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: How far did you go in school?

18 THE DEFENDANT: Eleventh grade.

19 THE COURT: And why did you quit?

20 THE DEFENDANT: Working.

21 THE COURT: And what kind of work were you doing?

22 THE DEFENDANT: Working in a warehouse.

23 THE COURT: What warehouse?

24 THE DEFENDANT: Averno.

25 THE COURT: And what were you doing in the warehouse?

1 THE DEFENDANT: Industrial work.

2 THE COURT: Have you ever been married?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you married now?

5 THE DEFENDANT: Separated.

6 THE COURT: Ever had a child?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: How many?

9 THE DEFENDANT: One.

10 THE COURT: what age?

11 THE DEFENDANT: Twelve.

12 THE COURT: Ever been treated for any type of
13 substance abuse or addiction?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you suffer from that condition?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: what kind of treatment have you had?

18 THE DEFENDANT: SADAC.

19 THE COURT: When?

20 THE DEFENDANT: Back in, I want to say, 2013.

21 THE COURT: Did you successfully complete that
22 program?

23 THE DEFENDANT: Yeah, somewhat, somewhat, yeah.

24 THE COURT: well, did you get a certificate of
25 completion?

1 THE DEFENDANT: No, sir.

2 THE COURT: All right. So you didn't successfully
3 complete it. Do you still suffer from an addiction today?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: To what?

6 THE DEFENDANT: Cocaine.

7 THE COURT: And is there anything -- how long have you
8 been in jail?

9 THE DEFENDANT: Been in jail for 50 something days.

10 THE COURT: You haven't had anything while you've been
11 in jail, have you?

12 THE DEFENDANT: No, sir.

13 THE COURT: Is there anything about your condition
14 today, with your addiction, that prevents you from
15 understanding fully what you're doing right now?

16 THE DEFENDANT: No, sir.

17 THE COURT: Have you ever been treated for any type of
18 mental illness or emotional disturbance?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: What have you been treated for?

21 THE DEFENDANT: Paranoid schizophrenia.

22 THE COURT: When were you treated?

23 THE DEFENDANT: Back in 1994.

24 THE COURT: And where were you treated?

25 THE DEFENDANT: Patrick B. Harris.

1 THE COURT: Did you complete a program there?

2 THE DEFENDANT: No. They just released me.

3 THE COURT: Released you.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Did you have any follow-up treatment?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And do you suffer from that condition
8 today?

9 THE DEFENDANT: A little something, not that much.

10 THE COURT: Is it under control?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Are you medicated?

13 THE DEFENDANT: No, sir.

14 THE COURT: Have you ever taken medication for it?

15 THE DEFENDANT: Yes, when I was younger.

16 THE COURT: But you haven't -- when is the last time
17 you took medication?

18 THE DEFENDANT: Probably '96 or something like that.

19 THE COURT: All right. And you left Patrick B. Harris
20 when?

21 THE DEFENDANT: In '94.

22 THE COURT: And did -- did your doctors take you off
23 the medication, or did you just quit taking it?

24 THE DEFENDANT: They took me off the medication.

25 THE COURT: They took you off it. They didn't think

1 you needed it any longer?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. Is there anything about that
4 condition today that interferes with your ability to fully
5 understand what you're doing?

6 THE DEFENDANT: No, sir.

7 THE COURT: All right. Listen to what the solicitor
8 tells me about the facts that relate to these cases.

9 MS. USTIMCHUK: Thank you, Your Honor.

10 This occurred on June the 30th of 2018 at 108 Pine
11 Needle Drive in the Spartanburg city and county.

12 Officer Lawrence Smith of the Spartanburg County
13 Sheriff's Office was on foot patrol and he saw the
14 defendant, Sam Lee Copeland Bunch, and he knew him to have
15 a warrant for his arrest.

16 Deputy Smith approached the defendant and stated that
17 he was under arrest and instructed him to place his hands
18 behind his back. The defendant failed to comply and
19 attempted to flee from the scene.

20 After a brief scuffle Deputy Smith was able to subdue
21 the defendant and place him in handcuffs. Deputy Smith
22 then performed a search of the defendant's person incident
23 to arrest and found a green leafy substance he believed to
24 be marijuana with a field weight of seven grams, two
25 digital scales, a purple Crown Royal bag containing five

1 clear baggies with an off-white substance and multiple
2 pills -- bills consisting of various denominations.

3 The drugs found on Mr. Bunch's person were submitted
4 to the Spartanburg County forensic analysis lab. The
5 marijuana weighed a total of 5.95 grams. Two of the
6 baggies contained cocaine weighing .12 grams. One baggie
7 contained cocaine base and weighed .30 grams, Your Honor.

8 108 Pine Needle Drive is .6 miles away from the Early
9 Learning Center located 301 Crescent Avenue in Spartanburg.

10 Your Honor, he does have a prior record.

11 THE COURT: All right. Tell me about it.

12 MS. USTIMCHUK: 1997, vandalism; 2000, shoplifting;
13 2004, burglary third degree first offense and two counts of
14 simple assault and battery; 2010, PWID cocaine base first
15 offense; 2012, possession of less than one gram of meth or
16 cocaine base, leaving the scene of an accident, open
17 container and D.U.S.; 2013, three counts of PWID near a
18 school, unlawful carrying; 2016, possession of a Schedule I
19 to II substance third offense, resisting arrest and failure
20 to stop and violation of probation.

21 THE COURT: All right. You heard what the solicitor
22 told me about the facts that relate to your cases.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you agree or disagree?

25 THE DEFENDANT: I agree.

1 THE COURT: You heard what she told me about your
2 criminal history.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you agree or disagree?

5 THE DEFENDANT: I agree.

6 THE COURT: Do you still want to plead guilty?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. I'll accept your pleas and
9 hear from you and Mr. Cheek.

10 MR. CHEEK: May it please the Court, Your Honor.

11 We'd ask the Court to consider concurrent sentencing
12 before the Court today, these charges. We'd ask the Court
13 to consider that Mr. Bunch really has been one of those
14 people who had several unfortunate incidents to occur to
15 him.

16 I've known him since he was a teenager. He and my
17 adopted son are biological cousins. So I've known him over
18 the years.

19 Several tragedies in his life with his family, losing
20 family members under tragic situations and then losing his
21 eyesight out of one eye, actually having that eye
22 obliterated and having to replace it with a device.

23 He's gone through a lot, and he's turned to drugs time
24 and time again as opposed to trying to seek, I think, the
25 type of psychological help he needs. He has turned to the

1 drugs. When they brought him in this time, Your Honor, on
2 this arrest into the detention facility they had to detox
3 him.

4 We almost lost him again because of the state he was
5 under. He'd already taken some of the drugs that he had in
6 his possession, Your Honor, and was drinking beer, had that
7 with him also when he was arrested.

8 He has really tried to think everything through to any
9 kind of defense he could offer in the matter at trial, Your
10 Honor. Of course we would have looked at the actual
11 amounts. The total amount of these drugs, Your Honor, is
12 less than a gram. It's .9 tenths of a gram of drugs.

13 And when he bought them he thought he was buying all
14 of the same drug. Fortunately, he didn't imbibe the drugs
15 because one of them was fentanyl. It appeared to be a drug
16 that he wanted to imbibe himself, but it was not.

17 We just ask the Court to consider all of that as the
18 Court fashions a sentence in this case. He has built a
19 criminal history for himself each time by having drugs on
20 his person or/and he would allege each time it was for his
21 own personal use.

22 Your Honor, in addition he did have the two sets of
23 scales, and the state would have asserted that was some
24 indication that he was going to be weighing the drugs and
25 selling the drugs, which typically it's my understanding

1 that when you go out and buy the drugs that they weigh them
2 before you even purchase them, the person they're getting
3 the drugs from. And he had the scales on him for that
4 reason. But everything appeared that he was going to be
5 going to his girlfriend's house and that there would be
6 some imbibing of these drugs himself and herself.

7 She's here today, Your Honor, to speak on his behalf,
8 and she would respectfully ask the Court to let her come
9 forward and speak on his behalf as far as his behaviors
10 otherwise in the community. But he does have the addiction
11 and has to deal with it.

12 We'd ask the Court to consider the minimum sentence.
13 If the Court determines that it's necessary that he be
14 under any kind of incarceration, we ask the Court to
15 consider the possibility of a home detention sentence
16 because he would otherwise be able to conform his behavior
17 in the community.

18 We'd ask that whatever the Court might do, we'd ask
19 the Court to consider a minimum of a 5-year sentence, Your
20 Honor, and see if he can't come back out and tend to his
21 behaviors whether he's being supervised in the community or
22 in the department of corrections.

23 THE COURT: All right. Mr. Bunch, do you want to add
24 anything?

25 THE DEFENDANT: Yes, sir. I apologize for my actions,

1 and I would just want to just -- you just give me another
2 chance or whatever and try to make things better so I can
3 just be out there with my son and my woman and her kids or
4 whatever and just try to make things better and just put me
5 in some kind of drug program where I can get help and kind
6 of house arrest where I can just be out there and work and
7 do the right thing, because I do have a drug issue, and I
8 just want to be out and be with my family.

9 THE COURT: Okay. Who else wants to be heard?

10 Yes, ma'am. Your name.

11 CORISSA BRADBURN: Corissa Bradburn.

12 THE COURT: All right. What would you like to tell
13 me?

14 CORISSA BRADBURN: I would like to tell you that me
15 and Sam Bunch, we've been together for a pretty long time.

16 Like Mr. Cheek was saying, he has had very, very, very
17 tragic events happen in his life, and, you know, he just
18 turned to the wrong things.

19 He is a very good person. He maintains my
20 household -- me and my children. Just I think that he
21 needs some type of counseling to where he can, you know,
22 maintain to where he can be sober. And just, please,
23 because he -- he is a very good person. He is. And he has
24 very good qualities and becoming and overcoming what he has
25 going on right now, I feel like.

1 THE COURT: Okay.

2 CORISSA BRADBURN: So I would just, please, just take
3 that into consideration.

4 THE COURT: All right. Thank you, ma'am.
5 Anything else?

6 MR. CHEEK: Nothing further from the defense, Your
7 Honor.

8 THE COURT: All right. Indictment 2018-04547 --
9 that's second offense possession with intent to distribute
10 cocaine -- sentence is you be confined to the Department of
11 Corrections for a period of 20 years, suspended upon the
12 service of ten.

13 Probation for three. Recommend A.T.U. while
14 incarcerated.

15 Conditions of probation, substance abuse counseling,
16 random drug and alcohol testing, \$500 for your appointed
17 lawyer.

18 First 90 days of supervision will be pursuant to the
19 Spartanburg County Home Detention Program.

20 Indictment 2018-04549, ten years concurrent.

21 Indictment 2018-04551, ten years concurrent.

22 Indictment 2018-04550, five years concurrent.

23 Indictment 2018-04548, one year concurrent.

24 Indictment 2018-04546, five years concurrent.

25 Indictment 2018-04545, five years concurrent.

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Credit for jail time.

MR. CHEEK: Thank you, Your Honor.

MS. USTIMCHUK: Thank you, Your Honor.

END OF REQUESTED TRANSCRIPT OF RECORD

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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh 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 evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 29th day of August 2019.

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

April 26, 2019

s/Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter

COUNTY OF Spartanburg

x Sam Lee Copeland Bunch

Plaintiff(s)

CIVIL ACTION COVERSHEET

2019 -CP- 42 - 01478

vs.

State of South Carolina

Defendant(s)

Submitted By: x Sam Lee Copeland Bunch
Address: x Allendale Correctional Institution
Colleton Unit F-1 B-13
1057 Revolutionary Trail P.O. Box 1151
Fairfax SC 29827

SC Bar #: _____
Telephone #: _____
Fax #: _____
Other: _____
E-mail: _____

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|---|---|
| <p>Contracts</p> <input type="checkbox"/> Constructions (100)
<input type="checkbox"/> Debt Collection (110)
<input type="checkbox"/> General (130)
<input type="checkbox"/> Breach of Contract (140)
<input type="checkbox"/> Fraud-Bad Faith (150)
<input type="checkbox"/> Failure to Deliver Warranty (160)
<input type="checkbox"/> Employment Discrim (170)
<input type="checkbox"/> Employment (180)
<input type="checkbox"/> Other (199) _____ | <p>Torts - Professional Malpractice</p> <input type="checkbox"/> Dental Malpractice (200)
<input type="checkbox"/> Legal Malpractice (210)
<input type="checkbox"/> Medical Malpractice (220)
<input type="checkbox"/> Previous Notice of Intent Case # <u>20 -NI-</u>
<input type="checkbox"/> Notice/ File Med Mal (230)
<input type="checkbox"/> Other (299) _____ | <p>Torts - Personal Injury</p> <input type="checkbox"/> Conversion (310)
<input type="checkbox"/> Motor Vehicle Accident (320)
<input type="checkbox"/> Premises Liability (330)
<input type="checkbox"/> Products Liability (340)
<input type="checkbox"/> Personal Injury (350)
<input type="checkbox"/> Wrongful Death (360)
<input type="checkbox"/> Assault/Battery (370)
<input type="checkbox"/> Slander Libel (380)
<input type="checkbox"/> Other (399) _____ | <p>Real Property</p> <input type="checkbox"/> Claim & Delivery (400)
<input type="checkbox"/> Condemnation (410)
<input type="checkbox"/> Foreclosure (420)
<input type="checkbox"/> Mechanic's Lien (430)
<input type="checkbox"/> Partition (440)
<input type="checkbox"/> Possession (450)
<input type="checkbox"/> Building Code Violation (460)
<input type="checkbox"/> Other (499) _____ |
| <p>Inmate Petitions</p> <input checked="" type="checkbox"/> PCR (500)
<input type="checkbox"/> Mandamus (520)
<input type="checkbox"/> Habeas Corpus (530)
<input type="checkbox"/> Other (599) _____ | <p>Administrative Law/Relief</p> <input type="checkbox"/> Reinstate Drv. License (800)
<input type="checkbox"/> Judicial Review (810)
<input type="checkbox"/> Relief (820)
<input type="checkbox"/> Permanent Injunction (830)
<input type="checkbox"/> Forfeiture-Petition (840)
<input type="checkbox"/> Forfeiture-Consent Order (850)
<input type="checkbox"/> Other (899) _____ | <p>Judgments/Settlements</p> <input type="checkbox"/> Death Settlement (700)
<input type="checkbox"/> Foreign Judgment (710)
<input type="checkbox"/> Magistrate's Judgment (720)
<input type="checkbox"/> Minor Settlement (730)
<input type="checkbox"/> Transcript Judgment (740)
<input type="checkbox"/> Lis Pendens (750)
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<input type="checkbox"/> Confession of Judgment (770)
<input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)
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<input type="checkbox"/> Municipal (930)
<input type="checkbox"/> Probate Court (940)
<input type="checkbox"/> SC DOT (950)
<input type="checkbox"/> Worker's Comp (960)
<input type="checkbox"/> Zoning Board (970)
<input type="checkbox"/> Public Service Comm. (990)
<input type="checkbox"/> Employment Security Comm (991)
<input type="checkbox"/> Other (999) _____ |
| <p>Special/Complex /Other</p> <input type="checkbox"/> Environmental (600)
<input type="checkbox"/> Automobile Arb. (610)
<input type="checkbox"/> Medical (620)
<input type="checkbox"/> Other (699) _____
<input type="checkbox"/> Sexual Predator (510)
<input type="checkbox"/> Permanent Restraining Order (680) | <input type="checkbox"/> Pharmaceuticals (630)
<input type="checkbox"/> Unfair Trade Practices (640)
<input type="checkbox"/> Out-of-State Depositions (650)
<input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)
<input type="checkbox"/> Pre-Suit Discovery (670) | | |

RECEIVED 22 APR 11:43

Submitting Party Signature: x Sam Bunch

Date: x April 16, 2019

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FORM 5

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Spartanburg)
)
Sam Lee Copeland Bunch #352590)
 Full name and prison number (if any) of Applicant.)

IN THE COURT OF COMMON PLEAS

2019 CP 42 01478

v.

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

2019 APR 22 AM 11:48
 CLERK OF COURT
 SPARTANBURG COUNTY

1. Place of detention ALLENDALE CORRECTION INSTITUTION
2. Name and location of Court which imposed sentence Spartanburg County Court of General Session
3. Name(s) of co-defendant(s) (if any) N
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2018GS4204549 d
 - (b) 18-65-42-4545
 - (c) 18 65-424546
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) August 29, 2018
 - (b) _____

- (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?
No

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

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

- i. NA
- ii. NA
- iii. NA

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

- i. NA
- ii. NA
- iii. NA

(c) the date of each such result:

- i. NA
- ii. NA
- iii. NA

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

- i. NA
- ii. NA
- iii. NA

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

- (a) Counsel failed to inform me of my right to direct appeal as required.
- (b) Not did he file a notice of appeal.
- (c) _____

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

2019 APR 22 AM 11:43
 COUNTY OF COQUITAMA
 CLERK OF COURT

- (a) Denied the right to direct appeal
- (b) Denied of Due Process
- (c) _____

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

- (a) Court ignored the variance in the amount of drugs-
- (b) Counsel failed to do proper investigation, counsel failed-
- (c) Denied Due process when I were sentenced based on what-

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

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

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

(a) the specific nature thereof:

- i. NA
- ii. NA
- iii. NA
- iv. NA

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

- i. NA
- ii. NA
- iii. NA
- iv. NA

(c) the disposition thereof:

- i. NA
- ii. NA
- iii. NA

2019 APR 22 AM 11:43
 ...

iv. NA
(d) the date of each such disposition:

- i. NA
- ii. NA
- iii. NA
- iv. NA

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

- i. NA
- ii. NA
- iii. NA
- iv. NA

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

No

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

(a) which grounds have been presented:

- i. NA
- ii. NA
- iii. NA

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

- i. NA
- ii. NA
- iii. NA

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) This is my first PCR application.
- (b) NA
- (c) NA

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

2019 APR 22 AM 11:43

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

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

- (a) the name and address of each attorney who represented you:
 - i. Rachel Kepley 366 N Church St, Suite 3000 Sptbg, SC 29303
 - ii. James Cheeks 366 N Church St Suite 3000 Sptbg, SC 29303
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. No proceedings
 - ii. Arraignment, plea, and sentencing
 - iii. _____

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

Lesser Sentence

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

2019 APR 22 AM 11:43
CLERK OF COURT
JAMES W. COOPER

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

I, Sam Bunch, 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.

Sam Bunch
Sam Bunch Applicant

SWORN or affirmed to and subscribed before me this
16 day of April, 2019.

Virginia Shultz
Notary Public

My Commission Expires: 12/12/22

2019 APR 22 AM 11:44
NOTARY PUBLIC
SPRINGFIELD COUNTY

STATE OF SOUTH CAROLINA)

County of Spartanburg)

VERIFICATION

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

Sam Bunch
Sam Bunch

SWORN to and subscribed before me this 14
day of April, 2019.

Virginia Drubbs (L.S.)
Notary Public

My Commission Expires: 12/12/22

2019 APR 22 AM 11:44
NOTARY PUBLIC
Spartanburg County

Form 5

4. The indictment number or numbers (if known) upon which and offenses for which sentence was imposed:

d. 2018654204547

e. 201865424548

f. 18 6542-4550

G. 18 6542-4551

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

(a) stated in the indictment in the actual amount stated in the lab report

(b) to request a lesser charge based on the evidence presented

(c) were in the indictment instead of what the amount actually proven

2019 APR 22 AM 11.

PLEASE RETURN TO ME ONE STAMP FILED
COPY:

Thank you

CLERK OF COURT
SARASOTA COUNTY
2019 APR 22 AM 11:44

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) FOR THE SEVENTH JUDICIAL CIRCUIT
 COUNTY OF SPARTANBURG)

Sam Lee Copeland Bunch,) Case No.: 2019-CP-42-01478
 S.C.D.C. No. 352590,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

RETURN
(Counsel Appointed)

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 2019 JUN 17 AM 9:15

In response to the application for post-conviction relief filed by Same Lee Copeland Bunch (Applicant) on April 22, 2019, Respondent would show this Court:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was charged for possession with intent to distribute cocaine within one-half mile of a school (2018-GS-42-04545), possession with intent to distribute marijuana (2018-GS-42-04546), possession with intent to distribute cocaine, second offense (2018-GS-42-04547); resisting arrest (2018-GS-42-04548); possession with intent to distribute cocaine base, second offense (2018-GS-42-04549), possession with intent to distribute marijuana within one-half mile of a school (2018-GS-42-04550), possession with intent to distribute cocaine base within one-half mile of a school (2018-GS-42-04551). James A. Cheek, Esq. represented Applicant, and Tatyana Stepanova Ustimchuk, Esq., of the Seventh Circuit Solicitor’s Office, prosecuted the case. On August 29, 2018, Applicant waived presentment and pled guilty to the above charges. The Honorable J. Derham Cole sentenced Applicant to imprisonment for concurrent terms of 5 years for PWID

cocaine within a half-mile, 5 years for PWID marijuana, 20 years for PWID cocaine, 1 year for resisting arrest, 10 years for PWID cocaine base, 5 years for PWID marijuana within a half-mile, and 10 years for PWID cocaine base within a half-mile. Applicant did not appeal his plea or conviction.

II. STATEMENT OF THE FACTS

The underlying facts of the crimes for which Applicant is incarcerated were articulated by the State during the plea proceeding as follows:

This occurred on June the 30th of 2018 at 108 Pine Needle Drive in the Spartanburg city and county.

Officer Lawrence Smith of the Spartanburg County Sheriff's Office was on foot patrol and he saw the defendant, Same Lee Copeland Bunch, and he knew him to have a warrant for his arrest.

Deputy Smith approached the defendant and stated that he was under arrest and instructed him to place his hands behind his back. The defendant failed to comply and attempted to flee from the scene.

After a brief scuffle Deputy Smith was able to subdue the defendant and place him in handcuffs. Deputy Smith then performed a search of the defendant's person incident to arrest and found a leafy substance he believed to be marijuana with a field weight of seven grams, two digital scales, a purple Crown Royal bag containing five clear baggies with an off-white substance and multiple pilles – bills consisting of various denominations.

The drugs found on Mr. Bunch's person were submitted to the Spartanburg County forensic analysis lab. The marijuana weighed a total of 5.95 grams. Two of the baggies contained cocaine weighting .12 grams. One baggie contained cocaine base and weighed .30 grams, Your Honor.

108 Pine Needle Drive is .6 miles away from the Early Learning Center located [at] 301 Crescent Avenue in Spartanburg.

(Tr. 13-14). Upon inquiry by the Court, Applicant confirmed the above articulated facts. (Tr. 14-15)

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SPARTANBURG COUNTY
2019 JUN 17 AM 9:15

III. CURRENT APPLICATION

In his post-conviction relief application, Applicant alleges he is being held unlawfully for the following reasons:

1. "Denied the right to direct appeal"
2. "Denied of Due Process"
 - a. "Court ignored the variance in the amount of drugs stated in the indictment in the actual amount stated in the lab report"
 - b. "Counsel failed to do proper investigation, counsel failed to request a lesser charge based on the evidence presented"
 - c. "Denied Due Process when I were sentenced based on what were in the indictment instead of what the amount actually proven"

Applicant requests relief as follows:

- "Lesser sentence"

Attached to and incorporated herein are the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, and the current application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

IV. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

Ineffective Assistance of Plea Counsel, Generally

Applicant's allegations of ineffective assistance of counsel are without merit. In a PC action, Applicant bears the burden of proving the allegations in his 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, 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 v. Washington, 466 U.S. 668, 686 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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SPARTANBURG COUNTY
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In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove that counsel's performance was deficient. Strickland, 466 U.S. at 686; 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). 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 Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 59 (1985).

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SPARTANBURG COUNTY
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Failure to Investigate

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also

present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

Conclusion and Action Requested

Applicant can satisfy neither requirement of the Hill test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully 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 RELIEF REQUESTED

In his prayer for relief, Applicant requests the Court reduce his sentence. This relief is unavailable in a post-conviction relief action. If this Court finds a defect in the original proceedings, the appropriate relief would be a new trial on the original indictments. Gilstrap v. State, 252 S.C. 625, 168 S.E.2d 88 (1969); see also Smith v. State, 413 S.C. 194, 195, 775 S.E.2d 696, 696 (2015) (“We now clarify the proper remedy is a new trial.”) Grant v. MacDougall, 244 S.C. 387, 391, 137 S.E.2d 270, 272 (1964) (relief of absolute release not available). Where an applicant seeks only relief to which he or she is not entitled, “it is not incumbent upon [the] court to pass upon what relief, if any, he [or she] might, perchance, be entitled to.” Young v. State, 250 S.C. 476, 479, 158 S.E.2d 764, 765 (1968). For these reasons, if the application is not otherwise amended before the evidentiary hearing to reflect a desire for appropriate relief, Respondent would respectfully request this Court engage in a *thorough*

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 SPARTANBURG COUNTY
 2019 JUN 17 AM 9:16

colloquy with Applicant to apprise him of the relief available in a PCR. If at the evidentiary hearing Applicant indicates no desire in appropriate relief but a desire to proceed, Respondent will at that time move to dismiss the application.

VI. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

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 §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCF; Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017). 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, SCRCF. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCF.

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

VII. GENERAL DENIAL

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

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SPARTANBURG COUNTY
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VIII. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel.

Respectfully submitted,

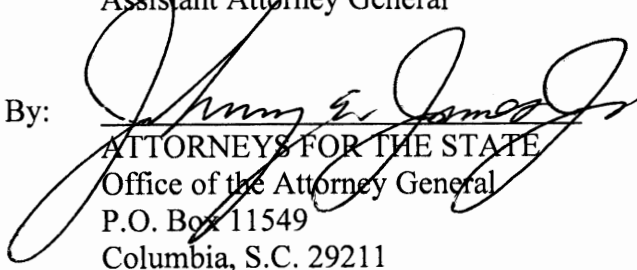
ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

JOHNNY ELLIS JAMES JR.
Assistant Attorney General

By:


ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

12 June, 2019

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CLERK OF COURT
SPARTANBURG COUNTY
2019 JUN 17 AM 9:16

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
)
)
 SAM LEE COPELAND BUNCH, #352590,)
)
 Applicant,)
)
 vs)
)
 STATE OF SOUTH CAROLINA,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS

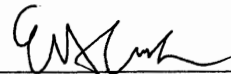
2019-CP-42-1478

AFFIDAVIT OF SERVICE BY MAIL

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

Rodney W. Richey, Esquire
Richey & Richey, PA
Post Office Box 10916
Greenville, South Carolina 29603-0916

DATED this 12th Day of June, 2019.



 Eva Cook, Legal Assistant
 For Respondent

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 CLERK OF COURT
 SPARTANBURG COUNTY
 2019 JUN 17 AM 9:16

1 STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS NONJURY
 2 COUNTY OF SPARTANBURG)

3

4 SAM BUNCH,) TRANSCRIPT
)
 5) APPLICANT,) OF
)
 6) vs.) RECORD
)
 7 THE STATE OF SOUTH CAROLINA,)
) 2019-CP-42-1478
 8 RESPONDENT.)

9

10 August 3rd, 2021
 11 Spartanburg, South Carolina

12

13

B E F O R E :

14

THE HONORABLE H. STEVEN DeBERRY, IV, JUDGE.

15

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

16

RODNEY RICHEY
 17 ESQ.
 Attorney for the Applicant

18

19

CHELSEY MARTO
 ASSISTANT ATTORNEY GENERAL
 20 Attorney for the Respondent

21

22

PAMELA E. GREEN
 Circuit Court Reporter

23

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I N D E X O F W I T N E S S E S

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Closing by Ms. Marto	26
Closing by Mr. Richey	27
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P R O C E E D I N G S

1
2
3 THE COURT: Are you ready?

4 MS. MARTO: Your Honor, may it please the Court?

5 THE COURT: Sure.

6 MS. MARTO: We're here today on the case of Sam Bunch.
7 Docket Number 2019-CP-42-01478.

8 He's confined in the South Carolina Department of
9 Corrections. He was charged for possession with intent to
10 distribute cocaine within one-half mile of a school,
11 possession with intent to distribute marijuana, possession
12 with intent to distribute cocaine second offense, resisting
13 arrest, possession with intent to distribute, a second
14 count, of, of cocaine base second offense, and possession
15 with intent to distribute marijuana within one-half mile of
16 a school.

17 Mr. James Cheek represented him and, on August 29th,
18 2018, he waived presentment and pled guilty to the above
19 charges. The Honorable J. Derham Cole sentenced him to
20 imprisonment for five -- concurrent terms of five years for
21 possession with intent to distribute cocaine within a half
22 mile, five years possession with intent to distribute
23 marijuana, 24 -- possession with intent to distribute
24 cocaine, one year for resisting arrest, 10 years for
25 possession with intent to distribute cocaine, five years for

1 possession with intent to distribute marijuana within
2 one-half mile, and 10 years for possession with intent to
3 distribute cocaine within one-half mile of the school. He
4 didn't appeal his plea or conviction.

5 His PCR application was filed April 22nd, 2019. His
6 claims, as raised in the application, included denial of
7 right to direct appeal and due process concerns concerning
8 the fact that the Court ignored the variance in the amount
9 of drugs as stated in the indictment, counsel failed to do a
10 proper investigation, counsel failed to request a lesser
11 charge, and he was denied due process when the sentence was
12 based on what was in the indictment instead of the amount
13 that was actually proven. And then the State issued or made
14 the return June 12th, 2019.

15 And so I'll turn it over to Mr. Richey at this point.

16 THE COURT: All right. Thank you.

17 MR. RICHEY: We call Mr. Bunch. Go stand on the bench
18 or stand and raise your right-hand. Raise your right-hand
19 and face the attorney.

20 Judge.

21 THE COURT: Sir, you're Mr. Sam Lee Copeland Bunch.

22 Is that right?

23 THE APPLICANT: Yes, sir.

24 THE COURT: All right.

25 SAM BUNCH, being first duly

Sam Bunch - Direct examination
By Mr. Richey

1 sworn, testified as follows:

2 THE COURT: All right. Thank you very much.

3 DIRECT EXAMINATION

4 BY MR. RICHEY:

5 Q Sir, Mr. Bunch, are you currently in the Department of
6 Corrections?

7 A Yes, sir.

8 Q And what are you there for?

9 A Possession with intent to distribute crack cocaine,
10 possession with intent to distribute cocaine, possession
11 with intent to distribute marijuana, and a half mile of a
12 school zone for each charge.

13 Q Okay.

14 A And resisting arrest.

15 Q Then on April 22nd, 2019, you filed an Application
16 for Post-Conviction Relief.

17 Is that correct?

18 A Yes.

19 Q And, and who represented you on your charges?

20 A You talking about for the, the whole---

21 Q The criminal charges when you --.

22 A Cheeks and I'm gonna say Rachel Kepley.

23 Q Okay. And, and you believed that -- you pled guilty to
24 these charges, correct?

25 A Yes.

Sam Bunch - Direct examination
By Mr. Richey

1 Q And you believed that, that your lawyer was ineffective
2 that represented you at the guilty plea.

3 Is that correct?

4 A Yes.

5 Q And, and that was Mr. Cheeks?

6 A Yes.

7 Q Okay. And the, the issue you -- one of the issues you
8 have then is the drug amounts, correct?

9 A Yes.

10 Q Okay. Can you kind of tell me briefly what happened
11 when the, the police stopped you and retrieved the drugs or
12 whatever?

13 Go ahead.

14 A When he stopped me and retrieved the drugs or whatever,
15 first it was like he had a warrant for my arrest but he
16 didn't present no warrant or whatever. So, we began to -- I
17 tried to flee. So he wind up arresting me and, after that,
18 he checked my -- searched my pockets and that's when he
19 found the drugs.

20 Q And how much drugs did he find?

21 A He found like each one of those drugs that he named --
22 that you just named.

23 Q Okay. You, you got the transcript, right?

24 A Yeah.

25 Q Okay. And the total weight -- was the total weight of

Sam Bunch - Direct examination
By Mr. Richey

1 this drug -- these drugs 1-gram---

2 A The total---

3 Q ---or more?

4 A The total weight of all the drugs together was less
5 than a gram.

6 Q Okay. And, and you believe that your sentence, your
7 sentence -- that the lawyer should of asked for a lesser
8 sentence?

9 A A lesser sentence.

10 Q Correct?

11 A Yes, sir.

12 Q And did you talk to him about that?

13 A Yes, I talked to him about it and it's like he didn't
14 even try to do nothing about it.

15 Q When you say not do nothing about it, tell, tell me
16 what you asked him.

17 A I asked him -- I mean this charge is really suppose to
18 be a possession charge, not a possession with the intent.
19 So, it should of had dropped from a possession with intent
20 to a possession.

21 Q Okay. Did -- go ahead. I'm sorry. Excuse me.

22 A So it didn't, it didn't drop or nothing. And so he had
23 asked -- and so when I was like supposedly went to -- in
24 front of a judge, a traveling judge, I can't think of her
25 name, he, he stopped me from going in there. So I was

Sam Bunch - Direct examination
By Mr. Richey

1 coming into the courtroom and I was seated and he told me --
2 he said -- told me -- the officer told me to go sit -- to go
3 back into the room. So, I went back into the room to talk
4 to one of the other guys and they told me about they charge,
5 which was a similar charge and he was like okay.

6 And so he came back in there and talked to me and he
7 say you know they gonna try to give you 10 years. So, I'm
8 like I can not see that. I can see me doing no 10 years for
9 that.

10 And so he left out. And so the police came right back
11 in there. I say I wanted to go in front of that judge.

12 So the police came back. I went back in front of the
13 judge. He was looking at me real kind of strange like. And
14 so he -- I came right to him and he was like why would you
15 rather, you know what I'm saying, go for 10 years.

16 So I looked at him like I mean why would I -- you
17 talked to me about the trial, going through a trial. I
18 said, I said okay well, why would I rather go to a trial,
19 and if I am found guilty, can get the max instead of taking
20 the chance of going in front of her and get 10 years.

21 Q Okay.

22 A And so --.

23 Q And so you discussed with him with that.

24 Do you have the transcript up there?

25 Do you have a copy of your transcript?

Sam Bunch - Direct examination
By Mr. Richey

1 A Right here.

2 Q You have it?

3 A Yes, sir.

4 Q Okay. I'm gonna be referring to Page 13 on there.

5 Can you go to Page 13 for me and go to Lines 21 through
6 25 and I want to ask you some questions about that.

7 Are you there?

8 A Yes.

9 Q Okay. On Lines -- on 21 through 13, the -- they talk
10 about digital scales and Crown Royal bag and all this stuff.

11 Did, did you and your lawyer have a discussion about
12 that particular evidence in the case?

13 A Yes, we had a discussion about that.

14 Q And what was that?

15 A I mean the discussion was like -- as far as like the
16 scale, what was the scale about, you know what I'm saying.
17 So, I'm like, you know what I'm saying, people can purchase
18 drugs and still, you know what I'm saying, be a user and
19 still purchase drugs or whatever. And so then, as you can
20 see, one of the scales didn't even work.

21 So, you talking about, about the marijuana part?

22 Q No, about these -- I want to know did you have
23 discussions with him about how that---

24 A Oh, yeah.

25 Q ---affects your case for a term of possession with

Sam Bunch - Direct examination
By Mr. Richey

1 intent to distribute?

2 A No.

3 Q Did he talk to you about the charge of possession with
4 intent to distribute versus distribution or some other
5 charge?

6 A Yes.

7 Q He did?

8 A Uh-huh. (Affirmative).

9 Q And what, what did he say to you?

10 A I mean that's just like what I just said.

11 Q What did you -- I'm, I'm sorry. I missed it. Go
12 ahead. Say it again.

13 Can you say it again?

14 A See he basically saying like with the scale, that can
15 be a charge. And so like he also said too he said well,
16 people nowadays, when they -- even with a user or whatever,
17 they still carry around the scale just so when they purchase
18 drugs they can see what the amount is.

19 Q Well -- okay. So, tell me why you, why you just did
20 not go to trial.

21 A Because, like I said, as that, as that went on, like I
22 said about the weed for -- was willingly to go in front of
23 the judge, which he stopped me out of my own will from going
24 in front of the judge. So, when I did actually go in front
25 of the judge, the judge asked the -- she seen her last

Sam Bunch - Direct examination
By Mr. Richey

1 person that day.

2 So, I say probably maybe two or three days later I
3 was -- I came back and I had got knowledge that I would be
4 going to Court at a different time. So, he came back in and
5 talked to me. He was talking to me about the trial. And so
6 I said okay.

7 So, when he telling me about the trial, so I said I
8 wanted to go with it. So, when me and him was down here and
9 he had like a couple more people talking about the trial,
10 and how the way the trial works, which we was gonna be going
11 in front of the judge, so I told him, I said I need time to
12 think or whatever and -- about the trial cause he was
13 telling me about a, a different time.

14 And so, and so I still was like nah, don't see that
15 with the charges right there and my record. It just don't
16 go with the sentence that he's trying to -- you know what
17 I'm saying?

18 And so next thing I know he got mad. He jumped up and
19 he got real mad and he said you going in front of that
20 trial. So, he said you going in front of that trial. He
21 got real mad and kind of like pushed the chair.

22 And so I said I ain't going in front of that trial. I
23 said I need time to think. And so the, the CO that was in
24 there, the officer, he told me -- he was like well, you
25 still have to go upstairs.

Sam Bunch - Direct examination
By Mr. Richey

1 So, me and him, as I came upstairs, he came up before
2 me, my ex-girlfriend, she was sitting down and a couple more
3 other people. They seen him and we continued to argue.

4 And so -- so when they came for us to come back in, I
5 was over there and he still was -- he still was like
6 arguing. He say I'm gonna make sure you get 25 years if you
7 go in front of the trial. And so -- you know what I'm
8 saying?

9 So, my girl sitting over there. My ex was sitting over
10 there. And so I looked at her and then she -- I was like,
11 you know what I'm saying, what you, what you I think should
12 do, you know what I'm saying, giving hand expression and she
13 was like -- so, he carried her outside. And so she came
14 back in and she was like just listen to him. And so --.

15 Q well, let me ask you a question. You said that he, he
16 went against your will or something.

17 A Yes.

18 Q Is that what you said?

19 A Uh-huh. (Affirmative).

20 Q okay. I'm gonna refer you to the transcript.

21 Now, can you go to Page 7 of the transcript?

22 A Seven.

23 Q All right. And I'm gonna take you to the Line 8 and
24 it, and it says has anybody threatened you or forced you or
25 placed you under any pressure upon you. No, sir. Are you

Sam Bunch - Direct examination
By Mr. Richey

1 pleading guilty free and voluntary. Yes, sir.

2 If -- tell me why you answered those questions that
3 way.

4 A Because, just like it has in my paperwork when I, when
5 I studied in the law library that says that when a person --
6 when you -- when your lawyer or something threatened you or,
7 or coerced you to say something because you feeling like
8 under pressure that you gonna get a specific time, then
9 that's what you gonna say. So that's why.

10 Q So you're saying that these answers that you gave the
11 judge, they were under duress and pressure from your---

12 A It was under right of pressure.

13 Q All right. Now, you -- in this application, let me
14 see, what -- you're, you're -- your max out date is 2023,
15 correct?

16 A Uh-huh. (Affirmative).

17 Q And you'll be eligible for parole in the next year,
18 right?

19 A Yes, sir.

20 Q And you're on a work release yard, right?

21 A Yes.

22 Q Tell me what remedy are you seeking from this court?

23 A I'm seeking a lesser sentence.

24 Q You're seeking a lesser sentence?

25 A A lesser sentence.

Sam Bunch - Direct examination
By Mr. Richey

1 Q Okay. And if the Court can not give you a lesser
2 sentence, then what is your other relief in this case?

3 A Like if the Court can not give me a lesser sentence?

4 Q Right.

5 A I mean I'm just, I'm just gonna have to do, do some
6 more study or whatever.

7 Q If the Court can only give you a new trial, is that the
8 remedy you want if that's the only thing the Court could do
9 for you?

10 Is that -- would that be a remedy you want to have to
11 start over?

12 A No, I actually would love -- would like to see what the
13 procedure of what the judge will do. But it says the remedy
14 could be a, a lesser vacated sentence or a lesser sentence.

15 Q Okay. All right. Answer the questions the attorney
16 general will have for you.

17 CROSS-EXAMINATION

18 BY MS. MARTO:

19 Q Good morning, sir.

20 A Good morning.

21 Q So approximately how many times did you meet with
22 Mr. Cheek leading up to the plea hearing?

23 A I'm gonna say like maybe three.

24 Q Okay. And y'all discussed your decision between
25 pleading and going to trial?

Sam Bunch - Cross-examination
By Ms. Marto

1 A Yeah, we discussed all that.

2 Q Okay. And you decided to plead instead of going to
3 trial.

4 Is that correct?

5 A Yes, and the -- that was the reason, like I told him,
6 the reason why I had decided to go to the plea was because
7 what he had, like I said, I feeled threatened and he
8 threatened me with the 25 years.

9 Q So, you were concerned that you would be facing more
10 time in prison if you went to trial instead of pleading,
11 right?

12 A Yes, because the simple fact that I don't have the
13 knowledge that I had -- I didn't have the knowledge then
14 that I have now.

15 Q Okay. But you did still plead because you thought you
16 would get less time, right?

17 A Uh-huh. (Affirmative).

18 Q Okay.

19 A Yes, ma'am.

20 Q And when you pled you knew what charges you were
21 pleading to?

22 A Yes.

23 Q Okay. Did you know the potential sentencing ranges
24 even if you didn't think the max would be imposed?

25 A No, cause he told me that he would try -- he said he

Sam Bunch - Cross-examination
By Ms. Marto

1 would try to do the five years.

2 Q Okay. But were you informed that it could be larger?

3 A Hu huh. (Negative).

4 Q Okay. I'm looking at Pages 7 through 9 of the
5 transcript and it shows that Judge Cole did tell you that
6 you could face up to 10 years for intent to distribute
7 cocaine within a half mile of a school and also on Page 8 it
8 shows, starting with Line 17, that you also understand the
9 possession with intent to distribute cocaine second offense
10 carries up to 30 years in jail.

11 You remember that at all or no?

12 A Somewhat.

13 Q Somewhat.

14 Okay. And yet you still decided to plead because you
15 thought that you would face less time, correct?

16 A Yes.

17 Q Okay. Did you -- in re -- if you got a chance to do it
18 all over again, would you want to go to trial on these
19 charges now when you're about to max out next year?

20 A I mean, like I said, I rather see what the judge -- if
21 he can do like a, you know what I'm saying, a lesser
22 sentence or whatever.

23 Q Okay. So what you would like is to get out pretty much
24 immediately?

25 That's the only relief you would ask for?

Sam Bunch - Cross-examination
By MS. Marto

1 A I mean it can be take the 20 year probation or, you
2 know what I'm saying, cause that's really too much. Twenty
3 years probation -- I mean 20 years suspended to three years.
4 You know, something like -- I mean he can take that.

5 Q Okay. Now, do you remember whether or not your lawyer
6 requested that you face the mandatory minimum when it came
7 to the charges?

8 Did he say anything on your behalf to try and get a
9 lesser sentence in front of the judge?

10 A He -- it's like to me he was waiting -- I mean he was
11 against me. That what it seem like to me.

12 Q Your lawyer was against you---

13 A Uh-huh. (Affirmative).

14 Q ---in representing you?

15 A Uh-huh. (Affirmative).

16 Q Okay.

17 A Because my thing is why would he try to stop me from
18 going in front of a traveling judge that she wasn't really
19 too harsh on the sentencing and going in front of Judge
20 Cole.

21 Q Okay. So, you felt that your lawyer was against you by
22 bringing you in front of Judge Cole?

23 A Uh-huh. (Affirmative).

24 Q Okay. Well, I am looking at Pages 15 through 17 of the
25 transcripts. Specifically Line 12 of Page 17 that says

Sam Bunch - Cross-examination
By Ms. Marto

1 Mr. Cheek says we'd ask the Court to consider the minimum
2 sentence.

3 Do you remember that at all, your lawyer asking for the
4 mandatory minimum?

5 A He said, he said minimum sentence but he also stated
6 that he was gonna try to get me home detention. And so with
7 him, with him stating that, he also stated that I think that
8 he need a little more time.

9 So, why would he say home detention and, and then, once
10 he get in front of the judge, he say he needs a little time?

11 Q okay. But you were told by the judge at the plea
12 hearing what the sentencing ranges could be, right?

13 A Uh-huh. (Affirmative).

14 Yes.

15 MS. MARTO: Okay. No more questions, Your Honor.

16 THE COURT: All right. Okay.

17 MR. RICHEY: No other questions.

18 We call James Cheeks.

19 THE COURT: Good morning, Mr. Cheeks.

20 THE WITNESS: Good morning, Your Honor.

21 JAMES CHEEK, being first duly
22 sworn, testified as follows:

23 THE COURT: All right. Thank you for being here.

24 DIRECT EXAMINATION

25 BY MR. RICHEY:

James Cheek - Direct examination
By Mr. Richey

1 Q Can you state your name please?

2 A James Arthur Cheek.

3 Q And, Mr. Cheeks, are you---

4 A Cheek.

5 Q Cheek. Cheek.

6 Are you a lawyer in Spartanburg County?

7 A I am.

8 Q And do you recall representing Mr. Bunch in this case?

9 A I do.

10 Q And you've been in the courtroom and I'm gonna ask you
11 a series of questions about the issues we brought up.

12 As -- on Page 7 of this transcript I referred Mr. Bunch
13 to whether he was coerced into pleading or was he pleading
14 voluntarily, and Mr. Bunch's position was that you
15 threatened him with the 25 years.

16 Do you recall doing that?

17 A I think my recollection is that the sentence carried a
18 minimum mandatory 25 years up to 30 years and I explained to
19 him that, upon conviction, he would not be able to get
20 anything less than 25 years in prison.

21 Q Okay. Did -- so you went over the facts of the case
22 with him --

23 A I did.

24 Q -- the facts and the situation that was going on?

25 A I did.

James Cheek - Direct examination
By Mr. Richey

1 Q And can you tell me why was he facing so much time?

2 A I felt that, at trial, the State would use the theory
3 of circumstantial evidence given that the circumstances were
4 that he had a prior criminal history involving drugs, had
5 just been paroled a year prior to this incident happening
6 from the Department of Corrections on a sentence.

7 And I explained to him that, frankly, looking at the
8 circumstances, that they're very few drug addicts who carry
9 around with them something as elevated as a Crown Royal bag
10 with drugs and scales in it, multiple kinds of drugs. There
11 are very few people who both use cocaine and crack cocaine
12 and pills all at the same time and that I felt that, at
13 trial, a jury could be convinced beyond a reasonable doubt
14 by the solicitor's office to consider conviction based upon
15 the circumstances.

16 we're talking about a gentleman who would be before a
17 jury that did not know him, that they would look at his
18 manner of dress, his manner of composing himself in the
19 community, the way that he presented himself at trial, would
20 probably be something that a jury would consider a person
21 who really didn't reflect a kind of addiction that he
22 purported to have and that he also had monies on him.

23 I explained to him that had he gone to a drug house or
24 had been involved in purchasing drugs within -- immediately
25 time before this confrontation with law enforcement, that

James Cheek - Direct examination
By Mr. Richey

1 most probably Ms. Ustimchuk would be able to convince a jury
2 beyond a reasonable doubt that this is a person that, had he
3 had the kind of addiction that he would of been asserting at
4 trial, that you would not be buying such small amounts of
5 drugs and still have money left. You would take advantage
6 of a bargain.

7 All of that is the way that the solicitor's office
8 presents cases before a jury. I knew he had not been in
9 front of a jury or been at a jury trial in this circuit and
10 that he needed to consider all of that, not just who he is,
11 but the way he will be projected in the circumstances under
12 which he would be projected and the image that a jury of his
13 peers, who actually did not know him as well as I knew him,
14 that he would be made like a bad person and that most
15 probably he'd be convicted beyond a reasonable doubt based
16 upon the circumstances of this case.

17 Q And, and you're, you're referring to what was on the
18 transcript when I went over with Mr. Bunch on Page 13 about
19 the scales and all this.

20 well, let me ask you, this, this stuff about this
21 traveling judge that was here and him not going in front of
22 the traveling judge, is that -- was -- do you recall any of
23 that or did he want to plead in front of a judge or not
24 plead in front of the judge?

25 A I don't recall the traveling judge scenario. I don't

James Cheek - Direct examination
By Mr. Richey

1 know who the traveling judge would of been. I don't have
2 the best recollection about who the traveling judge would of
3 been.

4 He mentioned a female traveling judge for a trial, and
5 I -- I'm assuming he must or may have meant Judge Verdin
6 from Greenville. I know she was in and out of here during
7 that period of time.

8 But I certainly would of told him that, if he went to
9 trial and was convicted, that the traveling judge, if it
10 were Judge Verdin he's making reference to, that -- and I
11 don't remember that. But had I said it, it would of been
12 based upon the fact of a conviction that what other option
13 would any judge have other than to give you the minimum
14 mandatory sentence and then he would of had charges still
15 pending that he had not addressed or whatever.

16 I'm not sure what the State would of done. But if he
17 had anything else pending, and I most con -- and I don't
18 know if I told him this or not but I also always consider
19 that, prior to trial, that the charges go to the Grand Jury
20 and one thing that would of come out as an additional
21 indictment from the Grand Jury would of been a resisting
22 arrest charge.

23 All of that would of been at trial and I'm sure I would
24 of had such conversations with him. I don't deny having a
25 conversation with him. But taking to mind that my job with

James Cheek - Direct examination
By Mr. Richey

1 the Public Defender's Office is to only present the guilty
2 pleas, if he wanted to go to trial, I would of been very,
3 very, very, very glad to have backed off and had the case go
4 back to the assigned trial attorney in our staff.

5 It would of been less work for me. I'm not a selfish
6 person but I'd been glad to turn it over to the person to
7 prepare for trial had he been insistent on a trial.

8 I mean why would I not do that?

9 Q So, so you discussed with him, although the drug
10 amounts were not -- I use the word---

11 A Significant.

12 Q ---big---

13 A That's right.

14 Q ---that all the other---

15 A Not significant at all.

16 Q ---circumstances---

17 A The circumstances, the purple bag, the three kinds of
18 drugs in the bag, money. I mean very few drug addicts walk
19 around with a Crown Royal bag with money on their person.

20 Q Do you, do you believe he understood those talks?

21 A Absolutely. He's a very intelligent, articulate person
22 with whom I have a great deal of respect and love. Yes, I,
23 I can not say he did not understand. I think he did
24 understand and I think more so he understood he had a 12
25 year old daughter he needed to get back to as soon as

James Cheek - Direct examination
By Mr. Richey

1 possible and I think that ultimately he's right in the sense
2 he would love to have a lesser sentence.

3 I would love for him to have a lesser sentence but this
4 is not the protocol or the arena for that to happen.

5 Q I---

6 A I suggest he look at parole because he's not eligible
7 for parole next year. He's eligible for parole this year in
8 December.

9 Q And, and do you believe it'd be in this best interest
10 to get a new trial based off---

11 A I do not. If he goes back for a new trial, they're
12 gonna try him. If he's convicted, he's looking at 25 years
13 to 80 percent in prison.

14 MR. RICHEY: One moment, Your Honor.

15 (Pause.)

16 MR. RICHEY: No other questions, Your Honor. Excuse
17 me.

18 THE COURT: All right.

19 CROSS-EXAMINATION

20 BY MS. MARTO:

21 Q Morning, sir.

22 How you doing today?

23 A Doing well. Thank you.

24 Q Good.

25 So you've been practicing criminal defense law for

James Cheek - Cross-examination
By Ms. Marto

1 approximately how long, sir?

2 A Forty years.

3 Q Okay. And it was based upon that experience you were
4 worried that he would likely lose at trial, correct?

5 A Absolutely.

6 Q And that's why you encouraged him to take a plea?

7 A I did.

8 Q And it's your perception that instead of threatening
9 him with 25 years you cautioned him?

10 A No, I made him well aware of the statute. We're
11 required to do that. He has to understand what he's facing
12 at trial.

13 Q So, you just encouraged him to consider pleading
14 because of the sentence range that he would be facing at
15 trial, correct?

16 A I did.

17 Q And it's your understanding that it was his decision to
18 plead?

19 A Absolutely.

20 Q And you did not, in your perception, coerce, coerce him
21 into pleading?

22 A I think not with my perception but the perception that
23 his fiancée had when I, at his request, went outside and
24 spoke with her about the entire situation so that she would
25 have a better understanding of the criminal trial process as

James Cheek - Cross-examination
By Ms. Marto

1 well as what my perception was of the evidence in the case.
2 I think that probably because of the telephone conversations
3 he had with her from the jail she didn't have a full
4 comprehension what was going on.

5 So, I did make the extra effort of discussing the
6 matter with the family outside of the courtroom, and when
7 they came back in, she gave him the high sign to go ahead
8 and enter the plea.

9 MS. MARTO: Okay. No more questions, Your Honor.

10 THE COURT: All right.

11 MR. RICHEY: No other questions.

12 THE WITNESS: Thank you.

13 THE COURT: Thank you, Mr. Cheek, for being here.

14 THE WITNESS: Thank you.

15 MS. MARTO: Quick closing remark, Your Honor?

16 THE COURT: Sure.

17 was that all your witnesses?

18 MR. RICHEY: Yes, sir.

19 THE COURT: Okay.

20 MS. MARTO: No witnesses from the State, Your Honor.

21 THE COURT: All right.

22 MS. MARTO: Your Honor, it is our position that the
23 Applicant has failed to reach his burden of proof in proving
24 the allegations.

25 Regardless of what the actual amount of the drugs were,

1 he knew the charges he was pleading to. He pled
2 voluntarily, and willingly, and knowingly. He was made
3 aware by Judge Cole of the sentencing ranges imposed and
4 given the advice of counsel in pleading because he would
5 likely face less time.

6 Additionally he is already stated that he does not wish
7 to seek another trial and his counsel has stated that the
8 trial would not be in his best interest at this point given
9 the fact that he is maxed out next year.

10 Thank you.

11 THE COURT: I understand.

12 All right.

13 MR. RICHEY: Your Honor, I think the testimony was
14 that -- and, and I've discussed with my client that, that --
15 the remedies. Under my understanding of the law, the Court
16 can't cut his sentence. I mean you cut -- the Court can't
17 do that.

18 So, you know, it, it sounds like to me on the witness
19 stand that he would want a new trial if the Court can not
20 cut his sentence.

21 Is that right?

22 THE APPLICANT: Yes.

23 MR. RICHEY: And so we'd ask, based off the testimony
24 and evidence presented, the Court vacate his sentence and
25 order a new trial.

1 Thank you, Your Honor.

2 THE COURT: All right. Thank you very much.

3 THE APPLICANT: Can I say something?

4 (WHEREUPON, the Applicant confers with Mr. Richey at
5 this time.)

6 MR. RICHEY: Your Honor, I, I know the Court doesn't
7 give an advisory opinion but I told him that the Court can
8 not reduce his sentence. The Court can order a new trial
9 and, and I don't know if that ruling would affect what he's
10 doing but that's, that's, that's, that's some breakdown in
11 that. But I advised him the Court can not reduce or modify
12 his sentence.

13 THE COURT: And, Mr. Bunch, that is my understanding,
14 okay, that, you know, and if you prevail here today, then
15 you'll find yourself back in the position that you were in
16 just before you entered this guilty plea and the State's
17 gonna be in a position to handle the charges any way they
18 wish to at that point in time.

19 Is that something -- you understand that?

20 THE APPLICANT: So, what, you can't do a lesser
21 sentence or --?

22 THE COURT: No, sir, I don't believe this Court can,
23 can do that in this situation. What we can do is we can
24 vacate your sentence and basically put you back in the
25 position that you were in before you entered your plea,

1 before your case was resolved. And, at that point in time,
2 you'd have the opportunity to exercise your right to a jury
3 trial or to enter another guilty plea.

4 So that's something you'll need to consider.

5 Is that, is that the State's understanding as well?

6 MS. MARTO: That's our understanding as well, Your
7 Honor.

8 THE COURT: And the defense?

9 THE APPLICANT: Well, I done---

10 MR. RICHEY: Yes, sir.

11 THE APPLICANT: Well, I had read in the law that y'all
12 can like give me a lesser sentence. That ain't -- I mean as
13 far as like going to trial, that just one method that y'all
14 can do. So, y'all also can vacate the sentence or you can
15 give me a lesser sentence.

16 THE COURT: Well---

17 THE APPLICANT: This what, this what I read out, out
18 the law book.

19 THE COURT: I understand. I understand your
20 understanding of that.

21 okay?

22 THE APPLICANT: Yeah.

23 THE COURT: Don't get me wrong. I understand exactly
24 what you're saying to the Court.

25 what I'm telling you is, is that I don't, I don't

1 believe that's the case.

2 Okay. Now, the Court makes decisions that are not
3 right all the time.

4 You understand that?

5 But with -- I believe that the law is that's -- that
6 the only remedy that I can afford to you in this situation
7 is to vacate your sentence.

8 All right. And if the Court chooses to do that, based
9 on your application, then that puts you back in the position
10 that you were in before you entered your plea and the -- the
11 State could prosecute these charges how they see fit and you
12 could enter another plea or you could go to a trial. That
13 would be your decision at that point.

14 (Pause.)

15 MR. RICHEY: All right. Thank you, Your Honor.

16 THE COURT: All right. So it's the Court's
17 understanding that I'm, I'm gonna decide this case based on
18 the evidence that's in, in the record.

19 Is that right?

20 MR. RICHEY: Yes, sir.

21 THE COURT: All right.

22 THE APPLICANT: Yes. So since you say you can't do a
23 lesser, lesser sentence, so I just guess I'll just go on
24 ahead and just -- cause they ain't even gonna be no need.

25 THE COURT: Well, I don't, I don't understand if you're

1 trying to withdraw your application at this point in time.
2 I can tell you that I'm not inclined to, to grant your
3 application, your application anyway.

4 Okay. So I mean I can go ahead and rule that I don't,
5 that I don't think there was any -- that you haven't met
6 your burden of proof here in this hearing and that your
7 application for Post-Conviction Relief is denied.

8 So, I don't think it makes much of a difference. If
9 you'd like to withdraw, I understand that as well. But I
10 think you'd be in -- left in the same position.

11 MR. RICHEY: Thank you, Your Honor.

12 THE COURT: All right.

13 MS. MARTO: Thank you, Your Honor.

14

15 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Spartanburg County, South Carolina, on the 3rd day of August, 2021.

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

December 3rd, 2021



PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
)
 Sam Bunch, #352590,)
 Applicant,)
))
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2019-CP-42-01478

ORDER OF DISMISSAL

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 CLERK OF COURT
 SPARTANBURG COUNTY
 ANNY W. COX

FILED

This matter comes before this Court by way of Applicant's post-conviction relief application filed April 22, 2019. Respondent made its return on June 12, 2019, requesting an evidentiary hearing to be convened. An evidentiary hearing was held on August 3, 2021, at the Spartanburg County Courthouse. Attorney Rodney W. Richey represented Applicant. Assistant Attorney General Chelsey Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel James A. Check also testified. After reviewing all records and evidence before this Court, the Court finds Applicant cannot meet his requisite burden of proof entitling him to post-conviction relief. The Court denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. Applicant was charged for possession with intent to distribute cocaine within one-half mile of a school (2018-GS-42-04545), possession with intent to distribute marijuana (2018-GS-42-04546), possession with intent to distribute cocaine, third offense (2018-GS-42-04547); resisting arrest (2018-GS-42-04548); possession with intent to distribute cocaine base, third offense (2018-GS-42-04549), possession

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with intent to distribute marijuana within one-half mile of a school (2018-GS-42-04550), and possession with intent to distribute cocaine base within one-half mile of a school (2018-GS-42-04551). Attorney James A. Cheek represented Applicant. Attorney Tatyana Stepanova Ustimchuk prosecuted the case. On August 29, 2018, Applicant pled guilty before the Honorable J. Derham Cole as indicted on all charges with a recommendation of concurrent sentencing and the cocaine and cocaine base charges being dropped from third to second offenses. Judge Cole sentenced Applicant to imprisonment for concurrent terms of five years for PWID cocaine within a half-mile, five years for PWID marijuana, twenty years for PWID cocaine, one year for resisting arrest, ten years for PWID cocaine base, five years for PWID marijuana within a half-mile, and ten years for PWID cocaine base within a half-mile. Applicant did not appeal his plea or sentence.

Summary of Relevant Facts

On June 30, 2018, Officer Lawrence Smith was on foot patrol when he saw Applicant, whom he knew had a warrant out for his arrest. (Tr. 13). Deputy Smith approached Applicant, told him he was under arrest, and told him to put his hands behind his back. (Tr. 13). Applicant failed to comply and attempted to flee. (Tr. 13). Officer Smith subdued Applicant after a brief scuffle and placed him in handcuffs. (Tr. 13). Officer Smith performed a search on Applicant's person, which revealed a field weight of seven grams of marijuana, two scales, a purple Crown Royal bag containing five clear baggies with an off-white substance, and multiple bills consisting of various denominations. (Tr. 13-14). The drugs found on Applicant consisted of 5.95 grams of marijuana, two baggies containing .12 grams of cocaine, and one baggie containing .30 grams of cocaine base. (Tr. 14).

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Current Action before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel:

- 1. "Denied the right to direct appeal"
- 2. "Denied of Due Process"
 - a. "Court ignored the variance in the amount of drugs stated in the indictment in the actual amount stated in the lab report"
 - b. "Counsel failed to do a proper investigation, counsel failed to request a lesser charge based on the evidence presented"
 - c. "Denied Due Process when I were sentenced based on what were in the indictment instead of what the amount actually proven"

At the PCR hearing, Applicant proceeded forward on the following allegations:

- 1. Ineffective Assistance of Counsel
 - a. Failure to seek reduced charges
 - i. Failure to argue or otherwise get charges reduced to simple possession, as opposed to possession with intent to distribute
 - b. For incorrectly telling Applicant he would either be sentenced to less time than what was actually imposed
- 2. Coerced guilty plea
 - a. Counsel told Applicant he would face more time if he went to trial, thereby threatening him into pleading

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All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

Summary of the Testimony

Applicant Testimony

Applicant testified he entered a guilty plea. He testified that the police officer stopped him and did not present a warrant. Applicant fled, was caught, and was found with cocaine and marijuana in his pockets. Applicant stated he wanted Counsel to ask for a lesser sentence, but Counsel did not. Applicant also stated that he should have been charged and convicted of simple possession, not possession with intent to distribute. Applicant stated that Counsel told him he

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would only be sentenced to ten years' imprisonment. Applicant stated he did not want to go to trial because he thought he would receive more time than he did by pleading.

Applicant stated that he discussed the scales, bag, and drugs with his attorney and stated it was all because he was a user, not a distributor. Applicant also testified that one of the scales did not work. Applicant stated that he discussed the scale with Counsel, who said it would support a possession with intent to distribute charge. Applicant stated he told Counsel that users can still possess scales without intending to distribute.

Applicant stated he talked to Counsel about the trial; specifically, that he needed time to think about either plea or trial. Applicant stated he did not agree with the charges and sentence relative to his prior record.

Applicant stated that Counsel at one point became angry with him and told him he was going to trial. Applicant stated he refused. Applicant said his then-girlfriend saw the arguing as they entered the courtroom. Applicant stated that Counsel told him he would make sure he is sentenced to twenty-five years if he proceeded to trial. Applicant testified that Counsel looked at his then-girlfriend with "hand expressions" to see what he should do. Applicant stated she was taken out of the room and then came back in and told Applicant to listen to Counsel.

Applicant stated he was not threatened into pleading, but said he was coerced and pressured by his lawyer to plead. Applicant stated he did not want a new trial but, instead, wanted a sentence reduction or a vacated sentence.

On cross-examination, Applicant stated he met with Counsel three times before the plea to discuss pleading or going to trial. He stated he remembered being told he could face up to thirty years imprisonment for one of the charges, but still thought he would get less time. He stated he decided to plea because he felt threatened by Counsel. Applicant stated that Counsel

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told him he would likely serve more time by going to trial. He stated he wants a lesser sentence, but failed to state he would rather have gone to trial. Applicant stated Counsel was against him and was upset that the plea hearing was before Judge Cole. Applicant stated that Counsel requested he serve the minimum sentence, but Counsel really should have requested home detention. Applicant stated that he was informed of the sentencing ranges that were associated with the charges.

Counsel Testimony

Counsel stated that he did not threaten Applicant, but instead let him know that his main charge carried twenty-five to thirty years' imprisonment. Counsel informed Applicant that if he went to trial, he likely would have been sentenced to less than twenty-five years. He stated he reviewed the facts of the case, and that Applicant was facing significant time because of circumstantial evidence against him. Counsel stated he had prior convictions for ~~unrelated drug~~ crimes, had just been paroled, and that he has seen very few drug addicts who can't find a crown royal bag with multiple drugs and scales. Counsel stated that a jury would likely find him guilty beyond a reasonable doubt and would not view him favorably due to his presentation.

Counsel stated that he did not demonstrate a person of addiction that he claimed to be, and that he had money on him. Counsel claims that if it was simply an addiction and he was not dealing, he would not be buying a small amount of drugs while also leaving money in his pocket.

Counsel stated that if he went to trial it would have been before a traveling judge; likely Judge Verdin, though he does not recall for certain. Regardless, Counsel stated that if Applicant was found guilty at trial the Judge would have had no choice but to sentence him to the mandatory minimum and that his other pending charges would have remained unaddressed. Specifically, Counsel said his resisting arrest charge would have been presented to the grand

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jury. Counsel stated that he would have loved it if this case went to trial because then another attorney would have handled it, given that Counsel only handles criminal cases involving pleas. Counsel stated that Applicant is an articulate and intelligent person who understood their discussions. Counsel stated he understands this to be true because Counsel personally adopted Applicant's biological brother. Counsel stated that Applicant had a twelve-year-old daughter he wanted to get back to as soon as possible. Counsel stated that a lesser sentence would be great, but he could not get one given his background and charges. Counsel stated a new trial would not be in Applicant's best interest.

On cross-examination, Counsel stated he has been practicing criminal law for forty years and that his experience indicated to him that Applicant would have lost at trial. Counsel stated he made Applicant well aware of the potential sentencing ranges and encouraged him to plea on that basis. Counsel stated it was Applicant's decision to plead and that he was not threatened or coerced into pleading. Counsel stated he spoke with Applicant's then-fiancé, who ultimately supported his decision to plead.

Court Colloquy with Applicant

After testimony, the Court engaged Applicant in a colloquy, informing him that it cannot reduce his sentence, but can only put him in the position he was in before the plea, where he can either plea again or proceed to trial. Applicant insists he can get a lesser sentence because he has read it in a law book. The Court, after confirming with both Applicant's PCR Counsel and the State, informed him that the court cannot give him a sentence reduction. Applicant began deliberating whether or not he wanted to withdraw or proceed forward with the hearing. The Court, recognizing this deliberation, stated that he was going to deny relief for Applicant's

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failure to meet his burden of proof anyway, which would put him in the same position as if the application was withdrawn. Accordingly, the Court denied relief.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea transcript, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-801(2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Effective assistance of counsel does not mean perfect or mistake-free representation. *See Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) (“[A] defendant has a right to effective representation, not a right to an attorney who performs his duties ‘mistake-free.’” (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) (“[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]”); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. *Strickland*, 466 U.S. at 687-688.

When an applicant asserts ineffective assistance of counsel as a ground for relief, the

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applicant must show "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 v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Under the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989): To show a deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence." Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant, and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); see *Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel's strategic decisions are to be afforded "strong presumption" of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances to overcome the presumption of adequate representation). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent

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representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Importantly, "[t]he likelihood of a different result must be *substantial*, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 112 (2011).

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. *Strickland*, 466 U.S. at 696. 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. *Id.* at 696-97.

In the context of a guilty plea, the applicant must show there is a reasonable probability that but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Applicant's right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness included in the guilty plea process. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions

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made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

Validity of Plea

For a plea to be valid, the applicant must have been aware of the nature and crucial elements of the offense the maximum and minimum penalties, and the rights he is waiving by accepting the plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000). A plea is not knowing or voluntary if a defendant "lacks knowledge of material evidence in the prosecution's possession." *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. at 38, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). The voluntariness of a guilty plea 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." *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874 (quoting *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, "guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including claims of a violation of a constitutional right prior to the plea." *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

This Court finds Applicant's plea was entered freely, voluntarily, intelligently, and knowingly. Applicant stated he understood the charges and indictments and that he was informed of the charges and possible sentencing ranges involved in each charge. (Tr. 4). He stated he told

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Counsel all relevant facts associated with the charges and that he and Counsel talked about the fact that he did not have a plausible defense. (Tr. 4). Applicant waived the presentment of the charges before the grand jury. (Tr. 5). He also stated he knew he was waiving his rights, including the right to remain silent, to call and confront witnesses, and to proceed to a jury trial. (Tr. 5-7). He stated no one threatened, promised, or coerced him into pleading, that it was being freely and voluntarily entered, that he wanted to plead guilty because he was guilty of all charges pled to and that he understood the sentencing ranges and fines. (Tr. 7-9). Applicant stated he understood the serious offense distinction associated with his main charge. (Tr. 7-9). After this, Applicant stated he still wants to plead guilty. (Tr. 9). Applicant stated he has not used drugs the fifty days he has been in jail leading up to the plea hearing, that his addiction nor his paranoid schizophrenia did not impact his ability to understand the plea, that his mental health is not as severe as it used to be, and the last time he took medication under a doctor's care is (Tr. 11-13). Thus, the plea transcript indicates that Applicant knowingly, intelligently, and voluntarily entered his plea.

Coerced into Pleading

Applicant claims Counsel threatened him into pleading by informing him that he would likely serve more time if he went to trial. However, at the plea hearing, Applicant stated that he was not threatened, promised, or coerced into pleading. (Tr. 7-9). Additionally, when asked, in retrospect, if he would have rather proceeded to trial, Applicant stated he did not want to go to trial but wanted a sentence reduction. Further, at the PCR hearing, Counsel stated that he informed Applicant he would likely serve more time if convicted at trial as opposed to pleading but denied he threatened Applicant into pleading. Accordingly, this Court finds that Applicant freely and voluntarily plead and was not coerced into pleading by Counsel informing him he

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would likely face a harsher sentence if he was found guilty at trial because the sentencing range permitted was twenty-five to thirty years. A harsher sentence at trial was a consideration in deciding to plea, and does not affect the plea's validity, voluntariness, or knowingness of the plea. Accordingly, relief is denied on this ground.

Informing Applicant, He Would Serve Less Time

Applicant claims his plea was invalid and Counsel ineffective. Applicant claimed he was promised by Counsel that he would serve a lesser sentence than he received. Applicant's statements concerning the sentence fluctuated between: "he thought he would receive ten years' credit for time served with the rest being served while on probation", and "that he thought it would be served on home detention instead". However, he recognized that the Judge did inform him he could face up to thirty years for the possession with intent to distribute cocaine, charge (Tr. 9). He also told the Judge at the plea hearing that no one promised him anything in order for him to plea. (Tr. 7-9). At the PCR hearing, Counsel rejected the idea that he told Applicant that he would serve a shorter sentence if he pled and, instead, stated that he informed Applicant of the sentencing ranges and that he would likely serve less time if he pled. Further, Applicant stated he did not want a new trial because he would likely serve more time than he received by pleading. Thus, this Court finds that Applicant knowingly, intelligently, freely, and voluntarily pled while knowing the potential sentence he was being exposed to. Regardless, no prejudice is found because Applicant was seemingly unwilling to proceed to trial. Accordingly, relief is denied on this ground.

Failure to Seek Reduced Charges

Applicant claims Counsel was ineffective for failing to get the charges reduced to simple possession. However, Applicant stated he understood he pled to possession with intent to

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distribute charges, as applicable, and that he decided to plea because he thought he would get less time than proceeding at trial. Additionally, Counsel testified that he thought that circumstantial evidence indicated that Applicant intended to distribute, given that he had two scales, a good amount of cash, and a Crown Royal bag containing multiple different types of drugs. Counsel stated that regardless of whether Applicant intended to keep all the drugs to himself or distribute them, he thought the State had enough evidence to convict because it is rare a user has that much cash on their person and a crown royal bag full of different types of drugs. Thus, Applicant decided to plead while knowingly he was pleading to possession with intent to distribute; not simple possession. Additionally, because the evidence supported the possession with intent to distribute charge, Counsel was not deficient for failing to seek a lesser charge. Regardless, Applicant stated he did not want to go to trial and, accordingly, no prejudice is found. Thus, relief is denied on this ground.

Failure to Seek Lesser Sentence

Applicant claims Counsel failed to properly mitigate the sentence so he would serve less time or be released on probation or home detention instead. At the plea hearing and in mitigation, Counsel stated Applicant suffered several tragedies in his life that caused him to cope through drug use, that the amount of actual drugs involved is .9 grams, and that the scales used were for personal use only. (Tr. 15-17). Counsel requested the Court consider the minimum sentence and requests the Court consider the possibility of home detention. (Tr. 17). Thus, the allegation that Counsel failed to seek a lesser sentence is refuted by the record. Accordingly, relief is denied on this ground.

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NOTE

Conclusion


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

This Court notifies Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. See Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has the right to appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate appellate procedures.

IT IS THEREFORE ORDERED:

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

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


 H. STEVEN DEBERRY, IV
 Presiding Judge
 Seventh Judicial Circuit

Florence, South Carolina.

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 SPARTANBURG COUNTY
 AMY W. COX

DOCKET NO. **18-GS-42-4545**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018

TERM

THE STATE

vs.

Sam Lee Copeland Bunch

Indictment for

**POSSESSION WITH INTENT TO
DISTRIBUTE COCAINE
WITHIN ONE-HALF MILE**

SC Code: 44-53-445

WITNESSES

- 1. SENTENCE MADE **Computer**
- SCSO REPORT ENDED
- 3. CARD PULLED
- INDEXED
- 5. CHECKED WARRANTS
- 6. CHECKED SIGNATURE
- 2. ARREST AND FINE CARD MADE **Computer**
- 8. RETURN VIOLATION COPY

ARREST WARRANT NUMBER

2018A4210202546

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on AUG 24 2018 the
 Grand Jurors of County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE WITHIN ONE-HALF MILE

That Sam Lee Copeland Bunch did in Spartanburg County on June 30, 2018, distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, a quantity of Cocaine, a schedule II controlled substance, while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle or secondary school; a public playground or park; a public vocational or trade school or a technical educational center; or a public or private college or university, to wit: ABC Learning Center, under provisions of §44-53-445 of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, such possession not having been authorized by law.

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



 ASSISTANT SOLICITOR

DOCKET NO. 18-GS-42- 4546

WITNESSES

SCSO

1. SENTENCE MADE

2. REPORT ENDED

3. CARD PULLED

INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ARRESTMENT AND PINE CARD MADE

TRAFFIC VIOLATION COPY

ARREST WARRANT NUMBER

Computer
Computer
Computer

2018A4210202544

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018

TERM

THE STATE

vs.

Sam Lee Copeland Bunch

Indictment for

POSSESSION WITH INTENT TO
DISTRIBUTE MARIJUANA

SC Code: 44-53-370

1. SENTENCE MADE	WITNESSES	<i>SR</i>
SCSO		
2. REPORT ENDED		Computer
3. CARD PULLED		<input checked="" type="checkbox"/>
4. INDEXED		<input checked="" type="checkbox"/>
5. CHECKED WARRANTS		<i>SR</i>
6. CHECKED SIGNATURE		<i>SR</i>
7. ASSESSMENT AND FINE CARD MADE		Computer
8. TRAFFIC VIOLATION COPY		<input checked="" type="checkbox"/>

DOCKET NO. **18-GS-42-4547**

The State of South Carolina
 County of Spartanburg
Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS
 AUG 27 2018

TERM

ARREST WARRANT NUMBER

2018A4210202543

ACTION OF GRAND JURY

Foreperson of Grand Jury
 Date:

VERDICT

Foreperson of Petit Jury
 Date:

THE STATE
 vs.

Sam Lee Copeland Bunch

Indictment for
 POSSESSION WITH INTENT TO
 DISTRIBUTE COCAINE

SC Code: 44-53-370

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on
Jurors of Spartanburg County present upon their oath:

AUG 24 2018

, the Grand

POSSESSION WITH INTENT TO DISTRIBUTE

That Sam Lee Copeland Bunch did in Spartanburg County on or about June 30, 2018, manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine, a schedule II controlled substance, in violation of § 44-53-370, *THE CODE OF LAWS OF SOUTH CAROLINA, (1976), as amended, such distribution not having been authorized by law.*

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



ASSISTANT SOLICITOR

DOCKET NO. **18-GS-42-4548**

The State of South Carolina
County of Spartanburg
Barry Barnette, Solicitor

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 - 2. REPORT ENDED _____
 - 3. CARD PULLED _____
 - 4. INDEXED _____
 - 5. CHECKED SIGNATURE _____
 - 6. CHECKED MISC. _____
 - 7. ARREST AND RECEIPT MADE _____
 - 8. TRAFFIC VIOLATION OFF _____
- WITNESSES *DR*
Computer
DR
Computer

ARREST WARRANT NUMBER
2018A4210202548

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

THE STATE
vs.

Sam Lee Copeland Bunch

Indictment for
RESISTING ARREST

SC Code: 16-9-320 (A)
CDR Code: 326
Class MIS-C

WITNESSES

SCSO SENTENCE MADE

1. REPORT ENDED

3. CARD PULLED

INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND FINE CARD MADE

8. TRAFFIC VIOLATION COPY ARREST WARRANT NUMBER

Computer
Computer

2018A4210202542

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 18-GS-42-4549

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018

TERM

THE STATE

vs.

Sam Lee Copeland Bunch

Indictment for

POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE BASE

SC Code: 44-53-375

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

AUG 24 2018

At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE

That Sam Lee Copeland Bunch did in Spartanburg County on or about June 30, 2018, manufacture, distribute, dispense, deliver, purchase, or otherwise aid, abet, attempt or conspire to manufacture, distribute, dispense, deliver or purchase, or possess with intent to manufacture, distribute, dispense, deliver, or purchase a quantity of Cocaine Base, a schedule II controlled substance under provisions of § 44-53-375, *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.



ASSISTANT SOLICITOR

WITNESSES

1. SENTENCE MADE
SCSO

2. REPORT ENDED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

7. ASSESSMENT AND
FINE CARD MADE

8. TRAFFIC VIOLATION COPY

Computer

Computer

ARREST WARRANT NUMBER

2018A4210202547

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. -

18-GS-42-

4550

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018

TERM

THE STATE

vs.

Sam Lee Copeland Bunch

Indictment for

POSSESSION WITH INTENT TO
DISTRIBUTE MARIJUANA
WITHIN ONE-HALF MILE

SC Code: 44-53-445

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

AUG 24 2018

At a Court of General Sessions, convened on _____ the
Grand Jurors of County present upon their oath:

POSSESSION WITH INTENT TO DISTRIBUTE
MARIJUANA WITHIN ONE-HALF MILE

That Sam Lee Copeland Bunch did in Spartanburg County on June 30, 2018, distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, a quantity of Marijuana, a schedule I controlled substance, while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle or secondary school; a public playground or park; a public vocational or trade school or a technical educational center; or a public or private college or university, to wit: ABC Learning Center, under provisions of §44-53-445 of *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended, such possession not having been authorized by law.

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



ASSISTANT SOLICITOR

DOCKET NO. - **18-GS-42-4551**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018

TERM

THE STATE

vs.

Sam Lee Copeland Bunch

Indictment for

POSSESSION WITH INTENT TO
DISTRIBUTE COCAINE BASE
WITHIN ONE-HALF MILE

SC Code: 44-53-445

1. SENTENCE MADE	WITNESSES	<input checked="" type="checkbox"/>
2. REPORT ENDED	Computer	<input checked="" type="checkbox"/>
SCSQ CARD PULLBO		<input checked="" type="checkbox"/>
3. INDEXED		<input checked="" type="checkbox"/>
4. CHECKED WARRANTS		<input checked="" type="checkbox"/>
5. CHECKED SIGNATURE		<input checked="" type="checkbox"/>
7. ASSESSMENT AND FINE CARD MADE	Computer	<input checked="" type="checkbox"/>
8. TRAFFIC VIOLATION COPY		<input checked="" type="checkbox"/>

ARREST WARRANT NUMBER

2018A4210202545

ACTION OF GRAND JURY

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

AUG 24 2018

At a Court of General Sessions, convened on _____ the
Grand Jurors of County present upon their oath:

**POSSESSION WITH INTENT TO DISTRIBUTE
COCAINE BASE WITHIN ONE-HALF MILE**

That Sam Lee Copeland Bunch did in Spartanburg County on June 30, 2018, distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, a quantity of Cocaine Base, a schedule II controlled substance, while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle or secondary school; a public playground or park; a public vocational or trade school or a technical educational center; or a public or private college or university, to wit: ABC Learning Center, under provisions of §44-53-445 of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended, such possession not having been authorized by law.

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



ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
 STATE VS.)
 Sam Lee Copeland Bunch)
 AKA:)
 Race: B Sex: M Age: 39)
 DOB: [redacted] SS# [redacted])
 Address: 225 High St)
 City, State, Zip: Spartanburg SC 29306)
 DL#: [redacted] SID#: [redacted])

IN THE COURT OF GENERAL SESSIONS)
 INDICTMENT/CASE#: 18-65-42-4545
 A/W#: 2018A4210202546
 Date of Offense: 6/30/2018
 S.C. Code § : 44-53-0445(A)
 CDR Code #: 0107

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: Distribute, sell, manuf. or pwid, of cont. sub., near school (0-10 yrs. and/or \$0-\$10k) rec: concurrent

in violation of § 44-53-0445(A) of the S.C. Code of Laws, bearing CDR Code # 0107
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. SL (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Ushur, Tatyana 102392 Sam Lee Bunch Rachel Kepley
 SC Bar# SC Bar# Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
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 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 SCDPPTS _____

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 \$ 150.00
 §50-21-114(BUI Breath Test Fee) \$50 \$
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$
 3% to County (if paid in installments) \$ 8.25

TOTAL \$ 283.25
 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.

Clerk of Court/ Deputy Clerk C. Pool
 Court Reporter: L. Moffitt

Presiding Judge _____
 Judge Code: 2053
 Sentence Date: 8-29-2018

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
 STATE VS.)
 Sam Lee Copeland Bunch)
 AKA:)
 Race: B Sex: M Age: 39)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: 225 High St)
 City, State, Zip: Spartanburg SC 29306)
 DL#: [REDACTED] SID#: [REDACTED])
 *CDI. Yes No CMV Yes No Hazmat Yes No

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 18615424546
 A/W#: 2018A4210202544
 Date of Offense: 6/30/2018
 S.C. Code § : 44-53-0370(b)(1)
 CDR Code #: 0183

SENTENCE SHEET

CONVICTED OF or PLEADS

In disposition of the said indictment comes now the Defendant who was
 TO: PWID Marijuana - 1st offense(0-5 yrs. and/or \$0-\$5k) rec: concurrent
 in violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0183
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

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: Ustina Ustina 102392 Sam Lee Rachel Kepley
Ustina Ustina SC Bar# Sam Lee Defendant Rachel Kepley Attorney for Defendant
 SCB101957 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
 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 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
 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 \$ 150.00
 §50-21-114(BUI Breath Test Fee) \$50 \$
 §56-5-2942(J) (Vehicle Assessment) \$40/ea \$
 3% to County (if paid in installments) \$ 8.25

TOTAL \$ 283.25
 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.

Clerk of Court/ Deputy Clerk C. Pool
 Court Reporter L. Moffitt

Presiding Judge [Signature]
 Judge Code: 2053
 Sentence Date: 8-29-2018

COUNTY OF SPARTANBURG VS. STATE

Sam Lee Copeland Bunch

AKA:

Race: B Sex: M Age: 39

DOB: SS#

Address: 225 High St

City, State, Zip: Spartanburg SC, 29306

DL#: SID#

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Drugs / PWID Cocaine 2nd Offense (5-30 yrs and/or \$0-\$50k)

Computer

INDICTMENT/CASE#: 2018GS4204547

A/W#: 2018A4210202543

Date of Offense: 6/30/2018

S.C. Code § 44-53-0375(BX1)

CDR Code #: 3014

SENTENCE SHEET

CONVICTED OF or PLEADS

rec: concurrent

in violation of § 44-53-0370(b)(1) of the S.C. Code of Laws, bearing CDR Code # 0184

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

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: USTIMCHUK, TATYANA S. SC Bar# SC102392 Defendant; Kepley, Rachel SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 20 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 10 days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for 3 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on.

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by 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: 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 \$ Proviso (Public Def/Probation) \$500 \$ 500.00 \$14-1-212 (Law Enforce. Funding) \$25 \$ 25.00 \$14-1-213 (Drug Court Surcharge) \$150 \$ 150.00 \$50-21-114(BUI Breath Test Fee) \$50 \$ \$56-5-2942(J) (Vehicle Assessment) \$40/ca \$ \$3% to County (if paid in installments) \$23.25

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender Fund

Other: 1st 90 days of supervision on HD.

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

TOTAL \$ 798.25

Clerk of Court/ Deputy Clerk C. Cook Court Reporter L. Mollitt

Presiding Judge Judge Code: 2053 Sentence Date: 8-29-2018

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
 STATE VS.)
 Sam Lee Copeland Bunch)
 AKA:)
 Race: B Sex: M Age: 39)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: 225 High St.)
 City, State Zip: Spartanburg SC 29306)
 DL#: [REDACTED] SID#: [REDACTED])
 *CDI. Yes No CMV Yes No Hazmat Yes No

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#: 2018GS424548
 A/W#: 2018A4210202548
 Date of Offense: 6/30/2018
 S.C. Code § : 16-09-0320(A)
 CDR Code #: 0326

SENTENCE SHEET

CONVICTED OF or PLEADS

in violation of § 16-09-0320(A) of the S.C. Code of Laws, bearing CDR Code # 0326
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS/CSC §17-25-45
w/minor 1st or Level Act

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury. SL (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: Tatyana S. Ustimchuk 102392 Sam Lee Copeland Bunch Rachel Kepley SOB10057
 (USTIMCHUK, TATYANA S. SC Bar# Defendant Kepley, Rachel SC Bar# Attorney for Defendant)

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 1 days/months/years or under the Youthful Offender Act not to exceed 1 years
 and/or to pay a fine of \$ 0; provided that upon the service of 1 days/months/years and/or payment
 of \$ 0; plus costs and assessments as applicable*; the balance is suspended with probation for
12 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 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 PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

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	\$150.00
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/lea	\$
3% to County (if paid in installments)		\$ 8,205.375
TOTAL		\$ 128.75
		\$ 283.25

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
 pmtx. 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.

Clerk of Court/ Deputy Clerk C. Reed
 Court Reporter: L. Moore

Presiding Judge _____
 Judge Code: 2053
 Sentence Date: 8-29-2018

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

Compute

COUNTY OF SPARTANBURG

STATE VS.

Sam Lee Copeland Bunch

AKA:

Race: B Sex: M Age: 39

DOB: SS#

Address: 225 High St

City, State, Zip: Spartanburg, SC 29306

DL#: SID#

*CDL Yes No CMV Yes No Hazmat Yes No

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

TO: Drugs / PWID. cocaine base, 2nd offense (5-30 yrs. and/or \$0-\$50k) rec: concurrent sent.

in violation of § 44-53-0375(B)(2) of the S.C. Code of Laws, bearing CDR Code # 3015

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45

w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. 815 (defendant's initials)

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

ATTES: USTIMC/UK, TATYANA S. SC102392 SC Bar# Defendant Kopley, Rachel SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 10 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 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: 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:

Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211(A)(1) (Conv. Surcharge) \$100.00, §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/ea, 3% to County (if paid in installments) \$8.25, TOTAL \$ 283.25

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

Clerk of Court/ Deputy Clerk Court Reporter:

Presiding Judge Judge Code: Sentence Date: 8-29-2018

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
 STATE VS.)
 Sam Lee Copeland Bunch)
 AKA:)
 Race: B Sex: M Age: 39)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: 225 High St)
 City, State, Zip: Spartanburg SC 29306)
 DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSION

INDICTMENT/CASE#: 18-612-42-4550
 A/W#: 2018A4210202547
 Date of Offense: 6/30/2018
 S.C. Code §: 44-53-0445(A)
 CDR Code #: 0107

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: Distribute, sell, manuf. or pwid, of cont. sub., near school (0-10 yrs and/or \$0-\$10k) rec: concurrent

in violation of § 44-53-0445(A) of the S.C. Code of Laws, bearing CDR Code # 0107
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury 815 (defendant's initials)

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

ATTEST: [Signature] 102392 [Signature] [Signature] [Signature]
 USTIMCHUK, TATYANA S. SC Bar# Defendant Kepley, Rachel SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for 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 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 FTUP

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

Payment Terms:

Set by SCDPPPS

Recipient:

*Fine:	\$	<u> </u>
§14-1-206 (Assessments 107.5 %)	\$	<u> </u>
§14-1-211(A)(1) (Conv. Surcharge)	\$100	<u>\$100.00</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	<u> </u>
§56-5-2995 (DUI Assessment)	\$12	<u> </u>
§56-1-286 (DUI Breath Test)	\$25	<u> </u>
Proviso (Public Def/Probation)	\$500	<u> </u>
§14-1-212 (Law Enforce. Funding)	\$25	<u>\$25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	<u>\$150.00</u>
§50-21-114(BUI Breath Test Fee)	\$50	<u> </u>
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	<u> </u>
3% to County (if paid in installments)	\$	<u>\$ 8.25</u>

TOTAL \$ 283.25

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.

Clerk of Court/ Deputy Clerk C. Peck
 Court Reporter: L. Mappitt

Presiding Judge [Signature]
 Judge Code: 8053
 Sentence Date: 8-29-2018

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG)
 STATE VS.)
 Sam Lee Copeland Bunch)
 AKA:)
 Race: B Sex: M Age: 39)
 DOB: [REDACTED] SS#: [REDACTED])
 Address: 225 High St)
 City, State, Zip: Spartanburg SC 29306)
 DL#: [REDACTED] SID#: [REDACTED])

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 18-415-42-4551
 A/W#: 2018A4210202545
 Date of Offense: 6/30/2018
 S.C. Code §: 44-53-0445(A)
 CDR Code #: 0107

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
 In disposition of the said indictment comes now the Defendant who was
 TO: Distribute, sell, manuf. or pwid, of cont. sub., near school (0-10 yrs and/or \$0-\$10K)

CONVICTED OF or PLEADS

in violation of § 44-53-0445(A) of the S.C. Code of Laws, bearing CDR Code # 0107
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury, SB (defendant's initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: [Signature] 102392 [Signature] [Signature]
 USTIMCIUK, TATYANA S. SC Bar# Defendant Kepley, Rachel SC Bar#
 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
 for a determinate term of 10 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 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

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 De/Probation)	\$500	\$
§14-1-212 (Law Enforce Funding)	\$25	\$ 25.00
§14-1-213 (Drug Court Surcharge)	\$150	\$ 150.00
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ca	\$
3% to County (if paid in installments)		\$ 8.25

TOTAL \$ 283.25

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.

Clerk of Court/ Deputy Clerk C. Poole
 Court Reporter: C. Moffitt

Presiding Judge [Signature]
 Judge Code: 2053
 Sentence Date: 8-29-2018