

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED
May 12 2022
S.C. SUPREME COURT

Certiorari to Richland County

Honorable George M. McFaddin, Circuit Court Judge

CHARLES LAMB,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2021-001166

APPENDIX

VICTOR R SEEGER
Appellate Defender

ALAN WILSON
Attorney General

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

D. RUSSELL BARLOW, II
Assistant Attorney General
P.O. Box 11549
Columbia, SC 29211-1549
(803)734-3737

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT DATED DECEMBER 7, 2018	1
APPLICATION FOR POST-CONVICTION RELIEF	23
RETURN AND MOTION FOR A MORE DEFINITE STATEMENT	33
AMENDMENT TO APPLICATION FOR POST-CONVICTION RELIEF	40
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED JUNE 17, 2021	43
COURT’S EXHIBIT #1 (CAPACITY TO STAND TRIAL EVALUATION)	92
ORDER OF DISMISSAL	104
INDICTMENTS AND SENTENCE SHEETS	124

State of South Carolina) In the Court of General Sessions
County of Richland) Fifth Judicial Circuit
2017-GS-40-3268
2017-GS-40-3269
2017-GS-40-3250

The State of South Carolina,)
Plaintiff,)
vs.) Transcript of Record
Charles Lamb,)
Defendant.)
_____)

December 7, 2018
Columbia, South Carolina

B E F O R E:

The Honorable DeAndrea G. Benjamin, Judge

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

Daniel R. Goldberg, Esquire, Assistant Solicitor
Attorney for the State

Robert Louis Bank, Jr., Esquire
Attorney for the Defendant

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

I N D E X

<u>Witness/Description</u>	<u>Page No.</u>
Charleston Lamb	
Examination by the Court	5
Sentence of the Court	20
Certificate Page.	22

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>I.D.</u>	<u>Ev.</u>
------------	--------------------	-------------	------------

No Exhibits Introduced.

1 (PRIOR TO HEARING, THE DEFENDANT IS DULY SWORN.)

2 THE COURT: Yes, sir, Mr. Goldberg.

3 MR. GOLDBERG: Your Honor, if it pleases the court?

4 Before you is Charles Lamb and his attorney, Robert Bank of
5 the public Defender's office. Mr. Lamb is before you to
6 enter a guilty plea to one count of criminal sexual conduct
7 first degree, which carries up to thirty years; one count
8 of kidnapping, which carries up to thirty years; and one
9 count of attempted strong-arm robbery, which carries up to
10 fifteen years. The state and defense have entered into
11 negotiations whereby Mr. Lamb would be sentenced to a
12 twenty-four-year sentence on the CSC and the kidnapping and
13 fifteen years on the strong-arm robbery, all sentences to
14 run concurrent with one another.

15 THE COURT: One more time. Last thing you said, what
16 was it? How many years?

17 MR. GOLDBERG: Twenty-four on the CSC, twenty-four on
18 the kidnapping, and fifteen on the attempted strong-arm,
19 all to run concurrent with one another.

20 THE COURT: All right. All right.

21 MR. GOLDBERG: So, effectively a twenty-four-year
22 sentence.

23 THE COURT: Okay. I got it.

24 All right, is that correct, Mr. Bank?

25 MR. BANK: Yes, Your Honor.

1 THE COURT: Have you explained to your client the
2 charges contained in the indictment, the possible
3 punishment, and his constitutional rights?

4 MR. BANK: I have.

5 THE COURT: And have you explained -- and how does he
6 wish to plead?

7 MR. BANK: Guilty.

8 THE COURT: Do you agree with his decision to plead
9 guilty today?

10 MR. BANK: Yes.

11 THE COURT: And, Mr. Bank, do you have any concern
12 regarding your client's competency today?

13 MR. BANK: I have had concerns about his competency.
14 However, I have had him privately evaluated by a forensic
15 psychiatrist -- or psychologist, excuse me, Dr. Jeff McKee,
16 who this court is familiar with. He found him competent.

17 I've also reviewed his medical records that indicate
18 that he is currently taking his medications, which was Dr.
19 McKee's only concern. And Mr. Lamb has assured me that he
20 is continuing to take his medication, and that includes
21 this morning as prescribed by his doctor. So, with all of
22 those things taken into account, I do believe he is
23 competent.

24 THE COURT: All right. Thank you.

25 EXAMINATION BY THE COURT:

C. LAMB - EXAMINATION BY THE COURT

5

1 Q. All right, and you are Charles Willis Lamb?

2 A. Yes. Yes, ma'am, Your Honor.

3 Q. All right, and, sir, you are pleading guilty to
4 attempted armed robbery, kidnapping, and criminal sexual
5 conduct first degree. Is that right?

6 A. Yes.

7 MR. BANK: It's actually attempted strong-armed
8 robbery just for the record, Your Honor.

9 THE COURT: I'm sorry, attempted ---

10 A. What, what, what?

11 THE COURT: --- strong-armed robbery.

12 A. What? Go back to what you were saying, strong-arm
13 robbery before you...

14 Q. Yes, sir.

15 A. You said something. I missed, missed what you were
16 saying.

17 Q. You are pleading guilty to ---

18 A. I ask you repeat that again.

19 Q. Are you pleading guilty to attempted strong,
20 strong-arm robbery? I said armed, but it's strong-armed
21 robbery. Is that correct?

22 A. Yeah. All, all that together, right?

23 Q. Yes. You're pleading to all three of those today,
24 right?

25 A. Yes, ma'am.

C. LAMB - EXAMINATION BY THE COURT

6

1 Q. Okay. All right, and how old are you, sir?

2 A. I'm...

3 Q. Are you forty-seven?

4 A. My birthday [REDACTED]. I done forgot all that.
5 I think I'm fifty, fifty years old.

6 Q. You'll be ---

7 A. That make me fifty, fifty-one or fifty-two, one, one
8 out of the, one out of the two.

9 Q. All right. Are you -- you know, are you on probation
10 or parole?

11 A. No, I'm not. No.

12 Q. Okay, and have you taken any medication within the
13 last twenty-four hours?

14 A. Yes, ma'am. I took some Brofus [phonetic].

15 Q. All right, this is your prescribed medicine?

16 A. Yes, ma'am.

17 Q. And does that affect your ability to know and
18 understand what you're doing here today? You understand

19 ---

20 A. No.

21 Q. --- what's going on?

22 A. Yes, what -- yeah, what I -- yeah.

23 Q. Okay. You understand you're pleading guilty to these
24 three charges?

25 A. Yes, ma'am.

C. LAMB - EXAMINATION BY THE COURT

7

1 THE COURT: Okay. All right. Listen closely to the
2 solicitor as he states the facts.

3 MR. GOLDBERG: Thank you, Your Honor. If it please
4 the court? This incident occurred on March 17th of 2017 at
5 approximately 4 PM at [REDACTED], which is on
6 the Richland Memorial Hospital campus here in Richland
7 County.

8 At that time the victim, Ms. Childers, was actually
9 working. She had been working in the medical field for
10 some twenty years on that campus in nursing. She was
11 working on that particular occasion. She walked into the
12 bathroom in that building.

13 A short time after entering the bathroom, the
14 defendant, Mr. Lamb, followed her into the bathroom. She
15 was using the restroom. He went into the stall adjacent to
16 her, reached under the partition in between the stalls,
17 grabbed her, pulled her down off, off the toilet. Once she
18 got on the ground -- I believe she stuck her head on the
19 way down. Once he got her on the ground, he attempted to
20 assault her at that time. Attempted to remove her pants.
21 She resisted as best she could until ultimately he was able
22 to remove her pants. In the meantime, he grabbed her
23 purse, started rummaging through her purse looking for
24 items. Was unable to find anything to take, but in the
25 meantime he did get her pants removed, and then he did

1 sexually assault her at that time.

2 As he was sexually assaulting her, another witness,
3 Ms. Brown, actually walked into the bathroom just to use
4 the restroom, and actually began using the restroom. As
5 she was doing so, she heard the victim, Ms. Childers, yell
6 for help. Upon finishing using the bathroom, she exited
7 her stall and came -- went to see what was going on. It
8 was at that point that she saw Mr. Lamb go by her and leave
9 out of the restroom, leaving Ms. Childers laying on the
10 floor. Obviously Ms. Brown then exited the restroom and
11 yelled for help. Help arrived pretty quickly from security
12 staff to tend to Ms. Childers.

13 It was later learned that Mr. Lamb was actually on
14 trespass notice from that location. He had been there
15 before and placed on trespass notice. Officers reviewed
16 surveillance video and recognized him as having been there
17 before. And in reviewing the surveillance video, they
18 could see Mr. Lamb laying on the bench outside the
19 restroom. They saw the victim go in the restroom, then Mr.
20 Lamb follow her in the restroom, and then the witness go in
21 the restroom, and then shortly thereafter Mr. Lamb went
22 running out, and then the witness came out. All of that
23 was on video. Of course the inside was not on video.

24 Once they found out who he was, a photo lineup was
25 developed and shown to the witness. She did identify Mr.

C. LAMB - EXAMINATION BY THE COURT

9

1 Lamb as the person she saw in the restroom. He was
2 eventually detained at Lexington Medical Center the next
3 day.

4 Officers made contact with him. He was advised of his
5 rights; he waived his Miranda rights. Ultimately, he did
6 admit that he was at Richland Memorial the day before, and
7 he did ultimately admit that he was the person shown in the
8 surveillance videos before deciding that he did not wish to
9 speak with law enforcement any further.

10 DNA was collected and a partial YSDR profile matched
11 the defendant, the defendant's YSDR profile. As such, he
12 was placed under arrest. I believe that's it for the facts
13 at this time.

14 BY THE COURT:

15 Q. All right, sir, you heard the solicitor state the
16 facts, the allegations in the case. Do you agree with
17 those allegations, sir?

18 A. Yes, ma'am.

19 Q. And is that what you are pleading guilty to?

20 A. Yes, ma'am.

21 Q. All right. You understand that the kidnapping carries
22 thirty days, criminal sexual conduct first degree carries
23 thirty -- I mean, thirty -- I'm sorry, kidnapping carries
24 thirty years, criminal sexual conduct first degree carries
25 thirty years, and the attempted strong-arm robbery carries

C. LAMB - EXAMINATION BY THE COURT

10

1 fifteen years.

2 A. Yes, ma'am.

3 Q. Do you understand that?

4 A. Yes, ma'am.

5 Q. I could run those all consecutive and you would be
6 looking at seventy-five years in jail. Do you understand
7 that?

8 A. Yes, Your Honor.

9 Q. Knowing that, you still wish to plead guilty?

10 A. Yes, Your Honor.

11 Q. All right. You understand that the kidnapping and the
12 criminal sexual conduct first degree are classified as a
13 violent, most serious offense, meaning under our two-strike
14 law, if you, when you are released, if you were to get
15 another most serious offense, the state could move before
16 the court for life without parole. Do you understand that?

17 A. Yes, Your Honor.

18 Q. You understand that classified, these cases -- two
19 charges are classified as violent, meaning you'll have to
20 serve eighty-five percent of any sentence. You understand
21 that?

22 A. Yes, ma'am.

23 Q. Knowing that, you still wish to plead guilty?

24 A. Yes, ma'am.

25 Q. Also, you understand that the kidnapping and criminal

C. LAMB - EXAMINATION BY THE COURT

11

1 sexual conduct first degree, you have mandatory -- well,
2 the criminal sexual conduct first degree has mandatory Sex
3 Offender Registry. You understand that?

4 A. Yes, ma'am.

5 Q. Knowing that, do you still wish to plead guilty?

6 A. Yes, ma'am.

7 Q. All right. When you plead guilty, you give up certain
8 important constitutional rights. You have the right to a
9 jury trial. At a jury trial, the state would have to prove
10 you guilty beyond a reasonable doubt. You and your
11 attorney would have the opportunity to cross-examine any
12 witnesses that they would present. You would not have to
13 testify. The burden would be on the state to prove you
14 guilty beyond a reasonable doubt. If you decided not to
15 testify, the court would inform the jurors that they could
16 not hold that against you, the fact that you did not
17 testify. The burden would be upon the state to prove you
18 guilty beyond a reasonable doubt.

19 If you had any defenses that you wish to advance, you
20 would be given an opportunity to present those defenses.
21 You, once again, would not be required to do so because the
22 burden would be on the state to prove you guilty beyond a
23 reasonable doubt. But, sir, by pleading guilty, you waive
24 your right to a jury trial, and you give up these other
25 important constitutional rights. Is that what you wish to

C. LAMB - EXAMINATION BY THE COURT

12

1 do today?

2 A. Yes, ma'am.

3 Q. All right, and you've been represented by Mr. Bank.

4 Are you satisfied with his representation?

5 A. Yes, ma'am.

6 Q. All right, and have you met with him for as long and

7 as necessary for him to properly represent you?

8 A. Yes, ma'am.

9 Q. You've met with him? You feel like you've met with

10 him to discuss everything. Is that correct?

11 A. Yes, ma'am.

12 Q. And has he done everything for you that you feel he

13 could have done or should have done?

14 A. Yeah. He did everything he, he, he was told.

15 Q. All right, and he's ---

16 A. That I told.

17 Q. He's gone over everything that we've discussed today

18 so far, right?

19 A. Yes, ma'am. He said that it was a guarantee.

20 Q. He what now?

21 A. He, he, he informed me that, you know, it was -- that,

22 you know, it was a guarantee that I get twenty-four years

23 and ---

24 Q. All right, I'm going, I'm going to get ---

25 A. --- we won't go back on nothing.

C. LAMB - EXAMINATION BY THE COURT

13

1 Q. Okay, I'm going to get ---

2 A. It was agreement.

3 Q. We'll go into that in a second, okay, but he did --
4 we'll talk about that in a second, too, but he's done
5 everything you -- that you -- he's done everything that you
6 think he should have done ---

7 A. Yes.

8 Q. --- to represent you?

9 A. Yes, ma'am.

10 Q. And are you satisfied with his representation?

11 A. Yes. Yes, I am.

12 Q. Do you need any more time to speak with him?

13 A. No, ma'am.

14 Q. Okay.

15 A. I talked to him before we came up here.

16 Q. And you spoke to him before you came up here?

17 A. Uh-huh.

18 Q. Okay.

19 THE COURT: All right, the negotiations?

20 MR. GOLDBERG: Yes, ma'am. The negotiations are for a
21 twenty-four year sentence. There are two other charges
22 that would be nolle prossed in connection with the plea.
23 One is a assault and battery first degree and trespassing
24 charge.

25 BY THE COURT:

C. LAMB - EXAMINATION BY THE COURT

14

1 Q. All right, is that your understanding of the
2 negotiation?

3 A. My, my, my, my understanding was that the fifteen was
4 supposed to be ran into it, with it also the same way.

5 Q. The what?

6 MR. BANK: He said his understanding was the fifteen
7 would be run in with the twenty-four years.

8 MR. GOLDBERG: Correct.

9 Q. Yes. That's the negotiation.

10 A. Well, he, he, he ---

11 MR. GOLDBERG: That's correct.

12 A. He said I'm not -- not -- it going with the thirty
13 years. That's what he said.

14 Q. No, no.

15 A. Oh, he's not?

16 MR. GOLDBERG: No.

17 Q. He's recommending the twenty-four-year sentence that
18 -- he's recommending twenty-four years on the criminal
19 sexual ---

20 A. Yeah.

21 Q. --- conduct.

22 A. Yeah, I thought he ---

23 Q. Twenty-four on the kidnapping and fifteen on the
24 attempted strong-arm robbery, and he's asking me to run
25 them all together.

C. LAMB - EXAMINATION BY THE COURT

15

1 A. Oh, I thought he said not run the fifteen years.

2 Q. No, no, no.

3 A. I misunderstand it then.

4 Q. So, is that your understanding, that they -- those
5 three run together for a total of twenty-four years?

6 A. Yes, ma'am.

7 Q. All right, and is that what you and Mr. Bank
8 discussed?

9 A. Yes, ma'am.

10 Q. And you discussed with Mr. Bank the fact that it's a
11 violent crime? He's gone all over that with you? That
12 it's a violent offense, that it's a strike? He's discussed
13 all of that with you?

14 A. Yes, ma'am.

15 Q. All right, and you're completely satisfied and are you
16 in agreement with the negotiations?

17 A. Yes, ma'am.

18 Q. All right. Is anyone forcing you to plead guilty
19 today?

20 A. No, ma'am.

21 Q. And are you pleading guilty of your own free will?

22 A. Yes, ma'am, I am.

23 Q. And are you -- has anyone offered you anything in
24 exchange for your plea? I know Mr. Goldberg, the
25 solicitor, has offered you this negotiated sentence, but

1 other than that, has anyone offered you anything in
2 exchange for your plea today?

3 A. No, ma'am.

4 Q. Is anyone forcing you to plead guilty?

5 A. No, ma'am.

6 Q. And so you are pleading freely and voluntarily?

7 A. Yes, ma'am, I am.

8 Q. All right, and have you understood all of my questions
9 today?

10 A. Yes, ma'am.

11 Q. And have you answered them truthfully?

12 A. Yes, ma'am.

13 Q. And you understand you have the right to appeal the
14 guilty plea and the sentence of this court within ten days
15 of today's date? If you cannot afford an attorney for that
16 appeal, they'll appoint an attorney for you for that
17 appeal. You understand that?

18 A. Yes, ma'am.

19 Q. All right. Knowing all of that, you wish for me to
20 accept the guilty plea today. Is that correct?

21 A. Yes, ma'am.

22 THE COURT: All right, I find that there is a
23 substantial factual basis for this plea. I also find that
24 the defendant's decision to plead guilty is freely,
25 voluntarily, knowingly, and intelligently made, that he is

1 represented by counsel to whom he's indicated to me he is
2 completely satisfied with.

3 Also, I will put on the record I find that he has had
4 competency evaluations, and that his attorney is of the
5 opinion that he is competent for purposes of going forward
6 today. And based on my questioning, I do find that he is
7 competent also. All right, I'll accept the plea.

8 Your victims wish to speak?

9 MR. GOLDBERG: Yes, ma'am.

10 THE COURT: All right. I'll be glad to hear from
11 them.

12 MR. GOLDBERG: Your Honor, present today are the
13 victim, Ms. Childers, along with her husband and her son.
14 I know that Ms. Childers would like to address you.

15 THE COURT: All right.

16 MS. CHILDERS: Good morning.

17 THE COURT: Good morning. Yes, ma'am.

18 MS. CHILDERS: I wish to explain to you how this has
19 affected my life. The day that Charles Lamb raped me in
20 the bathroom was a dark day for me. He took away something
21 in my life that I probably will never get back again, and
22 that's the trust and innocence of my life.

23 Since this incident has occurred, I've been afraid of
24 the dark. I sleep with the TV on. I go nowhere without my
25 husband or my son. I am fearful of men in general. I

1 don't go to the public restroom unless my husband stands
2 outside the door because I'm so afraid that someone will
3 come in and possibly sexually assault me again.

4 This has greatly impacted my family's life and my own
5 life. My husband and I made a vow when we met on a blind
6 date that we would be one with each other and no one else.
7 We'll be married forty years this coming March, and Charles
8 Lamb has put a barrier that's been very hard to overcome.

9 I spent a year in therapy trying to overcome this bad
10 place in my life. My husband spent a year in therapy as
11 well trying to put this where it belongs in our lives so
12 that we can move forward and possibly have happiness once
13 again in our marriage. We have a strong marriage. We have
14 a strong faith in God, and I know that God will see us
15 through, but this is hard. This is the hardest thing I've
16 ever been asked to do.

17 I was a pediatric nurse for going on forty years. I
18 helped many children through the death process, and I don't
19 think even though that hurt so bad, it couldn't have hurt
20 as bad as this has in my life.

21 I don't want Charles Lamb to ever get out, but I have
22 to end this for my family and I, so I agreed to the plea,
23 but this is nothing to make light of. He has greatly hurt
24 me and has greatly humiliated me. I've lost my job. I'm
25 no longer a nurse. I call it retirement, but that's not

1 really how it happened.

2 And I will never forget the day that he came into that
3 bathroom and terrified me and took this, this happiness
4 that I had in my life away from me. But I will say that I
5 am strong enough to overcome this, and I will overcome it,
6 and I have overcome it to a certain degree. He will not
7 get anything else from me. I will persevere, my husband
8 will persevere, and my son will persevere.

9 And I hope Charles Lamb thinks a lot about this when
10 he's in prison, as much as I do. I lay awake at night
11 thinking about it and how it's impacting us, and I pray one
12 day that I will sleep all night and not think of him and
13 what he did to me and my family.

14 I thank you for the representation and what you all
15 have done for us. And I just pray that one day these will
16 be tears of happiness and not tears of sadness. Thank you.

17 THE COURT: All right, thank you, ma'am, and, sir,
18 your son for being here today, ma'am. I'm sorry that we
19 had to meet under these unfortunate circumstances, but I do
20 want you to know that I am sorry that this has happened to
21 you, and I pray, ma'am, for all the best for you in the
22 future and your family.

23 Did anyone else want to say anything?

24 MR. GOLDBERG: Your Honor, Mr. Childers and the other
25 Mr. Childers did not wish to address you directly. I will

1 just say I did also speak to the case officer, Investigator
2 Dudley, yesterday. He couldn't be here this morning. He
3 had another matter, but he was in agreement with this
4 resolution.

5 I met with the Childers extensively two days ago and
6 after Mr. Bank had approached me about a potential plea.
7 And we discussed every option, including trial, and Ms.
8 Childers and I and Mr. Childers were all in agreement at
9 the end of that meeting that this, for many reasons, was
10 the best result for them at this time, this sentence in
11 this case as opposed to going to trial at this point in
12 time. And just want to thank the court for making time
13 this morning to squeeze this in on short notice. Thank
14 you.

15 THE COURT: No problem.

16 All right, yes, sir, Mr. Bank.

17 MR. BANK: Thank you, Your Honor. All that I wanted
18 to put on the record has been placed on the record
19 regarding Mr. Lamb's mental health. I just ask that the
20 sentencing sheet reflect his time served of 629 days, and
21 we just ask that you accept the negotiation. Thank you,
22 Your Honor.

23 SENTENCE OF THE COURT:

24 THE COURT: All right, on indictment 2017 --
25 indictment 2017-GS-40-3268 and 3269, sir, you will be

1 sentenced to the state Department of Corrections for
2 twenty-four years, and on indictment 2017-GS-40-3250,
3 you'll be sentenced to the state Department of Corrections
4 for fifteen years. All sentences will run concurrent. You
5 will be given credit for 629 days. You will have to
6 register for the Sex Offender Registry, and I'm sure you'll
7 also be ---

8 Well, he will be subject to the Sexually Violent
9 Predator Act as you've explained that to him?

10 MR. BANK: I have, Your Honor.

11 THE COURT: You understand that, sir?

12 DEFENDANT: Yes, ma'am.

13 THE COURT: All right. All right, I believe -- is
14 that everything? All right, thank you.

15 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
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 HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON
THE 7TH DAY OF DECEMBER, 2018.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Elizabeth B. Harris, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

DECEMBER 10TH, 2019

RECEIVED

OCT 14 2021

APPELLATE DEFENSE

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS
COUNTY OF Richland

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

CIVIL ACTION COVERSHEET

Charles Lamb

Plaintiff(s)

-CP-

vs.

-CP-

State South Carolina

Defendant(s)

(Please Print)

Submitted By:

Address:

Broad River Community Association
4-60 Broad River Road
Columbia, S.C. 29210

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The cover sheet 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 cover sheet 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)

- Contracts**
- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ Employment (120)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Other (199)

- Torts - Professional Malpractice**
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)
- Previous Notice of Intent Case #
- 20 -CP-
- ☐ Notice/ File Med Mal (230)
- ☐ Other (299)

- Torts - Personal Injury**
- ☐ Assault/Slander/Libel (300)
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Other (399)

- Real Property**
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499)

- Inmate Petitions**
- ☒ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599)

- Judgments/Settlements**
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☒ Other (799)

- Administrative Law/Relief**
- ☐ Reinstate Driver's License (800)
- ☒ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture-Consent Order (850)
- ☐ Other (899)

- Appeals**
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☒ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Administrative Law Judge (980)
- ☐ Public Service Commission (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999)

- Special/Complex/Other**
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☒ Other (699)
- ☐ Pharmaceuticals (630)
- ☒ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Sexual Predator (510)

Submitting Party Signature:

Charles Lamb

Date:

STATE OF SOUTH CAROLINA,

COUNTY OF Rich Land CountyCharles Lamb
Plaintiff,

vs.

Robert Bank
Defendant.

IN THE COURT OF COMMON PLEAS

SUMMONS

FILE NO. _____-CP-_____-_____

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Columbia, S. C., South CarolinaDated: 9/27/2019Charles Lamb
Plaintiff/Attorney for Plaintiff

Address: Broad River Correctional Institution
4460 Broad River Road
Moultrie Dorm, Room # 1034N
Wing
Columbia, S.C. 29210

Dear Clerk of court

25

I would like for you to know that please
put this here summons form right here on the
and on the record book as well as application
I had sent in to you through the mail
in the mail!

Thank you very much!

LEGAL MAIL

FORM 5

STATE OF SOUTH CAROLINA)

County of Richland County)

IN THE COURT OF COMMON PLEAS

Charles Lamb #186788)

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

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Broad River Correctional Institution
4460 Broad River Road Columbia S.C. 29210
2. Name and location of Court which imposed sentence 1701 Main Street
General Session Courts Richland County
3. Name(s) of co-defendant(s) (if any) NO
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017GS4003270 2017GS4003269
 - (b) 2017GS4003268

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) 12/7/2018 24 years Kidnapping and
- (b) 24 years Criminal Sexual Conduct first degree
- (c) and 15 years for Attempted Strong Arm Robbery
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?
None
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. NONE
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. NONE
- iii. _____
- (c) the date of each such result:
- i. NONE
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. NONE
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) I want you to know that my Lawyer was ineffective in courts when I went to go to
- (b) Courts for it because they told them that they do not know what was going on with my plea Bargain Hearing in the courts

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) I went in front of a Judge that
 (b) my lawyer say they did not
 (c) Understand what they was doing with it
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) my lawyer was ineffective counseling
 (b) Assistance counseling Assistance because
 (c) they let the Judge tell them something and
they did not understand what they had say
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? RECONSIDERATION MOTION
 (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. NO
 ii. _____
 iii. _____
 iv. _____
- (b) the name and location of the Court in which each was filed:
- i. Richland county court house
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. NONE
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. NONE
- ii. _____
- iii. _____
- iv. _____

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

- i. NONE
- ii. _____
- iii. _____
- iv. _____

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

NO

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

(a) which grounds have been presented:

- i. NONE
- ii. _____
- iii. _____

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

- i. NONE
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) I told my Lawyer that I did not
 (b) Understand What the Judge was saying
 (c) _____

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

(a) your arraignment and plea? yes
 (b) your trial, if any? no I did not have a Trial for it
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
RECONSIDERATION

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. Robert Bank
Rich Land County
 ii. public defender office
post office Box 192
 iii. 1701 main streets
Columbia S.C. 29202

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

i. PLEADING
 ii. _____
 iii. _____

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

I told my Lawyer to tell the Judge that I do not
want the deal if they did not Run my time with
My other time into my other time with my other time
and they did not do it and they told me do not worry about

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

NO

STATE OF SOUTH CAROLINA)

County of Rich Land County)

VERIFICATION

I, Charles Lamb, 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.

Charles Lamb

SWORN to and subscribed before me this 20th
 day of September, 2019.

Hanania Robins (L.S.)
 Notary Public

My Commission Expires:

8/5/2024

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

I, Charles Lamb, 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.

Charles Lamb
Applicant

SWORN or affirmed to and subscribed before me this
20th day of September, 2019.

Kangaroo Robins
Notary Public

My Commission Expires: 8/5/2024

Charles Lamb, #186788,

Applicant,

 $\mathbf{v}_i$

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2019-CP-40-05705

RETURN AND MOTION FOR A MORE DEFINITE STATEMENT

MICHAEL AND COURTNEY
 FILED
 2020 FEB -4 PM 12:33
 JEANETTE M. NORRIDGE
 C.C.P. & G.B.
 OR

The State, making its return to Charles Lamb's (Applicant) application for post-conviction relief (PCR) filed on October 9, 2019, and received by Respondent on October 15, 2019, would respectfully show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted at the June 2017 term of the Richland County Grand Jury on one count of criminal sexual conduct in the first degree (2017-GS-40-03268), kidnapping (2017-GS-40-03269), and attempted robbery/strong arm robbery (2017-GS-40-03270). The indictments arose out of the same incident wherein the Applicant entered a locked stall of a medical facility restroom occupied by a female victim. Applicant held the victim down and forcefully penetrated her vagina, first digitally and then with his penis. Applicant then demanded money from the victim and searched her purse for items to steal.

Applicant was represented on these charges by Robert Bank of the Fifth Circuit Public Defender's Office. On June 21, 2017, Applicant pleaded guilty as-indicted to one count of

criminal sexual conduct in the first degree, kidnapping, and attempted robbery/strong arm robbery before the Honorable DeAndrea G. Benjamin. Pursuant to the negotiated agreement between Applicant and the State, Judge Benjamin sentenced Applicant to concurrent terms of imprisonment for twenty-four years for kidnapping, twenty-four years for criminal sexual conduct in the first degree, and fifteen years for attempted robbery/strong arm robbery. Applicant did not appeal his conviction or sentence.

II. Allegations

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

1. Guilty plea was not knowingly, intelligently made.
 - a. "I told my lawyer that I did not understand what the judge was saying."

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject conviction, the transcript of Applicant's plea hearing, and Applicant's records from the Department of Corrections. Respondent reserves the right to amend its Return upon the receipt of other relevant records.

III. Response to Allegation of Involuntary Guilty Plea

Applicant, through a generalized claim without any specificity as required, alleges his guilty plea was not knowingly and intelligently made.¹ In a post-conviction relief action, the applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, an applicant must prove "counsel's conduct so undermined the

¹Applicant makes a generalized claim without any specificity as required. Respectively, Applicant's lack of specificity makes it nearly impossible for Respondent to make a response to Applicant's allegations.

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 (1984); *Butler*, 286 S.C. at 443, 334 S.E.2d at 814. The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Strickland*, 466 U.S. at 689. Applicant must overcome this presumption in order to receive relief. *Cherry v. State*, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. *Id.* at 117, 386 S.E.2d at 625. First, Applicant must prove his counsel’s performance was deficient. *Id.* Under this prong, the court measures an attorney’s performance by its “reasonableness under professional norms.” *Id.* (quoting *Strickland v. Washington*, 466 U.S. at 688). Second, counsel’s deficient performance must have prejudiced the applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625.

In post-conviction relief cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. *Al-Shabazz v. State*, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citing *Drayton v. Evatt*, 312 S.C. 4, 430 S.E.2d 517 (1993); *Richardson v. State*, 310 S.C. 360, 426 S.E.2d 795 (1993); *Hyman v. State*, 278 S.C. 501, 299 S.E.2d 330 (1983)). An applicant who pleads guilty with the advice of counsel may collaterally attack the plea only by showing (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel’s errors, the defendant would not have pleaded guilty and would have insisted on going to trial. *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001)

(citing *Jackson v. State*, 342 S.C. 95, 535 S.E.2d 926 (2000); *Thompson v. State*, 340 S.C. 112, 531 S.E.2d 294 (2000); *Rayford v. State*, 314 S.C. 46, 443 S.E.2d 805 (1994); *Hill v. Lockhart*, 474 U.S. 52 (1985)). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." *Lockhart*, 474 U.S. at 56.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish the applicant had a full understanding of the consequences of his plea and the charges against him. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Dover v. State*, 304 S.C. 433, 405 S.E.2d 391 (1991). 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. 29, 34, 528 S.E.2d 418, 421 (2000) (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he 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)).

"In considering an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing." *Id.* at 138-39, 654 S.E.2d at 874 (citing *Wolfe v. State*, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)). Respondent submits the transcript reflects that the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Because a guilty

plea is a solemn, judicial admission of the truth of the charges against an individual, [an Applicant's] right to contest the validity of such a plea is usually, but not invariably, foreclosed. *Blackledge v. Allison*, 431 U.S. 63 (1977). Statements made during a guilty plea should be considered conclusive, unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements. *Crawford v. U.S.*, 519 F.2d 347 (4th Cir. 1975) *overruled on other grounds by U.S. v. Whitley*, 759 F.2d 327 (4th Cir. 1985). Applicant has presented no reasons to show that he should be allowed to depart from the truth of the statements he made during his guilty plea hearing.

Respondent submits Applicant can satisfy neither requirement of the *Strickland* test. However, the allegation of ineffective assistance of counsel likely raises questions of fact that the record does not conclusively refute. However, without specific allegations, it is impossible for the State to respond fully to Applicant's allegations. Therefore, Respondent respectfully moves for a more definite statement and, if necessary, requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV. Any Future Amendments and Invocation of Discovery

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. 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, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, Op. No. 27921 (S.C. Sup. Ct. filed Oct. 2, 2019) (Shearouse Adv. Sh. No. 39 at 14), or, alternatively, the State will request a continuance in the matter. *See Id.* at 24 (Kittredge, J., dissent) ("If, however,

the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Pursuant to section 17-27-150 of the South Carolina Code, 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. Further, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State 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 the State. *See Love, supra*.

V. Any and All Other Allegations

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

VI. Conclusion

WHEREFORE, having made its Return, Respondent requests Applicant, through counsel, be required to amend his application with a more definite statement of his allegations of ineffective assistance of counsel and involuntary guilty plea before an evidentiary hearing is scheduled.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

MICHAEL D. DAVIDSON
Assistant Attorney General

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

By: 
ATTORNEYS FOR RESPONDENT

Jan 28, 2020

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF RICHLAND	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
CHARLES LAMB,	)	CASE NO.: 2019-CP-40-5705
	)	
Applicant,	)	
	)	
v.	)	AMENDMENT TO APPLICATION
	)	FOR POST CONVICTION RELIEF
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	

Applicant, Applicant, by and through his undersigned attorney, hereby amends his application for Post-Conviction Relief dated September 20, 2019. This amended complaint adopts and includes all grounds in the original application. Applicant alleges that his plea was involuntary and that he did not waive his right to Appeal his plea and his sentence. Applicant further alleges as additional grounds regarding these claims and his claim of ineffective assistance of counsel as follows:

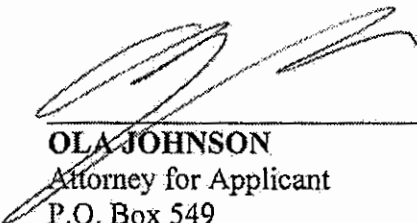
1. Prior to the guilty plea, Applicant's plea counsel, Robert Louis Bank, failed to explain the details of the Applicants guilty plea including if the sentence would be concurrent or consecutive.
2. Applicant's plea counsel, Robert Louis Bank, failed to explain the deadline or process for filing an appeal after the plea.
3. Applicant's plea counsel, Robert Louis Bank, failed to correctly identify the indictment applicant was entering a plea to (2017-GS-40-3250 listed on transcript but 2017-GS-40-3270 is Indictment number).
4. Applicant's plea counsel, Robert Louis Bank, failed to provide a copy of the states evidence to the Applicant.

5. Applicant's plea counsel, Robert Louis Bank coerced the applicant into entering the guilty plea by statements and threats made to the defendant.
6. Following the plea Applicants counsel refused to explain the sentence to the Applicant.
7. Applicant's plea counsel, Robert Louis Bank, failed to convey applicants' questions to the court regarding sentencing.
8. Applicants history of mental health problems prevented applicant from fully understanding his rights and he was not capable of giving up these rights and entering a voluntary guilty plea.

Applicant seeks to have his conviction vacated or to have his sentences vacated or to be granted a belated appeal

Furthermore, the Applicant requests that he be permitted to Amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



OLA JOHNSON

Attorney for Applicant
P.O. Box 549
Lexington, SC 29071
803-360-8692 Phone
olajohnsonlaw@gmail.com

This 2nd day of April, 2021.

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

CHARLES LAMB,)

Applicant,)

v.)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO.: 2019-CP-40-5705

CERTIFICATE OF SERVICE

I, Ola Johnson, hereby certify on that on April 2, 2021, I served a copy of the AMENDED POST CONVICTION RELIEF APPLICATION on Yasmeen Ebbini Klein, Assistant Attorney General by Email and U.S. Mail to the following address:

Yasmeen Ebbini Klein, Asst. Attorney General

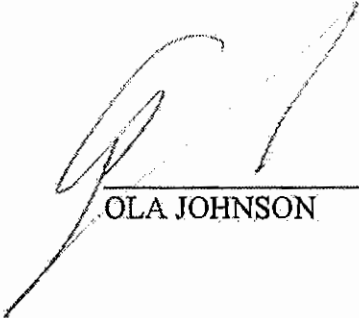
SC Attorney General's Office

P.O. Box 11549

Columbia, S.C. 29211

4-2-21

 Date



 OLA JOHNSON

In the Court of Common Pleas
Fifth Judicial Circuit
2019-CP-40-5705

Charles Lamb,
Applicant,
vs.
State of South Carolina,
Respondent.

Transcript of Record

June 17, 2021
Columbia, South Carolina

B E F O R E:

The Honorable George M. McFaddin, Jr., Judge

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

Ola A. Johnson, Esquire
Attorney for the Applicant

Michael D. Davidson, Assistant Attorney General
Attorney for the Respondent

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter

I N D E X

<u>Witness/Description</u>	<u>Page No.</u>
Charles Lamb	
Direct Examination by Mr. Johnson.	6
Cross-examination by Mr. Davidson.	22
Robert Bank	
Direct Examination by Mr. Davidson	28
Cross-examination by Mr. Johnson	36
Certificate Page.	49

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Page No.</u>
C-1	Mental Evaluation	4

1 THE COURT: We've had our little pretrial chat or
2 prehearing chat, so I am ready when you are, sir or ma'am,
3 sir, and sir.

4 MR. DAVIDSON: Thank you, Your Honor. May it please
5 the court? I'm Michael Davidson on behalf of the state.
6 This is the case of *Charles Lamb v. The State of South*
7 *Carolina*, docket number 2019-CP-40-5705. Applicant was
8 indicted in June 2017 for first degree criminal sexual
9 conduct, kidnapping, attempted armed robbery, and
10 trespassing. He was represented on those charges by Mr.
11 Robert Bank.

12 On December 7, 2018, applicant pleaded guilty to a
13 negotiated sentence to the CSC charge, kidnapping, and
14 attempted armed robbery charges before Judge Benjamin. The
15 state agreed to drop the trespassing charge, and Judge
16 Benjamin sentenced applicant as negotiated to a total of
17 twenty-four years, running the following sentences
18 concurrently: twenty-four years for first degree CSC,
19 twenty-four years for kidnapping, and fifteen years for
20 attempted armed robbery. Applicant did not appeal.

21 This PCR action was filed on October 9, 2019. The
22 state filed its return and motion for a more definite
23 statement on February 4, 2020. On November 12, 2020, Judge
24 Kinlaw issued an order for competency to stand trial, and
25 that evaluation was completed on December 11, 2020.

1 The results were sent to both parties on December 21,
2 2020, and in that report, Dr. Matthew Gaskins of the South
3 Carolina Department of Mental Health concluded that Mr.
4 Lamb has sufficient factual understanding of charges to
5 which he previously pled guilty and has the capacity to
6 assist his attorney in preparation of defense for this PCR
7 and, therefore, Dr. Gaskins opined that Mr. Lamb has the
8 capacity to stand trial pursuant to *State v. Blair* and
9 section 44-23-410 of the South Carolina code.

10 Following his competency evaluation, applicant filed
11 an amended application on April 6, 2021. Mr. Lamb is
12 present and he is represented by Mr. Ola Johnson.

13 And, Your Honor, the state is ready to proceed. We
14 would just move by stipulation the -- a copy of the mental
15 health evaluation completed in December into the record.

16 MR. JOHNSON: No objection to that, Your Honor.

17 THE COURT: All right, sir.

18 (MENTAL EVALUATION MARKED INTO EVIDENCE AS COURT'S
19 EXHIBIT NUMBER 1.)

20 MR. DAVIDSON: And we would also just ask that Mr.
21 Johnson put any allegations he wants to go forward with on
22 the record as well.

23 THE COURT: And I have read the report of Dr. Gaskins,
24 with attention given to the last paragraph regarding
25 competency to go forward. So, I am ready.

C. LAMB - DIRECT EXAMINATION BY MR. JOHNSON

5

1 MR. JOHNSON: Your Honor, would you like me to read
2 this from the amended application into the record regarding
3 allegations?

4 THE COURT: Yes, sir. I've got it, but go ahead.

5 MR. JOHNSON: All right. Your Honor, we listed in our
6 amended application the prior plea, plea counsel, Robert
7 Bank, failed to explain in detail applicant's guilty plea,
8 including if the sentence would be concurrent or
9 consecutive. Robert Bank failed to explain the deadline
10 process for filing appeal after the plea. The number
11 three, it says: Failed to correctly identify indictment
12 applicant was entering plea to. And this is on transcript.
13 That was based simply -- I think they mistyped the number
14 on the face of the transcript, so that really is all that
15 was based on. We can not go forward on that one. That was
16 simply related, I think, to a typo on the indictment
17 number. So, we're not going on number three.

18 Number four, applicant's plea counsel failed to
19 provide copy of state's evidence to applicant. Number
20 five, applicant's plea counsel, Robert Bank, coerced
21 applicant entering guilty plea by statements and threats
22 made to defendant where applicant -- following plea,
23 applicant's plea counsel refused to explain sentence to the
24 applicant. Applicant's counsel, Robert Bank, failed to
25 convey applicant's questions to the court regarding

C. LAMB - DIRECT EXAMINATION BY MR. JOHNSON

6

1 sentence, and applicant's history of mental health problems
2 prevented applicant fully understanding his rights, not
3 capable of giving up his rights, entering voluntary guilty
4 plea.

5 And we seek that relief, of course, vacate sentence or
6 belated appeal if the court finds proper. That's what we
7 have, Judge.

8 THE COURT: Yes, sir. I am ready.

9 MR. JOHNSON: Our only witness would be Mr. Lamb.

10 THE COURT: Okay.

11 CLERK: Put your left hand on the Bible. State your
12 full name.

13 WITNESS: My full name is Charles Lamb, 186788.

14 CHARLES LAMB, BEING DULY SWORN,
15 TESTIFIES AS FOLLOWS:

16 DIRECT EXAMINATION BY MR. JOHNSON:

17 Q. Mr. Lamb, do you remember who represented you for your
18 guilty plea?

19 A. Robert Banks [sic].

20 Q. Mr. Robert Bank. Is he present here today?

21 A. Yes. Yes, sir.

22 Q. Okay. Mr. Lamb, prior to your plea, do you remember
23 discussions you had with Mr. Bank here, with Mr. Bank
24 regarding whether or not your sentence at that plea would
25 be concurrent or consecutive? Did he tell you about that?

C. LAMB - DIRECT EXAMINATION BY MR. JOHNSON

7

1 A. Well, I kept asking him, you know what I'm saying,
2 how, you know, is my -- if my sentence, you know, running
3 consecutive. I didn't want to take the deal, you know. I
4 wanted to go back to the county jailhouse, and I kept
5 asking him to explain that to the judge, and he wouldn't do
6 it, you know what I'm saying? He, you know, he, you know,
7 he, he got, you know, he got a attitude and, you know, he,
8 he, you know, he threatened me. And I told him I didn't,
9 you know, feel comfortable going through with it, you know
10 what I'm saying, because, you know, he wouldn't ask the
11 judge, you know, whether my time was, you know, you know,
12 consecutive, if the deal was, you know, consecutive. Like,
13 I wanted to know. And, you know, if it was consecutive, I
14 didn't want to take none of the time, you know what I'm
15 saying? And he, you know, he, he just wouldn't -- you
16 know, I wanted to go back to the county jailhouse, and he
17 wouldn't, you know, he wouldn't tell the judge that. Do
18 the whole trial, you know, that's the bottom line to the
19 whole thing, you know, constantly. You know, any time I --
20 you know, I, I tell him right here, you know, you know, to
21 ask the judge, you know.

22 Q. What was your understanding of what ---

23 A. He wouldn't do it.

24 Q. Okay. What was your understanding of what the plea,
25 plea arrangement was?

1 A. Well, downstairs he told me, you know, at one time
2 that he, he, he don't -- he, he, you know, he put something
3 in Arabic, and I don't even -- I don't, I don't even, I
4 don't, I don't even speak in no Arabic. I, I don't know --
5 only language I know is English, you know what I'm saying?
6 And he, he, he -- and he put that in Arabic, you know. He,
7 he put something in tongues. I don't know what he was
8 saying, you know. And he, he told me, you know, that,
9 that, that, that's how you was sentenced. I said, well,
10 what is it, you know, because I, I, I, I speak English. I
11 don't speak no, you know, no tongues or no Arabic language.
12 I'm not a Muslim. But, you know, he -- and then he, he
13 went back and said he don't understand what, you know,
14 what's going on with my sentence. Wait til I go upstairs
15 and ask the judge whether my time is running consecutive or
16 concurrent because he really don't know what the deal is,
17 you know.

18 And then, you know, he made some threats downstairs,
19 you know what I'm saying? And I told him I wasn't
20 comfortable with him representing me. I wanted to go back
21 to the county jail. He said no. You, you, you have to
22 wait until you go upstairs and talk to the judge first, you
23 know what I'm saying? So.

24 Q. Well, let me ask you.

25 A. When I went up there to talk to the judge, you know,

C. LAMB - DIRECT EXAMINATION BY MR. JOHNSON

9

1 I, I, I told her, you know, I told her that I, you know, I
2 wanted to go back on the trial, and she didn't pay no
3 attention either. She ignored me, you know what I'm
4 saying? And I told him about it. I told him about it, you
5 know what I'm saying, and, you know, I told him that, you
6 know, I wanted to go back to the county jailhouse because,
7 you know, I feel like he didn't have the counseling, you
8 know, that -- you know, for me, you know. That's why I
9 wanted to take a trial for it, you know, and he, he, he
10 refused to let the judge know that, too, also.

11 Q. You tried to withdraw your plea?

12 A. Yeah. I tried to go back on my plea, yeah, and, and,
13 and, and, and he, he, he refused to let the judge know
14 that. I kept constantly asking him, standing beside him.
15 I said this is my life, you know, and, you know, this is a
16 lot of time I'm having, you know what I'm saying, and, you
17 know, I want to make sure, you know, if the time, you know,
18 is running, all of it running concurrent in one sentence
19 and it's not running wild, you know, I would've took --
20 just, you know, one twenty-four sentence and all the rest
21 of that ran into it, you know,.

22 But he wouldn't, he wouldn't, you know, ask the judge
23 what I wanted him to ask. I said, well, since you, you
24 know, you don't want to ask the judge, you know, I want to
25 go back, you know, and take a trial for it and to go back

1 to the county jailhouse, and I, I, I recommend that you
2 tell the judge, and you need to go get some counseling so
3 you can be able to deal with, you know, deal with my, you
4 know, my sentence.

5 Q. Okay. Let me ---

6 A. And he refused, he refused, you know, to tell the
7 judge that, that I wanted to go back on the deal, to take a
8 trial and go back to the county jailhouse.

9 Q. Okay. Next question, Mr. Lamb.

10 A. The whole trial.

11 Q. Have you -- did you have a discussion or did Mr. Bank
12 explain to you the process of deadlines for filing an
13 appeal?

14 A. What, what -- say ---

15 Q. Did you discuss filing an appeal, appealing the
16 sentence following your guilty plea?

17 A. All I kept telling him is that I wanted to go back to
18 the county jailhouse and take a trial for it.

19 Q. Did he ever explain to you how to file an appeal, or
20 did you discuss that with him?

21 A. Well, I told him at that point in time, you know, all,
22 all I felt that, that was necessary was to take a trial for
23 it, you know, because he didn't have the speech to deal
24 with -- he say he didn't understand what the judge was, was
25 saying in the courtroom about my sentence. He say I don't

C. LAMB - DIRECT EXAMINATION BY MR. JOHNSON

11

1 -- he told the judge, he say I don't know what you -- I
2 don't know what's going on. Explain that to me. He said
3 -- you know, she said no. You explained that to me, you
4 know what I'm saying? Both of them back and forth playing
5 games with my life.

6 Q. Okay, Mr. Lamb.

7 A. And he, he kept saying, you know, he, he, you know, he
8 don't know what's going on with my sentence. And so I tell
9 him, I said well, therefore, you need to go get some
10 counseling, therapy classes to know, understand the judge,
11 knowledge, you know, understand what the judge doing in the
12 courtroom, you know. Therefore, we can wait. You know,
13 take me back. I want to go back on the deal, you know, you
14 know. Tell the judge I want to go back on the deal and,
15 and take a trial for that right there, you know what I'm
16 saying? Tell her, you know, to send me back to the county
17 jailhouse. He said, oh, you, you ain't going to no county.
18 You can't go back on the deal; you got to go through with
19 it. I said man, I have the right to, you know what I'm
20 saying, you know, go back on the deal if I don't feel
21 comfortable doing something, you know what I'm saying,
22 until you, you know, you get, you go get, you know,
23 therapy, you know, classes, you know. And then, you know,
24 if it's too much time, you know, on me, on, on me and I
25 feel like I can't handle all that time, I can take a trial

C. LAMB - DIRECT EXAMINATION BY MR. JOHNSON

12

1 and try to get less time. So, that's why I want to go back
2 on the deal, go back to the county jailhouse.

3 Q. Okay.

4 A. Because I was under the impression -- I, you know, I,
5 I didn't -- well, really I don't know what, what type of
6 time that, you know, that I was facing. But, but I know it
7 was a, a lot of time, and I didn't want to, you know, take
8 no chances with my life, you know, with my freedom, you
9 know, losing my freedom that long for all that many years
10 and I'm young, you know. I can't handle all that, you
11 know, doing all that time, you know. And I'm only forty,
12 forty -- I was only forty-nine, fifty years old. So, I
13 just wanted to, you know, make sure, you know, that it
14 wasn't, you know, too much over the sentence that I can
15 handle, you know what I'm saying, being that I'm young and
16 I can't take all that time. I can die in prison. I don't
17 want to die. You know, all of my life, the rest of my
18 life, my freedom in here. So, you know, that's, that's
19 what I was concerned about. I said, well, since, you know,
20 he didn't know, I wanted to go back to the county, take a
21 trial and -- to try to find out from the solicitor office
22 what's going on with my -- you know, what they offered me.
23 Is it running consecutive or, or whatever, you know.

24 Q. Okay.

25 A. But at that point, you know, he, he couldn't explain

C. LAMB - DIRECT EXAMINATION BY MR. JOHNSON

13

1 it. He say he couldn't explain none of them things to me.
2 So, what I did, what I said, well, since you can't do that,
3 let me go back to the county jailhouse and take a trial for
4 it. I'll go back on the deal and let the solicitor office
5 explain to me, you know, what's going on with, you know,
6 the sentence, what the agreement -- what they're offering
7 me.

8 Q. Okay.

9 A. And he wouldn't do that much either.

10 Q. Did your attorney, Mr. Bank, ever provide you with a
11 copy of the evidence against you?

12 A. What you mean?

13 Q. The discovery, the state's evidence that they were
14 going to use to prosecute you, did he ever provide that to
15 you?

16 A. Well, he, he, he, he kept saying that, you know, they
17 offered me, they offered me all this time, but he didn't
18 tell me whether that time running consecutive or
19 concurrent.

20 Q. But did he give you copies of the actual
21 documentation, the actual documents that were going to be
22 used by the state to prosecute you?

23 A. I didn't see any. I didn't -- if he showed them to
24 them, I didn't, you know, I didn't, I didn't, I didn't see,
25 you know, I didn't see none in there to understand them if

1 he, if he did show them to me.

2 Q. Okay.

3 A. I don't know. I don't have no knowledge of them.

4 Q. Okay. What kind of threats did he make against you to
5 coerce you? You mentioned earlier some threats.

6 A. Yeah. He talk about if that was my family member, you
7 know what I'm saying, I'd do something to you. I'd do
8 something to hurt you and mess you up, you know. I don't
9 like what you did to that lady, that old lady; that was
10 wrong what you did.

11 So, I, I got offended right there. I said, well, you
12 know, since you said like that, you know, I want to go back
13 to the county jail. I got a feeling, you know, you being
14 my lawyer, you threaten me like that, I want to go back to
15 the county jail and take a trial for that, you know what
16 I'm saying, and give me another lawyer because, you know,
17 if that's your family member, you're not supposed to
18 represent me anyway.

19 So, he refused to, you know -- he said, well, you, you
20 can't go back to the county jailhouse for that. You, you,
21 you got to, you know, go, you, you, you know, you know.

22 Q. Go what?

23 A. He cussed me out and start, you know, talking, you
24 know, using verbal language on me then.

25 Q. All right.

C. LAMB - DIRECT EXAMINATION BY MR. JOHNSON

15

1 A. Saying, well, you got to go through now with it, you
2 know. And he said if you don't go through with it, and he
3 said if you don't go through with it, he said if you don't
4 go through with it in the courtroom, he, he, you know,
5 he'll kill me, you know, if I don't, you know, accept the
6 time.

7 You know, I told him. I said, well, I want to go back
8 on it, you know. I don't appreciate your attitude in here.
9 Tell the judge, you know, what you said. I want to go back
10 on the deal, and I want to take a trial and go back to the
11 county jailhouse because I got offended him, you know,
12 threatening me, telling me, like, you know what I'm saying,
13 he, you know, he'll kill me, you know what I'm saying? And
14 that -- I also recommend that he go get, you know, classes
15 for that and, you know, I get another lawyer also again in
16 the courtroom. And he repeated the same behavior and, you
17 know -- and, and I, I, I ask him, you know, to let the
18 judge know that I want to go back on the deal to take a
19 trial for this here, and he refused to do that, telling me
20 he ain't going to do nothing. I better shut up and take
21 this or he'll, he'll find a way, you know what I'm saying,
22 if I don't go through with it, he'll find a way to get me
23 killed or he'll do it his self.

24 Q. Did your counsel, Mr. Bank, refuse to explain the
25 sentence to you? Did you talk to him about that?

1 A. Yeah. I kept asking him -- I kept saying, man, if,
2 if, if my sentence is, is running consecutive, man -- you
3 know, ask the judge. If she said that my sentence is
4 running consecutive, tell her I don't want it. I want to
5 go back on the deal, and I want to go back to the county
6 jailhouse, and he refused to comply with anything that I
7 asked him to do as far as ask the judge anything. He kept
8 talking about you straight, you straight. Everything
9 straight. The time running, you know, concurrent. I said
10 that's not what I'm asking you, man. I'm asking you, you
11 know, ask the judge, make sure to be on the safe side, you
12 know what I'm saying? You know, make sure that my sentence
13 ain't consecutive. Since you said downstairs you don't
14 understand it, I got to wait until I come up here and ask
15 the judge about it. Okay, I'm up here in front of the
16 judge. Why don't you go ahead and ask her about it?

17 I ain't going to do nothing; I ain't going to do
18 nothing. You going to do what -- you know, you shut up.
19 You going to do what I tell you to do, you know. I ain't,
20 I ain't going to ask the judge that. That's not a reason
21 to ask the judge. I said, well, if you don't understand
22 something, you don't know what's going on with it, then,
23 you know, you need to take some classes, you know, and, you
24 know, just let me go back to the county jailhouse. I want
25 to go back on the deal and take a trial for it. He still

C. LAMB - DIRECT EXAMINATION BY MR. JOHNSON

17

1 refused to, you know, to be concerned about anything that's
2 being me -- you know, dealing with my biological, you know,
3 physical freedom.

4 Q. Okay. Mr. Bank, did he -- you say he refused to
5 convey your questions to the court regarding sentencing?

6 A. Yeah. He, he refused to tell the judge. I kept
7 telling him to tell the judge that, you know, I want to go
8 back on the deal if my sentence is consecutive and running
9 wild because that's too much time, you know, for me, be as
10 young as I am, to do all that time. I want to go back and
11 take a trial, let the judge just hear my evidence, you
12 know.

13 Q. Well, tell me a little bit about your history of
14 mental health treatment, Mr. Lamb. Were you treated by the
15 state?

16 A. Well, I'm -- I think I'm, I think I'm kind of -- I, I,
17 I, I -- well, I've been treated on the street because, you
18 know, I get a, I get a SSI check for, you know, police,
19 police brutality. The police jumped on me at the mini bar
20 gas station on Farrow Road and they, you know, brutally,
21 you know, injured me, you know, pretty bad. Brutally, you
22 know, physically bad. Sexually harassed me brutally bad,
23 you know, and police brutality, sexual harassment and
24 sexually raped me, you know, bad, you know. Injured me in
25 a mentally and physical way, in a painful, hurtful way.

1 And I filed for a disability check and I got it. I was
2 approved for it, and that's about, you know, what's going
3 on with my mental illness right there.

4 Q. Okay.

5 A. Before it, I'm a paranoid, you know, schizophrenia and
6 Social Security, you know, they -- Administration approved
7 me, I think, got all of that, you know, to get a check
8 under that conditions.

9 Q. You ---

10 A. That's my illness, you know, Social Security
11 condition. That's about only, the only illness that I got
12 that I, you know, that I, that I got on record. Nothing
13 else, you know. I don't take no med -- psycholog -- you
14 know, medicine in prison and that for no, you know,
15 psychiatric, you know, problems.

16 Q. Do you remember being treated at Columbia Area,
17 Columbia Area Mental Health Center?

18 A. Yeah. I went there a few times to try to get help for
19 that mental health, you know, for the Social Security, what
20 I'm on Social Security for: police brutality at the gas
21 station. So, I went there to try to get on some, you know,
22 some sleeping medicine to help me, you know, cope with
23 sleeping. You know, you know, to try to cope with being,
24 you know, raped. To keep me calm. You know, just to help
25 me sleep because I, I had sleepless, restless -- you know,

C. LAMB - DIRECT EXAMINATION BY MR. JOHNSON

19

1 I have -- couldn't, couldn't sleep, you know.

2 Q. So, you do remember ---

3 A. Wasn't having no nightmares, nothing like that. I
4 just couldn't sleep, so needed some sleeping medicine.

5 Q. Okay. So, you do remember a prior diagnosis involving
6 schizophrenia that involved you where they -- when you were
7 getting treatment for some diagnosis involving
8 schizophrenia? You remember that?

9 A. Well, only thing I know is the gas station, you know,
10 all I know is that, you know, I was treated for that, you
11 know. I was having, you know, I was having sleeping
12 problems for that, and I wanted to be put on some Benadryls
13 or some Nyquil or something like that to help me, you know,
14 just...

15 Q. All right.

16 A. Rest. Not to, you know, to think about it too much.
17 Not -- you know, I didn't need nothing, you know, as far
18 as, you know, I didn't have no -- wasn't seeing stuff or
19 nothing like that. It just -- you know, I just stay up and
20 just, just couldn't sleep for some reason. I just need
21 some, some medicine for it.

22 Q. Okay.

23 A. And I felt like that, that, that was, you know, that,
24 that, that was it, but I -- you know.

25 Q. Do you remember a diagnosis ---

1 A. Wasn't sure but I still ---

2 Q. Okay.

3 A. --- requested medicine for it.

4 Q. Do you remember dating back to 2013 some treatment and
5 diagnosis for what's called antisocial personality
6 disorder? Do you remember talking to doctors back then?

7 A. Where? At Just Care? I, I -- what, what you said?
8 What year you said that was now? What?

9 Q. Back in 2013. How far back did it go, if you can
10 remember?

11 A. What, what the records got on it? What place? What
12 mental health facility I was at?

13 Q. Referring to, like, Columbia Area Mental Health
14 Center, State Department of Mental Health.

15 A. Well, only two mental health places I know I been at
16 is Bryan, Just Care, you know, Bryan Center in, in the, you
17 know, the Just Care, you know, Lincoln ---

18 Q. What are some of ---

19 A. --- Annex and take ---

20 Q. What are some of the medications you had? Do you
21 remember?

22 A. Sir?

23 Q. You remember some of the medications you had?

24 A. Well, I was on some type of -- I, I, I was on some
25 type of, you know -- well, one time, you know, I got out of

C. LAMB - DIRECT EXAMINATION / CROSS-EXAMINATION

21

1 control and they put me on -- they gave me a shot, you
2 know. But, you know, other than that, you know, I don't
3 think I was on -- I don't know what -- if I was -- I don't
4 think I was on the other medicine. It just -- I was just
5 incompetent to stand trial while I was there.

6 Q. Okay.

7 A. And, you know, I also went to college while I was
8 there, you know. I took commercial, you know, acting
9 college, you know. It was...

10 Q. Okay.

11 A. Because it was commercial sector, sector.

12 Q. Is there any other ---

13 A. Section.

14 Q. --- information you'd like to give the court about why
15 you should seek -- be granted relief in this case?

16 A. Yes. You know, for -- you know, because, you know, I
17 feel like, you know, you know, he refused to, you know,
18 tell the judge I wanted to go back on the deal, and I
19 wanted to take a trial because, you know, I, I didn't, you
20 know -- he didn't, you know, explain to the judge whether
21 my time was, you know, consecutive like I, like I said,
22 like I asked him to do. And he, you know, he made threats
23 and he, you know, he refused to, you know, seek counseling
24 for all these, you know, these things, threats. And, you
25 know, and he, he, he refused to, you know, just, you know,

1 get me another -- screen me a lawyer after he was, you
2 know, unprofessional in the courtroom and downstairs, you
3 know. And, you know, that, you know, and refused to let
4 the judge know that I want to, you know, go back on my deal
5 and take a trial for all of these reasons, you know.

6 That's why, you know, I feel like they should grant me, you
7 know, you know, you know, reason to, you know, appeal or
8 whatever to overturn my case.

9 Q. All right.

10 A. You know, that's about it. That's all I have to say
11 for the courts, you know, to the courts.

12 Q. Okay.

13 MR. JOHNSON: Your Honor, we have no more questions.

14 And, Mr. Lamb, please answer any questions the state
15 may have.

16 THE COURT: Does the state need a cross-examination?
17 It's your call, sir.

18 MR. DAVIDSON: Just a few questions.

19 THE COURT: Okay.

20 CROSS-EXAMINATION BY MR. DAVIDSON:

21 Q. Good morning, Mr. Lamb. How many times do you -- did
22 you and Mr. Bank meet before your plea?

23 A. Well, we met probably two times. We met one time
24 downstairs, and we also met again and, you know, we talked
25 upstairs in the courtroom before we, you know, we, we went

C. LAMB - CROSS-EXAMINATION BY MR. DAVIDSON

23

1 through with it, with the case.

2 Q. So, you didn't meet with him any other time?

3 A. Yeah. We, we -- yeah, we met in the, in the county
4 jailhouse. He came down there, and he told me that he was
5 -- he needed some more time. He needed to take counseling
6 classes and, and -- because he didn't understand what the
7 judge -- he didn't have the -- you know, understand what
8 was going, what -- the judge knowledge on, you know, my
9 trial case. So, he, he said that he agreed that he need to
10 go take counseling classes somewhere. So, you know, I kept
11 insisting I wanted to get out before Christmas. You know,
12 I thought I had a good chance to get out before Christmas.
13 So, I told him I wanted to go on through with it. So,
14 that's why he didn't, you know, take the classes, he said.

15 Q. Okay.

16 A. But after we got to the courtroom and I see that he
17 needed the classes, my attitude changed. I say I want to
18 go back on the deal. Take me back to the county jailhouse
19 and take a trial for it after I see that, you know. You
20 know, I don't disagree, but he didn't have the speech to
21 understand the judge. I, I think that he, you know, he, he
22 was right about that, you know.

23 Q. But you didn't equate that ---

24 A. Me, me experiencing that in the courtroom, I -- he was
25 -- you know, if he was asking the judge, you know, if my

1 sentence running, you know, consecutive and, you know, he,
2 you know, refused to take classes for, you know, him, you
3 know. I wanted another lawyer because of, you know, he
4 refused to explain, you know, if my sentence consecutive
5 and all this other stuff, and I want to go back, you know,
6 on the deal and take a trial, and he wouldn't do all that
7 there, none of that stuff. So, I, I see that he, he did
8 need the therapy classes, you know, what he told me in the
9 county there. After that, you know, after that, you know,
10 for that, you know, for that reason right there, you know,
11 I told him I wanted to go back on the deal, take a trial.
12 I wanted to go back to the county jail. He refused to, you
13 know, do any of them things. That's it.

14 Q: You're currently serving twenty-four years, correct?

15 A: Yes, but, but also classification system, I, you know,
16 I also left -- I forgot to say. The classification system
17 at the Lieber Correction Institution I was at before they
18 transferred me to Broad River, and they transferred me to
19 Broad River to Evans, where I'm at now, you know, for, you
20 know, protective custody concerns. But anyway, when I was
21 at Lieber Correctional Institution, they told me the
22 classification, you know, caseworker told me that my
23 sentences were, all my sentences were running consecutive.
24 But then another classification lady, Ms. Chief, when I was
25 in Cooper dorm at Lieber Correctional Institution, same

C. LAMB - CROSS-EXAMINATION BY MR. DAVIDSON

25

1 institution, she told me something different. She say all
2 my time was running consec -- no, concurrent, but then the
3 second classification, you know, personnel that work at,
4 you know, Lieber Correctional Institution told me something
5 different. They said that all my time is running
6 consecutive. You need to go back, you know, to the courts
7 and get that straightened out because I'm telling you, man,
8 what the computer showing right here, all your time is
9 running consecutive. None of it is, you know, you know,
10 running concurrent like these people telling you, like the
11 courts and, you know, Ms. Chief or nobody else telling you.
12 They're lying to you. So, that's what I'm going by.

13 That's why, you know, when I got transferred to Broad
14 River, I put in for a post-conviction because of that
15 reason, what the second classification told me, that all my
16 time was running, you know, consecutive. And I feel like
17 it's Bank's fault. You know, had he asked these people
18 these things, I feel like I wouldn't have to go through
19 this pain, suffering, you know, under these conditions
20 mentally to be in -- false imprison because, you know, it
21 being his fault. He didn't -- refuse to ask the judge was
22 my time running consecutive like I told him to do.

23 Q. All right. Thank you.

24 A. And all these other things that I mentioned, you, you
25 know, to go along with it, these questions you asked me on

1 the same -- this bench right here.

2 MR. DAVIDSON: Thank you. No further questions.

3 A. That's it, but all I, all I want the courts to know is
4 that, you know, that, you know, reason why I'm filing for
5 this, you know, this post-conviction is to get my case
6 overturned because, you know, for all these reasons. You
7 know, he refused to, you know, explain to the -- you know,
8 ask the judge, tell the judge that I want my time, wanted
9 to go back on the, you know, the deal and take a trial for,
10 you know, my sentence, you know, if my time, you know, was
11 running consecutive because of what the classification
12 people told me. And he refused, you know -- well, he
13 didn't have nothing to do with it. He didn't have nothing
14 to do with that before, you know, I got locked up. He
15 didn't have nothing to do with that, but still that's why I
16 filed, you know, because of what they told me, that my time
17 was running consecutive, but that ain't got nothing to do
18 with what he did in the courtroom about that, being
19 involved. He just, you know, he told me -- I told him that
20 I wanted to take a trial if my time running, if my time
21 running consecutive. He refused, you know, tell the judge
22 that I wanted to go back on the deal if my time was running
23 consecutive. I wanted to take a trial and go back to the
24 county jailhouse and go back on the deal. That's it. He
25 refused to do these things. That's my main argument, what

C. LAMB - CROSS-EXAMINATION BY MR. DAVIDSON

27

1 I want to have, my time overturned.

2 Q. All right, we understand.

3 A. Based on other allegations that go along with it, you
4 know, I want them to -- you know, somebody review this and,
5 you know, try to over -- the judge overturn my case for
6 that.

7 Q. All right. Thank you.

8 A. Because I feel like, you know, it, it's, it's their,
9 you know, their fault.

10 MR. DAVIDSON: No further questions.

11 A. What I -- you know, everything I explained to the
12 courts.

13 Q. Okay.

14 A. That's it. Everything, everything. I'm straight.
15 You know, I done said everything now I want to say to the
16 courts.

17 MR. DAVIDSON: Okay. No further questions.

18 THE COURT: Thank you, sir.

19 Mr. Johnson?

20 MR. JOHNSON: No more questions. No more witnesses.

21 THE COURT: You may step down, sir. Thank you.

22 (THE WITNESS EXITS THE STAND.)

23 THE COURT: Any other witnesses, Mr. Johnson?

24 MR. JOHNSON: No witnesses, Your Honor.

25 THE COURT: State?

R. BANK - DIRECT EXAMINATION BY MR. DAVIDSON

28

1 MR. DAVIDSON: The state would call Mr. Robert Bank.

2 THE COURT: Okay.

3 CLERK: Raise your right hand. State your full name,
4 please.

5 WITNESS: Robert Bank.

6 ROBERT BANK, BEING DULY SWORN,

7 TESTIFIES AS FOLLOWS:

8 CLERK: Thank you. Have a seat.

9 DIRECT EXAMINATION BY MR. DAVIDSON:

10 Q. Good morning, Mr. Bank.

11 A. Good morning.

12 Q. How long have you been practicing law?

13 A. Eight years come this December.

14 Q. And how long was that -- or how much of that is
15 criminal law?

16 A. All of it.

17 Q. And we're here today for Mr. Lamb. He filed a PCR,
18 and just for the record, were you appointed or retained by
19 Mr. Lamb?

20 A. Appointed.

21 Q. And how many times would you say you guys met?

22 A. My notes indicated that I met Mr. Lamb fourteen times
23 at the jail and then twice in court. One was for a buccal
24 swab to be taken, and the second was for his guilty plea.

25 Q. And did you receive all the discovery that you needed

R. BANK - DIRECT EXAMINATION BY MR. DAVIDSON

29

1 for this case?

2 A. I did.

3 Q. Did you go over it with Mr. Lamb?

4 A. I did.

5 Q. Did you ever give him a copy of it?

6 A. Again, my notes reflect that I provided him a copy of
7 discovery July 6, 2017, and I have a signed receipt that we
8 make -- that I make clients sign, not so much to document
9 that I'm giving them the discovery but to document that
10 I've advised against them keeping a copy of their discovery
11 in jail.

12 He requested a second copy because I believe the first
13 copy got wet, and so my notes reflect I provided the second
14 copy March 20, 2018. I don't have a receipt for that one,
15 I would think probably just because he had already signed
16 the first one acknowledging the dangers of having it. And
17 then I provided him a third copy of the discovery after his
18 sentencing on June 2, 2 -- excuse me, June 21, 2019.

19 Q. And what did, what, if anything, did he tell you about
20 the incident that he was charged for?

21 A. That he was there and that he committed digital
22 penetration with his finger.

23 Q. So, based on his account and the discovery, did you
24 guys have any defenses?

25 A. None that I thought would be successful.

1 Q. And what did you think he should -- how, how he should
2 resolve the outcome of the case? Should he go to trial or
3 try to work out a plea?

4 A. When there is a sentence, a significant sentence,
5 which I consider twenty-four years to be a significant
6 sentence, I will tell the clients that I will support them
7 either way. I don't believe that our chances at trial are
8 going to be successful, but when the numbers get that big,
9 that is their life. I make very clear that's their
10 decision.

11 Q. And what was his inclination of how to resolve it?

12 A. He shifted throughout the course of representation,
13 like most people do, but I think it was around October and
14 November is when he started talking more consistently about
15 wanting to work out some type of plea resolution.

16 Q. Was there any clear reason why he made that shift? Do
17 you recall?

18 A. Not that I recall.

19 Q. Do you recall off the top of your head how much
20 exposure he was actually facing on the charges?

21 A. Thirty plus is sixty plus fifteen is seventy-five, and
22 then a thirty-day trespassing charge. He was also -- the
23 solicitor's office directly presented an assault and
24 battery charge that I don't believe he was ever served
25 with, but that was dismissed after the plea.

R. BANK - DIRECT EXAMINATION BY MR. DAVIDSON

31

1 Q. And ---

2 A. So, that would be an additional ten years.

3 Q. So, did you have that conversation with him and
4 explain the exposure that he was facing?

5 A. Yes, sir.

6 Q. And eventually he indicated that he wanted to secure a
7 plea deal. Can you explain your negotiations with the
8 state?

9 A. Well, he, once he was at the point that he wanted us
10 to have plea negotiations -- Mr. Lamb, that is -- he began
11 with what I thought were probably unreasonable offers from
12 our side ranging from seven to ten years. But I went to go
13 meet him a final time, and I was actually leaving the
14 country for a period of time, and I explained to Mr. Lamb
15 that at this point, I can continue to try to get him a plea
16 offer, or we can wait until I get back from out of the
17 country. Or a third option, because I was going to be out
18 of the country for a significant amount of time, was that
19 we could have him appointed a new attorney in our office if
20 he didn't want any of those options.

21 At that point, he said -- he asked me to approach the
22 solicitor's office about taking a twenty-year plea. I
23 approached the solicitor's office. Dan Goldberg was the
24 assigned solicitor; he counteroffered at twenty-five years.
25 I went back to Mr. Lamb. Mr. Lamb said that he wanted to

1 accept twenty-five years. We scheduled the case for court,
2 and I don't recall whether it was the night before or the
3 morning of the trial -- it's not usual for me to approach
4 an assistant solicitor, and I guess in this case a deputy
5 solicitor -- and asked for some additional time to be taken
6 off the offer, and Mr. Goldberg at that point changed the
7 offer to twenty-four as opposed to twenty-five. And I told
8 Mr. Lamb about that change that morning in court. It was a
9 negotiated plea, all to run concurrent.

10 Q. Did you explain to Mr. Lamb what concurrent meant?

11 A. Yes, sir.

12 Q. Did you think, did you feel that he had an
13 understanding of what concurrent meant?

14 A. I did.

15 Q. And did the plea deal achieve what you understood he
16 wanted?

17 A. Yes.

18 Q. Did you have any reservations about Mr. Lamb's
19 competency prior to the plea?

20 A. I did.

21 Q. And did you do anything to ensure that he was
22 competent to stand trial?

23 A. Sure. Mr. Lamb struggled, has struggled with mental
24 health his entire life and has been very inconsistently
25 treated, from what I remember. Even at the jail, he would

R. BANK - DIRECT EXAMINATION BY MR. DAVIDSON

33

1 have days where he would think less clearly and days where
2 he would think more clearly; it seems to me to be
3 associated with whether he was taking his medication or
4 not.

5 So, we got ahold of his prior mental health records.
6 I got a copy of an old file, criminal file from the
7 Richland County public defender's office from, I believe,
8 2002 where he was found competent by an evaluator,
9 evaluator from the Department of Mental Health. And then I
10 retained a private psychologist to evaluate him, Dr. Geoff
11 McKee. He's a doctor I'm very familiar with, and he
12 conducted an evaluation August 15, 2017, at the detention
13 center and gave me the opinion that he believed Mr. Lamb to
14 be competent.

15 Q. Did you put that on the record at this plea hearing?

16 A. I did.

17 Q. So, the judge was aware?

18 A. Yes, sir.

19 Q. Okay. Mr. Lamb alleges that you failed to convey the
20 questions that he had during the plea hearing. Do you
21 recall him asking any questions that you felt needed to be
22 conveyed?

23 A. I don't recall any questions.

24 Q. Do you recall ever threatening to kill him?

25 A. I do not.

1 Q. Mr. Lamb also alleges that he didn't under -- you, you
2 told him that you didn't understand what the judge was
3 saying. Do you recall telling him that?

4 A. I don't recall telling him that, and that may have
5 been -- there may have been some confusing language. That
6 happens when you have recommended pleas, but this was a
7 negotiated plea that the judge could either accept or
8 reject.

9 Q. And you understood that?

10 A. Yes.

11 Q. In addition to his allegation that you threatened him,
12 he also alleges that you coerced him. Was there anything
13 that you did to coerce him to enter that plea?

14 A. No, sir.

15 Q. And after he was sentenced, he alleges you didn't
16 explain the sentence to him. What conversations, if any,
17 did you have after he was sentenced?

18 A. I didn't -- he didn't have any questions for me that
19 day. I did receive a letter from him once he was at the
20 Department of Corrections asking for me to clarify whether
21 his sentences were concurrent or consecutive. And I wrote
22 back a letter, and it looks like the date here
23 autogenerated to last week's date, but it would have been
24 at some time where I wrote a letter back to him explaining
25 that it was a concurrent, concurrent sentence, attaching

R. BANK - DIRECT EXAMINATION BY MR. DAVIDSON

35

1 the sentencing sheets, and highlighting the words
2 concurrent on the sentencing sheet.

3 Q. All right, and moving to his allegation that you
4 failed to inform him of his right to appeal, do you recall
5 having a discussion about his right to a direct appeal?

6 A. I don't have a specific memory of whether I did or I
7 did not. I know that Judge Benjamin on the record did.

8 Q. Can you recall whether he asked you to file one?

9 A. He did not ask me to file an appeal.

10 Q. But if he had asked you, would you have filed one?

11 A. Absolutely.

12 Q. And did you have any inclinations that he would want
13 to file an appeal?

14 A. No, sir.

15 Q. If he -- if you had an inclination that he wanted to,
16 would you have filed one?

17 A. If I had an inclination that he wanted to file an
18 appeal, I would speak with him and, and ask him whether he
19 wanted to. And if he did, we would have -- I'd have an
20 obligation to file it.

21 Q. And did you see any meritorious issues that you could
22 possibly appeal after the plea?

23 A. No, sir.

24 Q. If, if you had seen any meritorious issues, would you
25 have consulted with him about filing an appeal?

1 A. Yes, sir. If, for instance, Judge Benjamin had
2 decided that she wanted to run the sentences consecutive,
3 for instance, and done so, that would have been an
4 appealable issue that I would have spoken with him about
5 and would have filed an appeal.

6 Q. And whose ultimate decision was it to plead guilty?

7 A. Mr. Lamb.

8 Q. Is there anything I missed that you would like to tell
9 the court?

10 A. No, sir.

11 MR. DAVIDSON: Thank you. No further questions.

12 THE COURT: Mr. Johnson?

13 MR. JOHNSON: Thank you, Your Honor.

14 CROSS-EXAMINATION BY MR. JOHNSON:

15 Q. Mr. Bank, did you have a conversation -- did you state
16 you explained to Mr. Lamb the sentence regarding the
17 difference between concurrent and consecutive sentencing?

18 A. Yes, sir.

19 Q. Okay, and you said you did not remember having a
20 conversation about filing an appeal or the deadline for
21 filing an appeal, correct?

22 COURT REPORTER: Speak into the mic, please.

23 MR. JOHNSON: Yes, ma'am.

24 BY MR. JOHNSON:

25 Q. Do you -- I'm sorry. The question was do you remember

C. LAMB - CROSS-EXAMINATION BY MR. JOHNSON

37

1 having -- you said you do not remember having a
2 conversation about filing an appeal or the deadline for
3 filing an appeal with Mr. Lamb?

4 A. Do you mean in terms of my advisement of him or in
5 terms of a discussion after the sentencing?

6 Q. After the sentencing, do you recall having a
7 conversation with him about that?

8 A. We did not have a conversation; he did not ask me
9 about an appeal or request that I file an appeal.

10 Q. Okay, and you said you provided a complete copy of
11 evidence to the applicant, Mr. Lamb. Did you ever go over
12 any of the nonprinted material -- recorded video, audio --
13 with him?

14 A. I did. We, we were able to -- we have access to a
15 laptop at the jail, and I was able to bring the digital
16 files down to view with him, I believe, multiple times. I
17 know there was an issue when he was at SCDC when we tried
18 to, after the case was over, where we tried to send the
19 videos there, but they wouldn't accept it. So, we were
20 only able to provide him with a copy of the paper
21 discovery. But while he was at the county jail, we have
22 access to a camera -- or, excuse me, a laptop.

23 Q. Okay, and you have no memory of ever threatening Mr.
24 Lamb?

25 A. That's correct.

1 Q. All right, and did you receive any request regarding
2 questions to the court about the sentence from Mr. Lamb
3 either in writing or verbally?

4 A. After his sentence?

5 Q. Yes.

6 A. Any questions for the court? I got -- I, I received
7 several letters from Mr. Lamb and responded to all of them.
8 One was asking about whether there was an appeal, but it
9 was beyond the ten days, and I wrote him a letter back
10 saying there is, you know, no appeal and informing him of
11 the PCR process. There is a letter about discovery, the
12 sentencing sheet letter that I referenced. He also asked
13 for a copy of his indictments. I sent those, but I don't
14 -- there weren't any specific questions that I recall where
15 he asked me to specifically ask the court something. It
16 was more along the lines of providing him materials that he
17 didn't have access to at the prison.

18 Q. Okay. Did you -- talk about the review of mental
19 health history with Mr. Lamb. You actually went into
20 details of you gathering older files back when he had
21 treatment in 2013 or before?

22 A. I believe. I've, I've got a big stack here. I don't
23 remember the exact years, but we got all the mental health
24 history that we could get access to.

25 Q. And you felt like Dr. McKee that did your report, he

C. LAMB - CROSS-EXAMINATION BY MR. JOHNSON

39

1 was qualified?

2 A. Yes, sir.

3 Q. Okay. Did he actually used to work for the State of
4 South Carolina?

5 A. Yes, sir.

6 Q. Okay. Department of Mental Health?

7 A. Yes, sir.

8 Q. Did you ever have a conversation explaining to Mr.
9 Lamb the option for a motion to reconsider sentence?

10 A. I don't have a memory -- after the plea was done, Mr.
11 Lamb did not have any questions, and I did not hear from
12 Mr. Lamb again until I was receiving letters months later.

13 Q. Did you feel like during your representation of Mr.
14 Lamb, due to his mental health history, did he ever seem
15 like he was in a position where he was vulnerable to you as
16 far as being coerced or led in any decision?

17 A. No, sir.

18 Q. Is that something in your experience that people with
19 mental health problems, that they could be in that position
20 if they had mental health problems?

21 A. Yes, sir.

22 Q. But did Mr. McKee or Dr. McKee, he ever express
23 anything to you about that?

24 A. Not specifically that I recall. There's nothing in
25 the report that he provided me about that.

1 MR. JOHNSON: I have no more questions, Your Honor.

2 THE COURT: State?

3 MR. DAVIDSON: No. No questions, Your Honor.

4 THE COURT: You may step down, sir.

5 WITNESS: Thank you, Judge.

6 (THE WITNESS EXITS THE STAND.)

7 THE COURT: Any other witnesses from the state?

8 MR. DAVIDSON: No, sir, Your Honor.

9 THE COURT: All right, Mr. Bank, if you would stay
10 with us, please.

11 MR. BANK: Yes, sir.

12 THE COURT: Won't take long.

13 Mr. Johnson.

14 MR. JOHNSON: Yes, sir.

15 THE COURT: I want you to give me a list starting with
16 -- I've already written these things down, but start on
17 each exception or complaint or petition he has so that I
18 can address it, and then I will hear from the state if
19 necessary.

20 MR. JOHNSON: Yes, sir. Number one, under the
21 amendment to the application listed for ineffective
22 assistance of counsel, that Mr. Bank failed to explain the
23 details of the guilty plea, including the sentence would be
24 concurrent or consecutive to Mr. Lamb. Number two.

25 THE COURT: Okay. No, no. Hold it.

1 MR. JOHNSON: Sorry.

2 THE COURT: Let me go one at the time.

3 MR. JOHNSON: Yes, sir.

4 THE COURT: I'm not that smart.

5 As to that exception or complaint, let me get this
6 right. He was striving to get a current sentence, right,
7 Mr. Johnson?

8 MR. JOHNSON: I believe so. According to the
9 transcript, it clearly states that that was the deal, and
10 he had testified to that, that we wanted it concurrent.

11 THE COURT: In fact, on page 3 the prosecutor named
12 the charges and said they would be concurrent and
13 negotiated, right?

14 MR. JOHNSON: Correct.

15 THE COURT: And then later on, he's in front of the
16 judge and she says, line 4, page 21: All sentences will be
17 concurrent. So, would you agree, Mr. Johnson, that he
18 wanted concurrent and he got concurrent?

19 MR. JOHNSON: Yes, sir, according to the record.

20 THE COURT: And to the twenty-four years that was
21 negotiated -- not recommended but negotiated -- and a
22 negotiated plea accepted by Judge Benjamin, right?

23 MR. JOHNSON: Yes, sir.

24 THE COURT: Okay. I make those observations in my
25 ruling and as the finder of the facts in this case today, I

1 get to assess and assign credibility. So, I find that the
2 first reason for the application, that there was no
3 discussion of the plea -- well, if it was a negotiated
4 plea, there had to be discussion of it being twenty-four
5 years and concurrent.

6 I find that Mr. Lamb's greatest complaint about this
7 concurrent/consecutive argument has to do really with the
8 South Carolina Department of Corrections, as he says, and
9 he admitted that. He said that at the end of his complaint
10 about that, but he was talking about when he was at Lieber
11 -- or, as he calls it, Lieber. He said he was told, I
12 think he said that his sentences were concurrent, but
13 somebody at the Cooper dorm or section later told him it
14 was concurrent, either at Cooper dorm or Lieber, one, he
15 says one said he was -- one SCCD -- SCDC official said it
16 was consecutive and one said it's concurrent. Well, I also
17 looked at the sentencing sheets from Judge Benjamin, and he
18 received on each sentence exactly what he wanted:
19 concurrent sentences. So, I don't find any, any weight
20 there about -- or anything that -- cause to get a new
21 trial. He got exactly what he wanted and pleaded for.

22 What's the next one, Mr. Johnson?

23 MR. JOHNSON: Your Honor, number two, applicant's plea
24 counsel, Robert Bank, failed to explain the deadline or
25 process for filing an appeal after the plea.

1 THE COURT: His attorney stated he could not recall
2 that after the plea. He also says he couldn't recall being
3 asked that by a plea. But I will note again from the
4 transcript of Judge Benjamin's sentencing on page 16, I
5 think it's 16:

6 And you have the right. Do you understand you
7 have the right to appeal the guilty plea and the
8 sentence of this court within ten days of today's
9 date? If you cannot afford an attorney for that
10 appeal, they'll appoint an attorney for you. You
11 understand that? Yes, ma'am.

12 No equivocation. He knew about the right to appeal.
13 Number three, Mr. Johnson.

14 MR. JOHNSON: That's the one we withdrew, Your Honor.
15 Number three was the one about the indictment number typo.

16 THE COURT: Okay. That's right.

17 MR. JOHNSON: Number four, plea counsel, Robert Bank,
18 failed to provide a copy of the state's evidence to the
19 applicant.

20 THE COURT: Well, we've got competing comments here,
21 but again I assign great credibility to the lawyer who came
22 to court today with a file that I notice to be 8 to 10
23 inches thick, which generally indicates a lot of work on a
24 file. If lawyer shows up with a *L.A. Law* TV show file of
25 -- just a file, you know hadn't much has been done on it.

1 So, I, I don't find any merit there, sir.

2 What's your next one?

3 MR. JOHNSON: Your Honor, number five, plea counsel,
4 Robert Bank, coerced the applicant entering the guilty plea
5 by statements and threats made to the defendant -- or
6 applicant.

7 THE COURT: I don't find any merit there. Mr. Lamb
8 strikes me as being a very outspoken man, a man not easily
9 intimidated, an intelligent man. And after making
10 allegations that his lawyer threatened to kill him, he goes
11 before Judge Benjamin, and I thought I had it noted, the
12 page. Let's go to page 15, line 15: All right. This is
13 Judge Benjamin:

14 All right. Are you -- and you're completely
15 satisfied? Are you in agreement with the
16 negotiations? Yes, ma'am. Is anyone forcing you
17 to plead guilty today? No, ma'am. And are you
18 pleading guilty of your own free will? Yes,
19 ma'am. Is anyone forcing you to plead guilty?
20 No, ma'am. And are you pleading guilty freely
21 and voluntarily? Yes, ma'am.

22 This is what Mr. Lamb told a judge just minutes or a
23 few minutes after he says his lawyer threatened to have him
24 killed. What more of an opportune time to tell the judge
25 about these threats than at that guilty plea where Mr. Lamb

1 appears to be, in my opinion, fully engaged and responsive,
2 responsive to the questioning process? So, I find no merit
3 there, sir.

4 What's your next point?

5 MR. JOHNSON: Yes, sir, number six. Following the
6 plea, applicant's counsel refused to explain the sentence
7 to the applicant.

8 THE COURT: That sentence was explained at the outset
9 and at the end of the trial by the judge. Again, the
10 assessment of credibility falls into my lap here, and I
11 heard his apparently well prepared attorney tell us that he
12 had explained that before they went into the courtroom. I
13 can't imagine walking into a courtroom cold and getting a
14 plea, but this was, again, a negotiated plea. It wasn't
15 your normal, straight up, walk-in plea. So, I'm unable to
16 find merit there also, Mr. Johnson.

17 What's next?

18 MR. JOHNSON: Number seven, Your Honor, plea counsel,
19 Bank, Robert Bank, failed to convey applicant's questions
20 to the court regarding sentencing.

21 THE COURT: Again, I go back to the sentence being
22 announced before and at the end of the matter, the plea. I
23 don't see any tricky language in what Judge Benjamin said
24 or the prosecutor said, and no concerns raised by Mr. Lamb
25 who, again, I find to be a reasonably well-read person.

1 So, I don't -- I find no merit there, sir.

2 MR. JOHNSON: Thank you, Your Honor. Last, number
3 eight, applicant's history with mental health problems
4 prevented applicant from fully understanding his rights.
5 He's not capable of giving up those rights, entering a
6 voluntary guilty plea.

7 THE COURT: I read talk Dr. Lamb's [sic] letter, and
8 it would be the record. I'm sure it is, right? It's in
9 the record?

10 MR. JOHNSON: I believe the attorney general placed
11 that in the record.

12 THE COURT: Is it?

13 MR. DAVIDSON: Yes. Yes.

14 THE COURT: Okay, but he says in summary:

15 It is our opinion ---

16 The doctor, Dr. Gaskins.

17 --- that Mr. Lamb has a sufficient factual and
18 rational understanding of charges to which he
19 previously plead guilty and has the capacity to
20 assist his attorney in the preparation of a
21 defense and with this -- his PCR. Furthermore,
22 he voiced understanding that a granted PCR
23 results in a new trial and not release. He
24 stated he understands that he could get more -- a
25 more severe punishment if his counts and the

1 multi -- multiple issues about the case unrelated
2 to this PCR be -- as reasons he needs a new
3 trial.

4 I see nothing in Dr. Gaskins's report to raise
5 concerns about what Mr. Lamb has raised in his application.
6 And I note that this report from Dr. Gaskins was issued
7 December 21, 2020, not that long ago, but Mr. Gask -- Mr.
8 Lamb also in his testimony mentioned a couple of times that
9 he didn't have any, any concerns with mental health issues
10 during this, this plea here. I don't remember where I
11 wrote that down, but I find it to be meritless.

12 I thought he presented himself well today, Mr. Lamb
13 did. Somewhat repetitive but he wanted to get his point
14 across, and he did get the point across. It's just that I
15 don't give it any weight today.

16 Anything else, Mr. Johnson?

17 MR. JOHNSON: No, sir. That's all we have.

18 THE COURT: I will ask the state now if you have any
19 comments or wish to add anything to my rulings.

20 MR. DAVIDSON: Your Honor, I think the record reflects
21 that and the testimony reflects that.

22 THE COURT: Okay.

23 MR. DAVIDSON: Nothing to add.

24 THE COURT: And I do not find as to the core
25 allegation that Mr. Bank's representation was ineffective

1 assistance of counsel. I don't find that it comes even
2 close to the *Strickler* standards or metrics there.

3 Mr. Lamb, I wish you the best in your future, and you
4 certainly have the right to appeal my decision, I'll tell
5 you that. If you do, my feelings won't be hurt. I've been
6 corrected before.

7 So, I appreciate the effort of all people. Mr.
8 Johnson, I thought you did a good job, sir.

9 MR. JOHNSON: Thank you, Judge.

10 THE COURT: You laid it out point by point and for a
11 simple man like me, I need it one at a time.

12 To the state, your usual good demeanor.

13 And to all, I wish you a very good day.

14 I need an order on that, sir.

15 MR. DAVIDSON: Yes, sir.

16 THE COURT: And thank y'all very much.

17 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

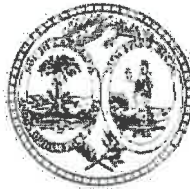
I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON
THE 17TH DAY OF JUNE, 2021.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Elizabeth B. Harris, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

JANUARY 3RD, 2022



State of South Carolina
Department of Mental Health

MENTAL HEALTH COMMISSION:

L. Gregory Pearce, Jr., Chair
Louise Haynes, Vice Chair
Allison Y. Evans, PsyD
Bob Hiott

STATE DIRECTOR
Kenneth N. Rogers, MD

Division of Inpatient Services
Forensic Evaluation and Outpatient Services
7901 Farrow Road, Building #8
Columbia, SC 29203
Information: (803) 935-5600

December 21, 2020

Michael Davidson
Assistant Attorney General
1000 Assembly Street, #519
Columbia, SC 29201

Re: The State of South Carolina vs. Lamb, Charles
DMH #: 206-0437
Richland County, Court of General Sessions

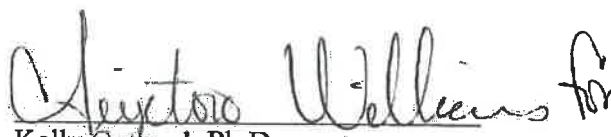
Dear Assistant Attorney General Davidson:

In accordance with the court order issued by the Honorable Alex Kinlaw Jr., a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 12 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

12/21/20
Date

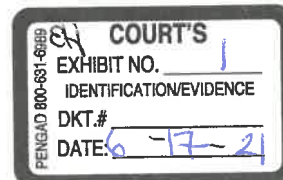

Kelly Gothard, Ph.D.
Clinical Director
Forensic Outpatient Services
Department of Mental Health

cc: Ola Johnson, Attorney at Law, PO Box 549, Lexington, SC 29071

KG/aw

MISSION STATEMENT

To support the recovery of people with mental illnesses.



**CAPACITY TO STAND TRIAL AND PROCEED WITH PCR EVALUATION
FORENSIC EVALUATION SERVICE
SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)**

DATE OF EVALUATION: December 11, 2020

DEFENDANT: Charles Lamb

DATE OF BIRTH: [REDACTED]

PRESIDING EXAMINER: Matthew E. Gaskins, MD
Forensic Psychiatrist

SECOND EXAMINER: Beth Bluemle, LISW-CP
Social Worker

OTHERS PRESENT: Jason Siebert
Third Year Medical Student

DIAGNOSES: Delusional Disorder (provisional)
Antisocial Personality Disorder
Cannabis Use Disorder in a Controlled Environment by
History
Stimulant Use Disorder in a Controlled Environment by
History

OPINION REGARDING CAPACITY TO STAND TRIAL

It is opined that Mr. Lamb has the capacity to stand trial.

IDENTIFYING INFORMATION

Mr. Lamb was seen at Forensic Evaluation Service pursuant to a court order from the Richland County Court of General Sessions. This court order requests an evaluation of the defendant's competency to stand trial pursuant to *State v. Blair*, 275 S.E. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. §44-23-410 (1976). The defendant is currently applying for Post-Conviction Relief (PCR) for the charges of Strong Arm Robbery, Criminal Sexual Conduct First Degree, and Kidnapping. According to the court order, it was issued for the following reasons: "defendant has a history of mental illness."

STATEMENT OF NON-CONFIDENTIALITY

Prior to participating in the evaluation, the defendant was warned regarding the limitations of confidentiality. The defendant was informed that the evaluation was court ordered and was not for the purpose of providing treatment. The defendant was informed that the evaluators were employed by the South Carolina Department of Mental Health and were

not paid by a defense attorney or the solicitor. The defendant was informed that after the evaluation a report would be submitted to the defense attorney, the solicitor, and the judge in this case. The defendant was also informed that the evaluators could be called to court to testify at a hearing related to capacity to stand trial. Mr. Lamb expressed understanding of this information and agreed to participate in the evaluation.

SOURCES OF INFORMATION

1. Richland County Court of General Sessions court order for this evaluation received by the SCDMH Forensic Evaluation Service on November 16, 2020.
2. Arrest warrant 2017A4021600675 Strong Arm Robbery.
3. Sentence sheet for arrest warrant 2017A4021600675.
4. Arrest warrant 2017A4021600673 for Criminal Sexual Conduct First Degree.
5. Sentence sheet for arrest warrant 2017A4021600673.
6. Arrest warrant 2017A4021600674 for Kidnapping.
7. Sentence sheet for arrest warrant 2017A4021600674.
8. Application for Post-Conviction Relief dated September 20, 2019.
9. Case summary and accompanying documents for case number 170007701.
10. Written statement of Deborah Kay Childers dated March 17, 2017.
11. Written statement of Theta T. Brown dated March 17, 2017.
12. Written statement of Alissa Ramsey Ritchie dated April 11, 2017.
13. Written statement of Tonya Morgan dated April 19, 2017.
14. Written statement of Chantile Lattimore dated April 10, 2017.
15. Written statement of Cpl. Crystal Folk dated April 10, 2017.
16. Written statement of Walter Vanoe dated April 10, 2017.
17. Written statement of Xavier Worthington Perdue dated April 10, 2017.
18. Written statement of Cpl. Dominic D. Perlich dated March 22, 2017.
19. Lexington Medical Center incident report and accompanying documents for case number 2017-00797 for "Located Wanted Person."
20. Written statement of Officer W. Jesse Kaiser dated April 2, 2017.
21. Written statement of Nathaniel Gamble, III, dated April 3, 2017.
22. Written statement of David Thompson dated April 1, 2017.
23. Criminal history provided by National Crime Information Center (NCIC).
24. Transcript of Record from Richland County Court of General Sessions dated December 7, 2018.
25. Disciplinary report from South Carolina Department of Corrections (SCDC).
26. Competency to Stand Trial Evaluation completed by Richard L. Frierson, MD dated August 15, 2011.
27. Medical records from SCDMH.
28. Medical records from William S. Hall Psychiatric Institute (WSHPI).
29. Psychiatric interview conducted December 11, 2020**.
30. Medical records from SCDC.
31. Medical records from Columbia Area Mental Health Center.

*Note: The purposes of this evaluation are to provide a clinical update and assess his current capacity to stand trial and to proceed with PCR. For additional background and

diagnostic information, the Court is referred to the Competency to Stand Trial Evaluation report from 2011 which is briefly summarized below.

****SPECIAL NOTE:** Due to the COVID-19 outbreak, this evaluation was conducted remotely through a telepsychiatry platform. This was done to prevent unnecessary travel in and out of SCDC and SCDMH facilities, thereby limiting potential patient exposure to COVID-19. The audio and visual quality were very good. The inability to conduct an in-person interview did not appear to invalidate the interview or our conclusion.

REVIEW OF AVAILABLE RECORDS

SCDMH

Mr. Lamb was admitted from September 19 through November 7, 2002. The primary diagnosis is listed as Psychosis Not Otherwise Specified. The records provided by SCDMH include Alvin S. Glenn Detention Center records. These records include multiple handwritten notes from Mr. Lamb addressed "To: Doctor." The content of these notes are largely related to general health and medical and dental concerns. It is noteworthy the sentences are well structured with some grammatical errors and neatly written.

The discharge summary states he was "admitted to the Forensic Unit for restoration of competency to stand trial" for the "charges of assaulting a police officer and shoplifting of less than \$5000, first offense." Mr. Lamb was at that time prescribed Seroquel® (quetiapine), an antipsychotic; Cogentin® (benztropine), a medication used to treat and prevent side effects associated with antipsychotics; Remeron® (mirtazapine), an antidepressant often used for sleep induction; and Prolixin Decanoate® (fluphenazine decanoate), an injectable antipsychotic.

Competency to Stand Trial Evaluation August 15, 2011

Mr. Lamb was evaluated on August 15, 2011 (age 40) by Richard L. Frierson, MD to assess his capacity to stand trial for the charge of Exposure of Private Parts.

Dr. Frierson writes in the *Diagnostic Formulation* section:

We are noting the diagnosis of Psychosis, Not Otherwise Specified, by history. This was assigned during both hospitalizations out of concern for possible delusional thinking. Given his current presentation we are assigning a diagnosis of Malingering of Cognitive Deficits and Incompetence to Stand Trial. Given his numerous arrests and convictions for indecent exposure, we are assigning a diagnosis of Exhibitionism. Finally, we are assigning a diagnosis of Cocaine Dependence and Cannabis Dependence, by history.

Dr. Frierson noted an "apparent poor attempt at many competency questions" leading to administration of "an objective forced choice instrument designed to assess possible

feigning of incompetence to stand trial." On this test he performed "at a chance level" (i.e., similar performance to that of one guessing at answers without hearing the questions). Dr. Frierson concludes the report:

Although Mr. Lamb did not give correct answers to many questions that we asked him in the competency assessment, it is our opinion that he is currently feigning incompetence to stand trial and cognitive impairments. Such feigning is likely for the purposes avoiding prosecution, being admitted to the hospital for restoration, or seeking disability (he stated several times he was disabled during our current evaluation and past records indicate he has malingered symptoms for the purpose of seeking disability). In 2002 he demonstrated legal knowledge consistent with someone who is competent to stand trial. Furthermore, he has along history of involvement in the legal system and has traversed the court system several times in the past. It is our opinion that because we cannot view his current presentation as genuine, we have no reason to believe he is incompetent to stand trial at this time.

Notable Statement from Transcript of Record December 7, 2018

In the opening of the transcript Daniel Goldberg, the solicitor, outlined the potential punishments for each charge which were 30 years each for Criminal Sexual Conduct First Degree and Kidnapping and 15 years for Attempted Strong Arm Robbery. Mr. Goldberg stated, "The state and defense entered into negotiations whereby Mr. Lamb would be sentenced to a twenty-four-year sentence on the CSC and the kidnapping and fifteen years on the strong-arm robbery, all sentences to run concurrent with one another." Mr. Goldberg later summarizes the sentencing agreement by saying, "So, effectively a twenty-four-year sentence." The defense counsel, Robert Bank, Jr, confirmed the agreement with the Court. The Court asked Mr. Bank about concerns regarding competency. Mr. Bank replied:

I have had concerns about his competency. However, I have had him privately evaluated by a forensic psychiatrist - - or psychologist, excuse me, Dr. Jeff McKee, who this court is familiar with. He found him competent.

I've also reviewed his medical records that indicate that he is currently taking his medications, which was Dr. McKee's only concern. And Mr. Lamb has assured me that he is continuing to take his medication, and that includes this morning as prescribed by his doctor. So, with all of those things taken into account, I do believe he is competent.

The Court then asked questions to assess Mr. Lamb's understanding that he was pleading guilty. The solicitor summarized the facts of the case. The Court addressed Mr. Lamb again describing the potential sentences for the charges to which he was pleading *guilty*. During the questioning, the judge said, "I could run those all consecutive and you would be looking at seventy-five years in jail. Do you understand that?" Mr. Lamb

answered, "Yes, Your Honor." The Court later asks, "All right, and you've been represented by Mr. Bank. Are you satisfied with his representation?" Mr. Lamb replied, "Yes, ma'am." Mr. Lamb added "it was a guarantee that I get twenty-four years..." Mr. Lamb indicated he had met with his attorney and was satisfied with representation. The solicitor mentions that two charges would be *nolle prossed* which were Assault and Battery First Degree and Trespassing. The parties discussed specifics of the deal particularly concurrent versus consecutive sentencing. After the Court finds sufficient evidence for the *guilty* plea it was said by the judge, "Also, I will put on the record I find that he has had competency evaluations, and that his attorney is of the opinion that he is competent for purposes of going forward today. And based on my questioning, I do find that he is competent also." After the victim spoke in court, Mr. Bank was asked if he wanted to add anything prior to sentencing. Mr. Bank said in part, "All that I wanted to put on the record has been placed on the record regarding Mr. Lamb's mental health." The Court then announces the sentence of 24 years and that "All sentences will run concurrent" with "given credit for 629 days" presumably from time in the detention center.

Application for PCR dated September 20, 2019

Mr. Lamb's application for PCR Mr. Lamb alleges ineffective counsel provided by Mr. Bank. He writes, "I want you to know that my Lawyer was ineffective in courts when I went to go to courts for it because they told them that they do not know what was going on with plea Bargain hearing in the court." He writes regarding grounds for PCR, "I told my Lawyer that I did not Understand what the Judge was saying." Lastly, under *relief you seek in filing this application* section he writes, "I told my Lawyer to tell the Judge that I do not want the deal if they did not Run my time with my other time into my other time with my other time and they did not do it and they told m do not worrie about it."

SCDC Disciplinary

Throughout Mr. Lamb's history of incarcerations from 1991 to present he has been charged with various infractions in the correctional setting including Sexual Assault, Striking an Employee with/without Weapon, Refusing or Failing Obey Orders, Unauthorized Agency Uniforms, Exhibitionism and Public Masturbation, Sexual Misconduct, Out of Place, Fighting without a Weapon, Solicit Employee, Use of Obscene/Vulgar/Profane Language/Gestures, Threatening to Inflict Harm on Employee, Damage/Destroy Property, Class I Escape, Possession of Contraband, Inciting/Creating a Disturbance, Safety Regulations, Use of Narcotics/Marijuana/Unauthorized drug/inhalant, Stealing, and False Statement to Harm another Person.

NCIC

According to the criminal history provided by NCIC Mr. Lamb has previously been arrested for charges including Assault and Battery Third Degree, Public Disorderly Conduct, Indecent Exposure, Assault and Battery Second Degree, Trespassing, Entering Premises after Warning, Contempt of Municipal Court, Pedestrian on Controlled Access

Highway, Sex Offender Registry Violation, Threatening Life/Person/Family of Official, Strong Arm Robbery, Shoplifting, and Committing Lewd Act upon Child Under 16.

CLINICAL UPDATE

CAMHC

Mr. Lamb was seen by the clinic on March 12, 2013 with a request to have a case manager become his payee. He was described as "pleasant and cooperative with interview but he did not have [sic] respect for anything this clinician was saying [sic] to him. He has a history of malingering which appears still the case today." The diagnoses included Malingering, Alcohol Abuse by history, Cocaine Abuse, and Antisocial Personality Disorder. He presented back July 16, 2013 where he was described as "very argumentative from the start and confrontational." He reported that he was having trouble with gagging in his sleep. A nurse at the clinic attempted to explain he needed to seek attention from a primary care physician as it "appeared to be more physical more than [sic] mental health." He left before intake could be completed.

He returned to the clinic on September 30, 2016 where he was described as being paranoid with a "somewhat disorganized" thought process. He was noted to be wearing "multiple layers of clothes including hooded sweatshirt, sweatpants and leather jacket" on a 70 degree day. Diagnoses included Unspecified Schizophrenia Spectrum and other Psychotic Disorder and Cocaine Use Disorder. The provider notes a history of noncompliance but believed he would benefit from an antipsychotic.

Mr. Lamb was brought into the clinic on February 10, 2017 by his then payee. He was described as being "very belligerent," "very argumentative and oppositional toward [his payee]." He had a couple of no shows before placing a call requesting a new provider.

Of note, urine drug screens were positive at times for cannabis, cocaine, and benzodiazepines.

SCDC Medical Records

Mr. Lamb has received mental health treatment during his incarceration. He has a history of making bizarre statements about the governor wanting to execute him and a PREA (Prison Rape Elimination Act) case.

A note dated July 2, 2020 states Mr. Lamb was being taken off of crisis intervention but adds he did "feel like he would harm his roommate if he was returned to the same room that he was in." He told his psychiatrist he wanted to be transferred to another dorm due to "paranoid problems" (internal quotation marks omitted). He reported homicidal ideations that he believed would go away if he were to be transferred.

A counselor note dated August 6, 2020 states Mr. Lamb had "been struggling with a prea incident." He reported to his psychiatrist, Stephanie Chapman, DO, "that his roommate

threatened to rape him and wanted to file a PREA on August 4, 2020. He told staff that the threat made him feel suicidal. He reported an officer had sexually assaulted him a few weeks prior to this incident. Dr. Chapman writes in her plan "I/m [inmate] appears to be attempting to transfer institutions. It is unclear if his report of events is accurate." He was referred to the person in the institution who handles PREA complaints.

The most recent psychiatric note available for review is dated November 5, 2020. The note states Mr. Lamb reported receiving a letter stating that he was to "be executed in a year" and "would be killed with a stun gun." He reported not being compliant with Vistaril® (hydroxyzine), an antihistamine used to treat acute anxiety. His diagnoses include Unspecified Intellectual Disability, Adjustment Disorder with Mixed Anxiety and Depressed Mood, and Antisocial Personality Disorder. Dr. Chapman also notes a rule out diagnosis of psychotic disorder. A *rule out diagnosis* is used when there is some indication of a diagnosis but not sufficient evidence to confirm diagnosis. The note indicates he is not prescribed psychiatric medications at this time other than Vistaril® (hydroxyzine) which he is not taking.

Psychiatric Interview

Mr. Lamb reported the following: He is currently housed in segregated housing because he is in prison "for rape charges." He believes he is "to be executed" based on a letter he received from the governor. He destroyed the letter and is not able to show it to anyone. He is receiving mental health treatment which includes only one medication to help him sleep, believed to be Vistaril® (hydroxyzine). He is trying to be placed permanently on protective custody due to his conviction and recognizes this could mean the "government take all [his] privileges for that."

Mr. Lamb stated he did not need mental health help or to discuss past mental health symptoms. He stated the purpose of the evaluation is to help him get a new trial.

Mental Status Examination

On December 11, 2020, Mr. Lamb presented to the appropriately dressed in jumpsuit provided by SCDC. He was reasonably well groomed with appropriate hygiene. He made good eye contact through the telehealth platform. His speech was loud at times in a regular rate and tone. He would go on tangents and required regular redirection. As described above, he insisted on discussing only issues at it pertains to his past trial and his PCR application. He was alert and oriented to person, place, approximate time (December 10th or 11th 2020), and situation. He was aware of current events. He demonstrated an intact memory by providing biographical information, reporting recent events, registering three unrelated words, and recalling one of the three words after approximately five minutes of distraction. He recalled a second word when provided a hint and able to select the third word when provided a list of answer choices. He had good concentration evidenced by attending to the evaluation, subtracting serial fours from 30 (one mistake in seven responses), and spelling a five-letter word correctly forwards and backwards. He described his mood as "pretty good" and had a constricted affect

(observed mood in a narrow range of expression). He denied suicidal and homicidal ideations. He denied auditory or visual hallucinations. He reported his belief that he was to be executed. It is not clear if this is a delusional belief or, given his history, a manipulative statement with the goal of having his dorm changed or impacting his PCR claim (see *Diagnostic Impression*).

DIAGNOSTIC IMPRESSION

It is opined to a reasonable degree of medical certainty that Mr. Lamb meets the diagnostic criteria for Delusional Disorder (provisional) and Antisocial Personality Disorder.

Mr. Lamb presents a diagnostic challenge given his history of malingering, obstinance, and noncompliance with treatment. His past and current providers have suspected Mr. Lamb malingers symptoms of mental illness to avoid punishment, achieve changes in housing, and otherwise excuse aggressive behavior. The medical records and his current presentation indicate he has a belief that he is to be executed. This belief does not respond to contrary information (e.g., being told he is not on death row, explaining a jury is required for death penalty, showing his sentencing sheets). A *delusion* is a fixed, false belief that does not change despite information that would refute the belief. The diagnosis of *Delusional Disorder* is used when a person has one or more delusions with minimal other evidence of psychosis (e.g., disorganized behavior, hallucinations, catatonia, disorganized speech). Some of these other symptoms are documented but because of lack of follow up and inconsistent presentation it is difficult to determine if these symptoms were genuine and accurately recorded. At this time, he is not receiving treatment with antipsychotic medications and is only observed to have delusional thinking, if his report is genuine. For this reason, we are offering the diagnosis of *Delusional Disorder* on a provisional basis. Of note, the presence of other diagnoses including but not limited to *Schizophrenia*, *Unspecified Schizophrenia Spectrum and Other Psychotic Disorder*, or *Malingering* would not alter the opinion regarding capacity to stand trial or to proceed with PCR based on the reasons outlined in *Conclusion Regarding Capacity to Stand Trial and Proceed with PCR*.

Mr. Lamb has had a pervasive pattern of violation of and disregard for the rights of others meeting the diagnostic criteria for *Antisocial Personality Disorder*. Specific antisocial personality traits evident in the interview and collateral information include failure to conform to social norms with respect to lawful behaviors, deceitfulness, impulsivity, aggressiveness, disregard for safety of self, consistent irresponsibility, and lack of remorse.

Lastly, there is evidence Mr. Lamb has had problematic pattern of cannabis and stimulant (e.g., cocaine) use leading to clinically significant impairment and warranting diagnoses of *Cannabis Use Disorder* and *Stimulant Use Disorder* by history. The diagnostic modifier *in a Controlled Environment* is added to complete the diagnoses because Mr. Lamb's access to such substances is limited due to his current incarceration.

CONCLUSION REGARDING CAPACITY TO STAND TRIAL AND PROCEED WITH PCR

The S.C. Code Ann. §44-23-410 states a defendant lacks capacity to stand trial if that defendant "lacks the capacity to understand the proceedings against him or to assist in his own defense as a result of a lack of mental capacity."

Mr. Lamb at the outset and repeatedly throughout the evaluation stated his goal with the PCR application is to obtain a new trial. He cited many reasons he believes he should have a new trial. Initially, he stated his attorney made a statement in court which indicated that the defense attorney did not understand what the judge was saying. He said his attorney, Robert Bank, Jr., told Mr. Lamb that he was still in school and did not understand the whole process ("He couldn't represent me if he couldn't understand the speech of the judge," "My Lawyer should have listened to some interpreting classes"). The court transcript was reviewed with Mr. Lamb. There is no indication of confusion on Mr. Bank's part as outlined above. When this was pointed out to Mr. Lamb, he stated the transcript was "a lie" and the court reporter had left out details of the proceedings. When he was informed Mr. Bank would have been a member of the South Carolina Bar Association and a licensed attorney, Mr. Lamb was similarly argumentative. Mr. Lamb stated his primary concern was he was told in court that his sentences would be *concurrent*, and he was told by "somebody at Edisto dorm" that they were listed as *consecutive*. Both the transcript of the sentencing and the sentence sheets themselves were reviewed with Mr. Lamb, and they indicate Mr. Lamb's sentences are *concurrent*. Mr. Lamb said that is not what he was told, and he only wants to make sure his sentences are *concurrent*. He was informed that the *somebody at Edisto dorm* either made a mistake or misread the information. Mr. Lamb stated that unless we went to Edisto dorm to view the file itself, we cannot be sure that SCDC has him classified correctly. He said, "I got two 24-year sentences and one 15-year sentence." He added these are supposed to total 24 years in prison with credit for jail time. All the information available says that this is correct. He said, "I'm fighting for my time. They say my time is running concurrent and that's what I want."

Mr. Lamb then stated he needed the PCR to go through for a new trial because his victim tampered with the evidence by digitally penetrating herself after the rape. He stated he thinks the grand jury therefore made a mistake in indicting him based on "corrupted evidence." He stated his attorney was incompetent because Mr. Bank did not challenge the evidence before his indictment. He said, "She raped herself after I did so they shouldn't have indicted me." He stated, "Listen, my lawyer didn't represent me. I want to get a trial on my lawyer."

He continued to shift the reason for PCR during our discussion. Eventually, he referred to a letter he received from the governor stating he is to be executed. He was informed that there is no indication he is to be executed as he has not received a death sentence, it would require a separate sentencing which would require a jury, he is not housed on death row, etc. He again instructed us to go to Edisto dorm to look at the computer information. He stated he tore up the letter he received so he is not able to show it to us

or to people at SCDC. He spoke about this letter and his pending PREA case at the same time. He spoke about PREA applying to rapists in prison (i.e., people who have been convicted of rape resulting in their prison sentence rather than inmates/staff who sexually assault other inmates/staff in prison). This could be an example of concrete thinking (i.e., taking words literal rather than their intended meaning). If he takes the act to refer to the *elimination of prisoners convicted of rape* that may explain where his belief of being executed originated.

Mr. Lamb identified his current attorney as "Ola Johnson." He reported meeting with his attorney prior to the evaluation and trusts that his case is being handled appropriately ("pretty fair so far and I can see he is doing his job"). He stated he is currently convicted of "Criminal Sexual Misconduct First Degree, Kidnapping, and Attempted Strong Arm Robbery." He stated he was convicted after taking a plea bargain and admitted in court that he "went into a public restroom and physically assaulted a woman."

Initially, Mr. Lamb would answer questions using vague responses. For example, when asked what *guilty* meant, he said, "It means you guilty." He was then asked if it meant that a person "did it, didn't do it, or doesn't know anything about it?" He said, "Well it could be any of those, it just all depends." He was asked on what it depends, and he said, "just depends." Given his history and his vague responses, there was a concern he was not putting forth his best effort in answering questions. Mr. Lamb was administered a force choice instrument, the same one from his evaluation in 2011. He answered in a similar fashion starting out missing a few in a row before essentially answering false for most of the final 50 questions (45 of the last 50 answered with *false*). This led to his answers being near chance (i.e., similar score to someone simply guessing). After the instrument was completed, he was reminded that it was important for him to put forth his best effort in answering questions.

Mr. Lamb stated that potential pleas available include *guilty* and *not guilty*. He correctly defined *guilty* ("I did it or that you did it") and *not guilty* ("didn't do it"). He recognized that a *guilty* plea would be followed by sentencing. He voiced understanding that a plea of *not guilty* would be required to take the case to trial ("get a jury trial"). He correctly described *plea bargain*.

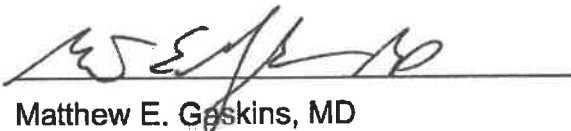
Mr. Lamb identified important people present at court to include the judge, the solicitor, his attorney, and the jury. He stated that the judge oversees of the court and recognized that the judge is neutral in his case ("supposed to be in the middle, supposed to be fair"). He correctly described the roles of the judge. He recognized the adversarial role of the solicitor at trial ("prosecute the case"). He correctly identified his attorney's role at trial ("defend you and try to get you a good deal out of the solicitor"). He stated that the jury consists of 12 people who have to decide if the defendant is *guilty* or *not guilty* ("Whether you did it or not"). He stated that "all accept one have to agree." He clarified this to mean that he would consider a jury with 11 guilty votes and 1 not guilty vote a win because "they can't convict you unless all of them agree." Mr. Lamb was provided additional information regarding a hung jury leading to a mistrial and, most likely, a retrial given the charge

against him. During review he recognized that "all of them" have to agree for a *guilty* or a *not guilty* verdict.

Mr. Lamb correctly defined *evidence* and *witness* providing examples related to his case. He understood the common rules of probation ("can't do drugs," "got to report," "curfew," "can't leave state") and the potential consequences for violating these rules ("they put you back in jail"). He described appropriate courtroom behavior and recognized potential consequences for disrupting court ("contempt of court"). He voiced understanding of *perjury*. He recognized his Fifth Amendment right to not speak in court ("You have the right to remain silent"). He stated that if the case goes to trial, his trial would be fair.

At the end of the capacity questions, he was asked again what would happen if he were to be granted PCR. He said, "Go back to county jail and court." He was asked about his previous plea bargain and he said, "It's gone because I'll have a trial."

In summary, it is our opinion that Mr. Lamb has a sufficient factual and rational understanding of charges to which he previously plead guilty and has the capacity to assist his attorney in the preparation of a defense and with his PCR. Furthermore, he voiced understanding that a granted PCR results in a new trial and not release. He stated he understands that he could get a more severe punishment if this occurs and that the solicitor's office would not have to honor the previous plea agreement. Mr. Lamb cited multiple issues about his case unrelated to his PCR application as reasons he needs a new trial. As each issue was discussed and weaknesses of his argument were pointed out, he would change the reason for seeking PCR to a separate issue. Based on all the available information, Mr. Lamb's application for PCR may primarily be motivated by his belief that he is to be executed and is desperate for anything that will stop the nonexistent order. If this motivation is based on a delusional belief that he is to be executed, this would need to be addressed by his treating provider. However, regardless of the motivation, he understands and can rationally discuss his convictions and PCR status. Therefore, it is our opinion that Mr. Lamb has the capacity to stand trial pursuant to *State v. Blair*, 275 S.E. 529, 273 S.E. 2d 536 (1981) and S.C. Code Ann. §44-23-410 (1976) and has the capacity to proceed with PCR.



Matthew E. Gaskins, MD

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Charles Lamb, #186788,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Case No.: 2019-CP-40-5705

ORDER OF DISMISSAL

JEANETTE V. MOORE
C.C.P., G.S., & F.C.

2021 SEP 29 PM 3:45

RICHLAND COUNTY
FILED

This matter came before the Court by way of Charles Lamb's (Applicant) action for post-conviction relief (PCR) commenced October 9, 2019. The State made its return on February 4, 2020. Applicant, through PCR Counsel, amended his application on April 6, 2021. The Court convened an evidentiary hearing into the matter on June 17, 2021, at the Richland County Courthouse in Columbia, South Carolina. Applicant was present at the hearing and represented by Ola A. Johnson, Esquire. Michael D. Davidson, Esquire, of the South Carolina Attorney General's Office, appeared on behalf of the State.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's plea counsel, Robert Bank, Esquire. ("Counsel") also testified. The Court had before it Applicant's records from the South Carolina Department of Corrections, a copy of the original plea transcript, the records of the Clerk of Court regarding the subject convictions, the pleadings, and the exhibits introduced at the evidentiary hearing. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections (SCDC) pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted at the June 2017 term of the Richland County Grand Jury for one count of criminal sexual conduct in the first degree (2017-GS-40-03268), kidnapping (2017-GS-40-03269), and attempted robbery/strong

arm robbery (2017-GS-40-03270). Applicant was represented by Assistant Public Defender Robert Bank. Deputy Solicitor Daniel R. Goldberg prosecuted the case.

On December 7, 2018, Applicant pleaded guilty as indicted to one count of criminal sexual conduct in the first degree, kidnapping, and attempted robbery/strong arm robbery before the Honorable DeAndrea Benjamin. Judge Benjamin sentenced Applicant, pursuant to negotiations between Applicant and the State, to concurrent terms of imprisonment for twenty-four years for kidnapping, twenty-four years for criminal sexual conduct in the first degree, and fifteen years for attempted robbery/strong arm robbery. Applicant did not appeal.

Applicant timely commenced this PCR action on October 9, 2019. In his original application, Applicant alleged:

1. Guilty plea was not knowingly, intelligently made.

a. "I told my lawyer that I did not understand what the judge was saying."

Applicant amended his application on April 6, 2021. Applicant alleges by and through PCR counsel that he is being held unlawfully for the following reasons:

1. Plea counsel failed to explain detail of guilty plea and concurrent or consecutive
2. Plea counsel failed to explain the deadline or process for filing appeal after the plea
3. Plea Counsel failed to correctly identify the indictment applicant was entering a plea to
4. Plea counsel failed to provide copy of states evidence to applicant
5. Plea counsel coerced him to enter the guilty plea by statements and threats made to the defendant
6. Following plea, counsel refused to explain the sentence to applicant
7. Plea counsel failed to convey questions to court regarding sentencing
8. Applicant's history of mental health problems prevented applicant from fully understanding his rights and he was not capable of giving up these rights and entering a voluntary guilty plea.

As relief, Applicant seeks to have his conviction vacated or to have his sentences vacated or to be granted a belated appeal. At the evidentiary hearing, Applicant struck and waived his third allegation outlined in the amended return—Plea Counsel failed to correctly identify the indictment applicant was entering a plea to—and proceeded forward on the remaining seven allegations as set forth in the April 6, 2021, amendment.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, passed upon their credibility, and weighed the testimony accordingly. Further, this Court has reviewed the records submitted to it by the parties and the legal arguments made by the attorneys. Pursuant to section 17-27-80 of the South Carolina Code, this Court makes the following findings based upon all of the probative evidence presented.

A. Summation of Record and Credibility Findings

The Court notes the below portions of the record and the testimony presented as particularly relevant to the allegations presented and passes upon its credibility and probative weight as follows:

1. Plea Proceeding

Near the outset of the plea colloquy, the Plea Court confirmed that Applicant understood the potential sentence for the criminal sexual conduct in the first degree, kidnapping, and attempted robbery/strong arm robbery charges. (Plea Tr. 3; 9–10). Upon further inquiry, Applicant confirmed he understood he was entering a plea to the aforementioned charges, as indicted, pursuant to a negotiated plea of twenty-four years, and all sentences would run concurrent. (Plea Tr. 3). Applicant affirmed to the court that he had spoken with Counsel about the matter, told Counsel everything he knew about it, that Counsel had answered all of Applicant's questions and

done everything he was asked to do, and that Applicant was satisfied with Counsel's services.

(Plea Tr. 12–13). After appraising Applicant of his various rights, the plea court inquired:

Q. All right. Is anyone forcing you to plead guilty today?

A. No, ma'am.

Q. And are you pleading guilty of your own free will?

A. Yes, ma'am, I am.

Q. And are you -- has anyone offered you anything in exchange for your plea? I know Ms. Goldberg, the solicitor, has offered you this negotiated sentence, but other than that, has anyone offered you anything in exchange for your plea today?

A. No, ma'am.

Q. And so you are pleading freely and voluntarily?

A. Yes, ma'am, I am.

Q. All right, and have you understood all of my questions today?

A. Yes, ma'am.

Q. And have you answered them truthfully?

A. Yes, ma'am.

(Plea Tr. 15–16). The court inquired as to whether Applicant understood he had the right to appeal within ten days, to which Applicant affirmed he understood. (Plea Tr. 16). Based on Applicant's answers, the Court found a substantial factual basis for Applicant's plea, and found that Applicant's decision to plead guilty was freely, voluntarily, knowingly, and intelligently made. (Plea Tr. 16). The Court further found that Applicant was competent for the purposes of entering a plea based on the competency evaluations performed on Applicant and the opinion of Counsel that Applicant was competent. (Plea Tr. 17). Accordingly, Judge Benjamin accepted Applicant's guilty plea, and sentenced Applicant to a concurrent sentence totaling twenty-four years, as negotiated. (Plea Tr. 17; 20–21).

2. Evidentiary Hearing

Applicant testified on his own behalf at the evidentiary hearing. Applicant testified Robert Bank represented him for his plea and that he was present in the courtroom the day of the evidentiary hearing. Applicant testified the day of his plea, he asked Counsel if his sentences were going to run consecutive. Applicant explained that if they were going to run consecutive, that he did not want to take the deal and wanted to go back to jail. Applicant testified that he asked the Judge to explain, but the Judge "got an attitude with him and would not explain things to him." Applicant testified that after the plea, he asked counsel to ask the judge if the sentences were going to run consecutive, but Counsel would not ask the Judge to "explain things." Applicant testified that during this conversation, Counsel began speaking in tongues and Applicant could not understand what Counsel was saying. Applicant testified he again asked Counsel to ask the Judge whether the sentences were going to run concurrent, and in response, Counsel began to threaten Applicant. Applicant testified Counsel went to speak with the Judge to tell her Applicant wanted a trial, but the Judge ignored Counsel. Applicant testified he told Counsel he wanted to go back to jail because he felt Counsel needed professional counseling.

Applicant testified he thought he needed to go to trial, and alleged Counsel said he did not understand what the judge was saying about Applicant's sentence. Applicant testified he told Counsel that Counsel needed to get counseling and therapy classes so Counsel could understand what the judge was saying in the court room. Applicant testified he and Counsel never discussed an appeal.

Applicant testified he never reviewed the evidence or got discovery. Applicant testified he never saw any actual documents. Applicant further explained the threats he received from Counsel. Specifically, Applicant testified Counsel said his family would hurt Applicant and "mess

him up” because Counsel did not like what Applicant “did to that old lady.” Applicant testified he told Counsel, “I do not like the way you speak to me. I’ll go back to county jail.” Applicant testified Counsel began cussing him out and told him he could not go back to the county jail. Applicant testified Counsel told him he had to go through with the plea, and that if Applicant did not go through with the plea, Counsel would kill Applicant. Applicant testified he told Counsel he did not appreciate Counsel’s attitude with him and Applicant did not appreciate what Counsel said to him. Applicant testified Counsel told Applicant that the sentences would run concurrent and Counsel refused to do anything when Applicant asked Counsel to do something about it.

Applicant additionally testified to his mental health treatment history. Applicant testified he was treated on the street and receives SSI due to police brutality, who Applicant claimed, “injured him really badly, sexually harassed him, and sexually raped him bad.” Applicant testified these events mentally and physically injured him, which is why he filed for disability for his paranoid schizophrenia. Applicant testified he was treated in Columbia and the facility gave him sleeping medicine because he could not sleep. Applicant testified Counsel should have told the Judge that Applicant did not want to take the deal, Counsel should have clarified that his sentence was concurrent, Counsel should not have made threats against applicant, and Counsel should have gotten another lawyer after he was unprofessional in the courtroom.

On cross-examination, Applicant testified he met with Counsel two times, once on the day of the plea and in the county jailhouse. Applicant was asked on cross-examination if he was currently serving twenty four years. In response, Applicant testified he was in fact serving twenty four years, but the classification system at Lieber, the institution he was in before Broad River, told him that all of his sentences were running concurrent. Applicant explained that another person at Lieber told him he should go back to court to get it all straightened out because Applicant’s time

was running consecutive and people were lying to Applicant. Applicant testified on cross-examination that Applicant filed for PCR because everything was Counsel's fault, and had Counsel asked people these things about his time, Applicant would not have to go through pain and suffering under these conditions—under false imprisonment—because Counsel did not do it right.

Robert Bank ("Counsel") also testified at the evidentiary hearing. Counsel testified he has been practicing criminal law for almost eight years. Counsel testified he was appointed to represent Applicant, and they met fourteen times at the jail and twice at the courthouse. Counsel testified he received all the discovery he needed and went over it with Applicant. Counsel explained he gave Applicant a copy of discovery July 6, 2017—evidenced by a signed receipt—and Counsel advised Applicant against keeping a copy of the discovery in jail. Counsel testified Applicant requested a second copy because the first copy got wet. Counsel testified he gave Applicant a third copy after sentencing on June 21, 2019. Counsel testified Applicant confessed he was at the scene of the crime and that he digitally penetrated the victim's vagina with his finger. Counsel testified that based on Applicant's account of the incident and the discovery he had, he did not see any defenses that he thought would be successful. Counsel testified when there is a significant sentence, he tells clients that he supports them either way, but advises he does not think they will be successful at trial. Counsel explained that it is ultimately the client's decision. Counsel testified that Applicant shifted from wanting to plead to wanting a trial; however, as time went on, Applicant more consistently wanted a plea deal. Counsel testified Applicant was facing seventy-five years total and that he explained this to Applicant.

Counsel testified once Applicant decided he wanted to plea, Applicant wanted Counsel to secure unreasonable offers ranging from seven to ten years. Counsel testified he went to meet with Applicant one final time prior to Counsel leaving the country for a prior scheduled trip. At that



meeting, Counsel testified that he explained to Applicant that Counsel could try to get plea offer before he left the country, that Applicant could wait until Counsel got back in the country to negotiate a plea, or Applicant could have a new attorney appointed. Counsel testified Applicant told Counsel to ask the solicitor for twenty years. Counsel testified he went to the Solicitor with that number and the Solicitor countered with twenty-five years. Counsel testified Applicant agreed to the twenty-five years with all charges running concurrent. Counsel explained that the morning before the plea hearing, Counsel asked the Solicitor for some additional time to speak with Applicant. Counsel testified that in response to Counsel's request, the Solicitor lowered the offer to a concurrent twenty-four year sentence. Counsel testified he informed Applicant of the one year reduction on a negotiated, concurrent sentence the morning of the plea hearing. Counsel testified he explained what concurrent meant to Applicant and Applicant understood, and that the plea achieved what Applicant wanted.

Counsel testified he had some reservations about Applicant's competency. Counsel explained Applicant struggled with mental health his entire life and was inconsistently treated. Counsel testified that Applicant's mental health fluctuated while in jail, and the fluctuation seemed to be associated with whether Applicant took his medication or not. Counsel testified he got ahold of Applicant's prior health records and copy of criminal file. Counsel testified he retained private forensic psychologist who conducted an evaluation on August 15, 2017, at the detention center. Counsel testified the private forensic psychologist gave an opinion that Applicant was competent, which Counsel put on the record at Applicant's plea hearing.

Counsel testified he did not recall Applicant asking him questions during the plea hearing. Counsel refuted that he ever threatened to kill Applicant. Counsel testified he did not recall telling Applicant that Counsel did not understand what the Judge was saying. Counsel denied coercing

Applicant into pleading guilty. Counsel testified Applicant did not ask him any questions immediately after the plea, but Counsel did get a letter from Applicant requesting Counsel clarify whether Applicant's sentences were concurrent or consecutive. Counsel explained he wrote a letter to Applicant explaining that Applicant's sentences were concurrent, attached the sentencing sheets, and highlighted concurrent on all of the sentencing sheets. Counsel testified he did not recall specifically informing Applicant of his right to appeal, but Counsel recalled the Judge doing so on the record. Counsel testified Applicant did not ask him to appeal, but if Applicant had, he would have. Counsel testified Applicant gave him no inclination that Applicant would have wanted to appeal, and that if Counsel thought he wanted to appeal, Counsel would have spoken with Applicant; however, Counsel testified he did not see any meritorious issues with the plea. Counsel testified the ultimate decision to plead guilty was Applicant's.

On cross-examination, Counsel testified he explained the difference between concurrent and consecutive to Applicant. On cross-examination, Counsel testified he used the laptop at the jail to review the digital file with Applicant, but later, SCDC prohibited videos, so Applicant likely did not see those. On cross-examination, Counsel affirmed he had no memory of ever threatening Applicant. On cross-examination, Counsel testified he requested and received all of the mental health history and records that he could get access to. Counsel affirmed that the doctor who he hired to perform Applicant's mental health evaluation was qualified and had previously worked for the South Carolina Department of Mental Health. On cross-examination, Counsel testified that during his representation of Applicant, he did not believe that Applicant was more vulnerable to coercion due to Applicant's mental health history.

3. Credibility and Weight

The Court finds that the present matter represents an appropriate circumstance to issue broad credibility findings as to the testimony of each of the witnesses at the evidentiary hearing, rather than attempt to parse out in detail which portions of each witness' testimony are credible and which portions are not.

The Court finds Applicant's testimony to not be credible in its entirety and affords it zero probative weight. While in many post-conviction relief actions less-than-credible witnesses can be said to be truthful in at least some respects or as to certain details, Applicant's testimony affords few such opportunities to give credit.

The Court finds the testimony provided by Counsel to be highly credible and affords it substantial probative weight. Counsel was thorough and forthright in each of his answers, and eagerly offered information beyond the narrower scope of the questions asked of him. Counsel's candor to the Court was palpable and informative.

B. Ineffective Assistance of Counsel & Involuntary Guilty Plea

Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR 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.

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). Applicant must so prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRPC. 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). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109-10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." *Yarborough*, 540 U.S. at 6; *see also Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable."). 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. "This does not require a showing that counsel's actions 'more likely than not altered the outcome,' but the difference



between *Strickland*'s prejudice standard and a more-probable-than-not standard is slight and matters 'only in the rarest case.'" *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). "The likelihood of a different result must be substantial, not just conceivable." *Id.* at 112. "The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury." *United States v. Basham*, 789 F.3d 358, 371-72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he/she would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. *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."). Statements made during a guilty plea should be considered conclusively, unless an Applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. *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)).

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. Below, the Court will address each of Applicant's claims of ineffective assistance of counsel individually.

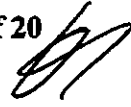
1. Plea counsel failed to explain detail of guilty plea and concurrent or consecutive

Applicant alleges Counsel failed to explain detail of guilty plea and concurrent or consecutive. This allegation is resolved by the Court's credibility findings as set forth in Section II.A., above, and by the record: Counsel and the Court explained the details of the guilty plea and that the sentences would be concurrent. The Plea Court thoroughly explained to Applicant that his sentences would run concurrent and that Applicant would serve a total of twenty four years. (Plea Tr. 5; 10; 14; 15). At the evidentiary hearing, Counsel testified Applicant told Counsel to ask the solicitor for twenty years. Counsel testified he went to the Solicitor with that number and the Solicitor countered with twenty-five years. Counsel testified Applicant agreed to the twenty-five years with all charges running concurrent. Counsel explained that the morning before the plea hearing, Counsel asked the Solicitor for some additional time to speak with Applicant. Counsel testified that in response to Counsel's request, the Solicitor lowered the offer to a concurrent twenty-four year sentence. Counsel testified he informed Applicant of the one year reduction on a negotiated, concurrent sentence the morning of the plea hearing. Counsel testified he explained what concurrent meant, that he felt Applicant understood what concurrent meant, and that the plea achieved what Applicant wanted.

Accordingly, Applicant has failed to present any evidence to meet his burden as to either prong of *Hill*, and his claim for relief by way of this allegation is **DENIED**.

2. Plea counsel failed to explain the deadline or process for filing appeal after the plea

Applicant alleges Counsel failed to explain the deadline or process for filing appeal after the plea. This allegation is resolved by the Court's credibility findings as set forth in Section II.A., above, and by the record: Applicant was aware he had ten days to file an appeal. At the plea



hearing, the Court inquired as to whether Applicant understood he had the right to appeal within ten days, to which Applicant affirmed he understood. (Plea Tr. 16). Furthermore, at the evidentiary hearing, Counsel testified he did not recall specifically informing Applicant of his right to appeal, but Counsel recalled the Judge doing so on the record. Counsel testified Applicant did not ask him to appeal, but if Applicant had, he would have. Counsel testified Applicant gave him no inclination that Applicant would have wanted to appeal, and that if Counsel thought he wanted to appeal, Counsel would have spoken with Applicant; however, Counsel testified he did not see any meritorious issues with the plea. Counsel testified the ultimate decision to plead guilty was Applicant's.

Accordingly, this Court finds that Applicant was aware he had ten days to appeal and that any alleged deficiency of Counsel was cured by the plea colloquy. *See Wolfe v. State*, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997) (stating that plea counsel's deficient performance can be cured by the plea court's colloquy). Therefore, this Court finds Applicant has failed to present any evidence to meet his burden as to either prong of *Hill*, and his claim for relief by way of this allegation is **DENIED**.

3. Plea counsel failed to provide copy of states evidence to applicant

Applicant alleges Counsel failed to provide copy of states evidence to applicant. This allegation is resolved by the Court's credibility findings as set forth in Section II.A., above, and by the record: Counsel provided Applicant with discovery materials two times prior to Applicant's plea and Counsel went over the discovery with Applicant. At the evidentiary hearing, Counsel brought Applicant's case file with him, which was eight to ten inches thick. Counsel testified he received all the discovery he needed and went over it with Applicant. Counsel explained he gave Applicant a copy of discovery July 6, 2017—evidenced by a signed receipt—and Counsel advised Applicant against keeping a copy of the discovery in jail. Counsel testified Applicant requested a



second copy because the first copy got wet. Counsel testified he gave Applicant a third copy after sentencing on June 21, 2019.

Given Counsel's testimony and the thickness of his file, this Court finds it clear that Counsel did extensive work on this case. Furthermore, this Court finds Counsel's testimony extremely credible as to providing Applicant two copies of the discovery and reviewing the discovery with Applicant. Accordingly, Applicant has failed to present any evidence to meet his burden as to either prong of *Hill*, and his claim for relief by way of this allegation is **DENIED**.

4. Plea counsel coerced him to enter the guilty plea by statements and threats made to the defendant

Applicant alleges Counsel made statements and threats to Applicant which coerced Applicant to enter the guilty plea. This allegation is resolved by the Court's credibility findings as set forth in Section II.A., above, and by the record: Applicant's plea was freely and voluntarily entered, and Counsel did not threaten Applicant to get him to plead guilty.

During the plea hearing, as to whether Applicant was pleading guilty freely and voluntarily, the plea court inquired:

Q. All right. Is anyone forcing you to plead guilty today?

A. No, ma'am.

Q. And are you pleading guilty of your own free will?

A. Yes, ma'am, I am.

Q. And are you -- has anyone offered you anything in exchange for your plea? I know Ms. Goldberg, the solicitor, has offered you this negotiated sentence, but other than that, has anyone offered you anything in exchange for your plea today?

A. No, ma'am.

Q. And so you are pleading freely and voluntarily?

A. Yes, ma'am, I am.



Q. All right, and have you understood all of my questions today?

A. Yes, ma'am.

Q. And have you answered them truthfully?

A. Yes, ma'am.

(Plea Tr. 15–16). Based on Applicant's answers, the Court found a substantial factual basis for Applicant's plea, and found that Applicant's decision to plead guilty was freely, voluntarily, knowingly, and intelligently made. (Plea Tr. 16). The Court further found that Applicant was competent for the purposes of entering a plea based on the competency evaluations performed on Applicant and the opinion of Counsel that Applicant was competent. (Plea Tr. 17). Accordingly, Judge Benjamin accepted Applicant's guilty plea, and sentenced Applicant to a concurrent sentence totaling twenty-four years, as negotiated. (Plea Tr. 17; 20–21).

At the evidentiary hearing, Counsel refuted that he ever threatened Applicant. Further, Counsel denied coercing Applicant into pleading guilty. Based on the record and Counsel's credible testimony, this Court finds Applicant's plea was freely, voluntarily, knowingly, and intelligently made. Accordingly, Applicant has failed to present any evidence to meet his burden as to either prong of *Hill*, and his claim for relief by way of this allegation is **DENIED**.

5. Following plea, counsel refused to explain the sentence to applicant

Applicant alleges that following the plea, Counsel refused to explain the sentence to Applicant. This allegation is resolved by the Court's credibility findings as set forth in Section II.A., above, and by the record: following the plea, Counsel explained the sentence to Applicant. At the evidentiary hearing, Counsel testified Applicant did not ask him any questions immediately after the plea, but Counsel did get a letter from Applicant requesting Counsel clarify whether Applicant's sentences were concurrent or consecutive. Counsel explained he wrote a letter to



Applicant explaining that Applicant's sentences were concurrent, attached the sentencing sheets, and highlighted concurrent on all of the sentencing sheets.

This Court finds, based on Counsel's credible testimony, that Counsel appropriately explained Applicant's sentence with him prior to, and after, the plea. Further, this Court finds that the sentence was explained at outset of the plea hearing by the judge and the solicitor, and Applicant never asked the plea judge to clarify any questions he may have had. Accordingly, Applicant has failed to present any evidence to meet his burden as to either prong of *Hill*, and his claim for relief by way of this allegation is **DENIED**.

6. *Plea counsel failed to convey questions to court regarding sentencing*

Applicant alleges Counsel failed to convey questions to court regarding sentencing. This allegation is resolved by the Court's credibility findings as set forth in Section II.A., above, and by the record. At the evidentiary hearing, Counsel testified he did not recall Applicant asking him questions during the plea hearing.

This Court finds, based on Counsel's credible testimony, that Applicant did not ask Counsel any questions during the plea hearing that Counsel should have conveyed to the plea judge. Therefore, this Court finds Counsel was not constitutionally ineffective. Furthermore, this Court finds that any prejudice from Counsel's alleged deficiency was cured by the plea colloquy, as the sentence was explained at outset of the plea hearing by the judge and the solicitor, and Applicant never asked the plea judge to clarify any questions he may have had. *See Wolfe v. State*, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997) (stating that plea counsel's deficient performance can be cured by the plea court's colloquy). Accordingly, Applicant has failed to present any evidence to meet his burden as to either prong of *Hill*, and his claim for relief by way of this allegation is **DENIED**.

7. Applicant's history of mental health problems prevented applicant from fully understanding his rights and he was not capable of giving up these rights and entering a voluntary guilty plea.

Applicant claims his history of mental health problems prevented him from fully understanding his rights, and therefore, he was not capable of giving up these rights and entering a voluntary guilty plea. However, this Court disagrees and finds Applicant's plea was freely, voluntarily, knowingly, and intelligently made.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of the plea and the charges against him or her. *Dover v. State*, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); *see also Boykin v. Alabama*, 395 U.S. 238, 243 (1969) (Courts must make sure defendants have "a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought, and forestalls the spin-off of collateral proceedings that seek to probe murky memories."). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. *See Harris v. Leeke*, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness, and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); *Richardson v. State*, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.



At the evidentiary hearing, Counsel testified he had some reservations about Applicant's competency. Counsel explained Applicant struggled with mental health his entire life and was inconsistently treated. Counsel testified that Applicant's mental health even fluctuated while in jail, and the fluctuation seemed to be associated with whether Applicant took his medication or not. Counsel testified he got ahold of Applicant's prior health records and copy of criminal file. Counsel testified he retained private forensic psychologist who conducted an evaluation on August 15, 2017, at the detention center. Counsel testified the private forensic psychologist gave opinion that Applicant was competent, which Counsel put on the record at Applicant's plea hearing.

This Court has reviewed Applicant's competency evaluation report from prior to the plea, which found Applicant was competent to enter a plea. This Court finds there is nothing in that report, nor in the mental competency evaluation report conducted in 2020, that raises any concern about whether Applicant was competent to enter the plea. Additionally, this Court finds that the record of the plea hearing establishes the knowing and voluntary nature of Applicant's plea. Therefore, based on the plea hearing transcript, Counsel's credible testimony, and the two mental competency evaluation reports, this Court finds Applicant's plea was freely, voluntarily, knowingly, and intelligently made. Accordingly, Applicant's claim for relief by way of this allegation is **DENIED**.

III. 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 application for post-conviction relief must be denied and dismissed with prejudice.

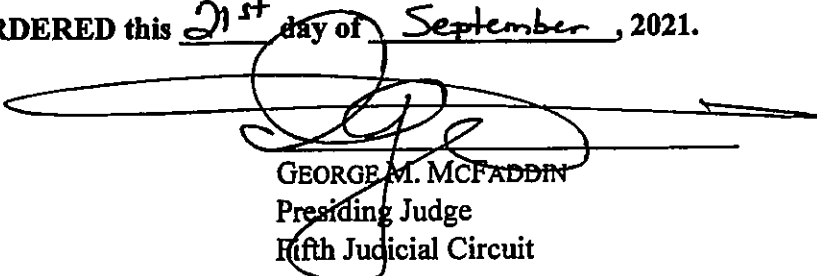


This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP provides that if the Applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 21st day of September, 2021.



GEORGE M. MCFADDIN
Presiding Judge
Fifth Judicial Circuit

Sumter, South Carolina

WITNESSES

(S) Brandon T Dudley
- Columbia Police Department

ARREST WARRANT NUMBER

2017A4021600673

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: JUN 21 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS4003268

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JUNE TERM 2017

74

**THE STATE
vs.**

Charles Willis Lamb

**Indictment for
SEX / CRIMINAL SEXUAL CONDUCT -
FIRST DEGREE**

**SC Code: 16-03-0652
CDR Code: 0160**

After being fully advised as to my
legal rights, I hereby waive presentation
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Charles Willis Lamb
C.C.C. PLS. AND G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on June 21, 2017, the
Grand Jurors of Richland County present upon their oath:

CRIMINAL SEXUAL CONDUCT, FIRST DEGREE

That Charles Willis Lamb did in Richland County on or about March 17, 2017, engage in sexual battery with DEBORAH CHILDERS, by using force to accomplish sexual battery and/or the victim submitted to sexual battery by the actor under circumstances while the victim was also the victim of forcible confinement and/or kidnapping and/or robbery and/or extortion and/or burglary and/or housebreaking and/or any other similar offense(s) or act(s), in violation of Section 16-03-0652, S. C. Code of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR



WITNESSES

(S) Brandon T Dudley
- Columbia Police Department

ARREST WARRANT NUMBER

2017A4021600674

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

JUN 21 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017GS4003269

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JUNE TERM 2017

74

**THE STATE
vs.**

Charles Willis Lamb

**Indictment for
KIDNAPPING / KIDNAPPING**

SC Code: 16-03-0910
CDR Code: 0095

After being fully advised as to my legal rights, I hereby waive present to the Grand Jury.

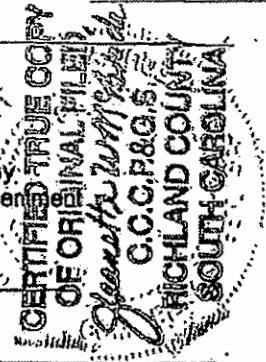
Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.



STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

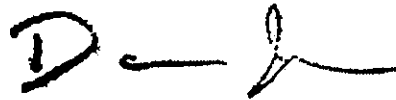
INDICTMENT

At a Court of General Sessions, convened on June 21, 2017, the
Grand Jurors of Richland County present upon their oath;

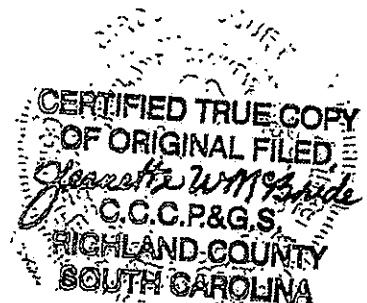
KIDNAPPING

That Charles Willis Lamb did in Richland County on or about March
17, 2017, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry
away one DEBORAH CHILDERS, without authority of law, in violation of
Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR



WITNESSES

(S) Brandon T Dudley
- Columbia Police Department

ARREST WARRANT NUMBER

2017A4021600675

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: JUN 21 2017

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2017GS4003270

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

JUNE TERM 2017

74

THE STATE
vs.

Charles Willis Lamb

Indictment for
**ATTEMPTED ROBBERY / COMMON LAW
ROBBERY, STRONG ARM ROBBERY**

SC Code: 16-11-0325
CDR Code: 0137

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Charles Lamb
Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Jesse W. W. W. W.
C.C.C. PLS. AND G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on June 21, 2017, the
 Grand Jurors of Richland County present upon their oath:

ATTEMPTED ROBBERY/STRONG ARM ROBBERY

That Charles Willis Lamb did in Richland County on or about March 17, 2017, attempt to take personal property from or in the immediate presence of DEBORAH CHILDERS with the intent to deprive him/her of possession through the use of force, threats of force, or intimidation, and did carry away the property taken, in violation of the Common Law crime of Attempted Strong Arm Robbery.

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



DAN JOHNSON, SOLICITOR

CERTIFIED TRUE COPY
 OF ORIGINAL FILED,
Jeannette W. McBratton
 C.C.C.P.&G.S.
 X RICHLAND COUNTY
 SOUTH CAROLINA

30 years

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF RichlandSTATE VS.Charles Willis Lamb

AKA:

Race: BLACK Sex: M Age: 47DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#: [REDACTED] SID#: [REDACTED]*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: Criminal sexual conduct - First degreeINDICTMENT/CASE#: 2017GS4003268A/W#: 2017A4021600673Date of Offense: 3/17/2017S.C. Code §: 16-03-0652CDR Code #: 0160

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

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

ATTEST:

[Signature]
Solicitor2020
SC Bar#Charles Lamb
DefendantRobert Rink
Attorney for Defendant10117
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 24 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP Total: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient: *Fine: \$ § 14-1-206 (Assessments 107.5%) \$ § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ § 14-1-211(A)(2) (DUI Surcharge) \$100 \$ § 56-5-2995 (DUI Assessment) \$12 \$ § 56-1-286 (DUI Breath Test) \$25 \$ Proviso (Public Def/Probation) \$500 \$ § 14-1-212 (Law Enforce. Funding) \$25 \$ § 14-1-213 (Drug Court Surcharge) \$150 \$ § 50-21-114 (BUI Breath Test Fee) \$50 \$ § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 3% to County (if paid in installments) \$

TOTAL

Clerk of Court/ Deputy Clerk Jeanette W. McBrideCourt Reporter: [Signature]

SCCA/217 (04/2018)

 days/hours Public Service EmploymentObtain 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 FundOther: sex offender registry☐ Appointed PD or appointed other counsel.

Proviso requires \$500 be paid to Clerk

during probation and shall be collected

any other fees.

Presiding Judge

Judge Code: 216Sentence Date: 12-17-18

CERTIFIED TRUE COPY

OF ORIGINAL FILED

JAN 18 2019

C.C.P.&G.S.

RICHLAND COUNTY

SOUTH CAROLINA

530 yrs.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
 STATE VS.
Charles Willis Lamb
 AKA:
 Race: BLACK Sex: M Age: 47
 DOB: [REDACTED] SS#: [REDACTED]
 Address:
 City, State, Zip:
 DL#: [REDACTED] SID#: [REDACTED]

INDICTMENT/CASE#: 2017GS4003269
 A/W#: 2017A4021600674
 Date of Offense: 3/17/2017
 S.C. Code §: 16-03-0910
 CDR Code #: 0095

SENTENCE SHEET

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

In disposition of the said indictment comes now the Defendant who was
 TO: Kidnapping

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

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

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

ATTEST: [Signature] 2017 Charles Lamb Robert B. B. 10/11/17
 Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 24 days/months/years or ☐ under the Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

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

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP days/hours Public Service Employment

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine: \$
 § 14-1-206 (Assessments 107.5 %) \$
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$
 § 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(1) (Vehicle Assessment) \$40/ea \$
 3% to County (if paid in installments) \$

TOTAL \$

Clerk of Court/ Deputy Clerk Jeanette W. W. Bridges

Court Reporter: Norris

SCCA/217 (04/2018)

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

Presiding Judge

Judge Code: 2161

Sentence Date: 12-17-18

VERIFIED TRUE COPY

OF ORIGINAL FILED

Presiding Judge Jeanette W. W. Bridges

Judge Code: 2161

Sentence Date: 12-17-18

RICHLAND COUNTY

SOUTH CAROLINA

≤ 15 yrs.

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS.INDICTMENT/CASE#: 2017GS4003270Charles Willis LambA/W#: 2017A4021600675

AKA:

Date of Offense: 3/17/2017Race: BLACK Sex: M Age: 47S.C. Code § : 16-11-0325DOB: [REDACTED] SS#: [REDACTED]CDR Code #: 0137

Address:

City, State, Zip:

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

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Attempted strong arm robbery☐ CONVICTED OF or ☒ PLEADSin violation of § 16-11-0325 of the S.C. Code of Laws, bearing CDR Code # 0137☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST: [Signature] 2262 Charles Lamb [Signature] 10/11/2
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the SCDOP.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP days/hours Public Service EmploymentTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 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
§ 36-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$

TOTAL \$ Clerk of Court/ Deputy Clerk Janette W. BridgesCourt Reporter: Nanis

SCCA/217 (04/2018)

☐ Appointed PD or appointed other counsel.

Proviso requires \$500 be paid during probation and shall be collected before any other fees.

Presiding Judge 2/6/17Judge Code: 2161Sentence Date: 12-9-17

CERTIFIED TRUE COPY
 OF ORIGINAL FILED
 2/6/17
 C.C.C.P.S.G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA