

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

—————
Certiorari to Orangeburg County

Honorable Diane Schafer Goodstein, Circuit Court Judge

—————
AIKEEM K. LOTT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-000179

—————
APPENDIX
—————

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-- NO EXHIBITS ENTERED --

1 MS. FOARD: May it please the Court?

2 THE COURT: Yes, ma'am.

3 MS. FOARD: State calls Aikeen Lott.

4 MR. MYERS: Good afternoon, Your Honor.

5 THE COURT: Good afternoon.

6 MS. FOARD: Your Honor, Mr. Lott's here pleading
7 guilty to three charges, the first being voluntary
8 manslaughter, 2016-GS-38-0160; attempted armed robbery,
9 2016-GS-38-0160 [sic]; and possession of a firearm or knife
10 during the commission of a violent crime, 2016-GS-38-0162.

11 Your Honor, we would ask that Your Honor take the plea
12 today. We would ask if Your Honor would retain
13 jurisdiction, and both the State and Defense have agreed
14 that you would be able to sentence this Defendant on June
15 12, when you return to Orangeburg in about two weeks.

16 THE COURT: Okay.

17 AIKEEM LOTT, having been first
18 duly sworn, testifies as follows

19 THE COURT: Good afternoon, Counsel. You represent
20 the Defendant, Mr. Lott, in these matters?

21 MR. MYERS: Yes, ma'am. I -- well, not on all of
22 them, Your Honor. I represent him on the -- on the murder
23 charge ---

24 THE COURT: All right, sir.

25 MR. MYERS: --- and the possession of the dangerous --

1 or the possession of the knife.

2 THE COURT: And the attempted armed robbery, Mr.
3 Mellard, you represent him on that charge?

4 MR. MELLARD: Yes, ma'am.

5 THE COURT: And have you gentlemen explained to your
6 client the charges contained in each indictment, the
7 possible punishment, and his constitutional rights?

8 MR. MYERS: Yes, ma'am.

9 MR. MELLARD: Yes, ma'am.

10 THE COURT: And in your opinion, does he understand
11 the charge, the punishment, and his rights?

12 MR. MYERS: Yes, ma'am.

13 MR. MELLARD: Yes, ma'am.

14 THE COURT: How does he indicate to you that he wishes
15 to plead?

16 MR. MYERS: Guilty.

17 MR. MELLARD: Guilty.

18 THE COURT: Do you agree with your client's decision
19 to plead guilty?

20 MR. MYERS: Yes, ma'am.

21 MR. MELLARD: Yes, ma'am.

22 THE COURT: Based upon your investigation of the facts
23 and circumstances of the case, do you feel the State could
24 produce sufficient evidence to convince a jury of your
25 client's guilty beyond a reasonable doubt, and if he were

1 to stand trial, his conviction would be probable?

2 MR. MYERS: Yes, ma'am.

3 MR. MELLARD: Yes, ma'am.

4 THE COURT: And have you explained to your client also
5 the collateral consequences of violent, most serious
6 offenses?

7 MR. MYERS: Yes, ma'am.

8 THE COURT: In your opinion -- oh.

9 MR. MELLARD: Yes, ma'am.

10 THE COURT: In your opinion, does he understand those?

11 MR. MYERS: Yes, ma'am.

12 MR. MELLARD: Yes.

13 THE COURT: All right. Mr. Lott, I have certain
14 questions for you to ensure that your plea is freely,
15 knowingly, and intelligently made. If at any point you
16 don't understand something, please stop to ask me. Okay?

17 THE DEFENDANT: Yes.

18 THE COURT: Please make sure you speak out loud. Our
19 court reporter's got to take down everything that you say.

20 THE DEFENDANT: All right.

21 DIRECT EXAMINATION

22 BY THE COURT:

23 Q How old are you, sir?

24 A 26.

25 Q How far did you go in school?

1 A Eleventh grade.

2 Q Did you get a GED?

3 A Yes, ma'am.

4 Q What type of work do you do?

5 A I was working at Bimbo Bakeries in -- well, basically,
6 just plant work.

7 Q Plant work?

8 A Yeah.

9 Q Are you married?

10 A No, ma'am.

11 Q You have any children?

12 A No, ma'am.

13 Q Have you ever been treated for the abuse of drugs,
14 alcohol, or mental illness?

15 A No, ma'am.

16 Q Within the last 24 hours, have you had any drugs,
17 alcohol, or prescription medication?

18 A No, ma'am.

19 Q Are you aware of any physical, emotional, or nervous
20 problem that would prevent you from understanding what
21 you're doing here today?

22 A No, ma'am.

23 Q You're pleading guilty to three separate charges. The
24 first charge is voluntary manslaughter, a charge which
25 carries a potential penalty of up to 30 years in prison.

1 Do you understand that?

2 A Yes, ma'am.

3 Q You also understand that this is considered a violent,
4 most serious offense?

5 A Yes, ma'am.

6 Q And have you discussed those consequences with your
7 attorneys?

8 A Yes, ma'am.

9 Q The charge of attempted armed robbery carries a
10 potential penalty of up to 20 years. Do you understand
11 that?

12 A Yes, ma'am.

13 Q This again is considered a violent, most serious
14 offense. Do you understand that?

15 A Yes, ma'am.

16 Q And the charge of possession of a firearm or knife
17 during the commission of a violent crime carries a
18 potential penalty of up to five years in prison. Do you
19 understand that?

20 A Yes.

21 THE COURT: It's my understanding that -- is there a
22 negotiation or recommendation that will be ---

23 MS. FOARD: A cap of 25 years, Your Honor.

24 THE COURT: Okay.

25 Q So you understand that the State is recommending a cap

1 of 25 years in this case. Do you understand that?

2 A Yes, ma'am.

3 Q Which basically means that they're recommending that I
4 sentence you anywhere up to 25 years, but the total
5 sentence is in my discretion. I could give you the maximum
6 possible punishment on each of these crimes. So you're
7 looking at a potential penalty of 55 years. Do you
8 understand that?

9 A Yes, ma'am.

10 Q Knowing all that, you wish to proceed and plead guilty
11 here today?

12 A Yes, ma'am.

13 Q All right.

14 THE COURT: Solicitor?

15 MS. FOARD: Your Honor, the first incident took place
16 on October 28, 2015, at [REDACTED], here in
17 Orangeburg County.

18 On that date, Ms. Pamela O'Brien -- works for Domino's
19 Pizza -- was called to make a delivery at the [REDACTED]
20 [REDACTED]. She was told by the
21 individual that ordered the pizza to park there and that he
22 would meet her outside. He'd be wearing a yellow shirt.

23 As she got out of her vehicle, a black male wearing a
24 white shirt approached her. As she was trying to get the
25 pizza out of the vehicle, another individual struck her

1 from behind. She turned around. The individual had a
2 black gun pointed in her face, demanded that she give him
3 all the money. Two other individuals got into the car next
4 door to her Domino's Pizza delivery car.

5 Ultimately, the individual that pointed the gun at her
6 ended up getting about \$15 in cash, her cell phone, some
7 cigarettes, and the pizza in the pizza -- basically, the
8 pizza heater bag. Got off -- they fled on foot, and law
9 enforcement was called.

10 Law enforcement was able to get the phone number of
11 the individual that called Domino's Pizza, and the phone
12 number came back to this -- this individual, Ailkeen Lott.
13 Ms. O'Brien was shown a photo lineup and did identify Mr.
14 Lott as the individual who pointed the gun in her face.

15 Basically, at -- at a similar time as they were
16 developing all of that information, on November 5 of 2015,
17 law enforcement -- the Orangeburg County Sheriff's Office,
18 was called out to [REDACTED], also here in
19 Orangeburg County, for what they believed initially was a
20 shooting incident which ultimately was a stabbing. The --
21 the victim, Mr. Allen Chancey, who's family is seated here
22 on the front row, Your Honor, was -- was murdered in his
23 home.

24 Law enforcement immediately went out. Investigator
25 Craig Davis, with the Orangeburg County Sheriff's Office,

1 who's in the back, Your Honor, was the investigator on this
2 case.

3 Law enforcement immediately went out, began speaking
4 to neighbors, witnesses, and several individuals noticed --
5 told law enforcement about an individual named "Keem," who
6 was -- they -- they said peeping around the victim's home.

7 Spoke with another witness, Ms. Reba Davis, who
8 identified this defendant as not only peeping around the
9 residence, but when she left -- Mr. Chancey sold single
10 cigarettes out of his home. When she left from buying some
11 cigarettes, she saw this defendant approaching and pushing
12 on the door.

13 So law enforcement was aware that Mr. Lott lived with
14 a girlfriend in the [REDACTED].
15 They approached the door, the door was open. Law
16 enforcement went in to do a safety sweep and found in a
17 room the Domino's Pizza heater bag. They immediately
18 exited, got a search warrant, and that's how they
19 ultimately met with Mr. Lott. They charged him with the
20 armed robbery first.

21 While they were discussing the armed robbery with him
22 in an interview, Your Honor, this defendant ultimately
23 admitted to stabbing Mr. Chancey in his home. This
24 defendant claimed that they had some prior beef that --
25 that was going on. This defendant went to the house, he

1 says to buy cigarettes. The victim he said was popping off
2 at him, trying him, as he -- as he stated in his
3 statements. He actually gave two verbal statements and a
4 written statement to these facts, Your Honor.

5 And ultimately stated that they started tussling and
6 he basically assaulted the -- the victim. I do have
7 pictures, Your Honor. The victim had abrasions to his
8 eyebrow, forehead, busted lip, fractured tooth. And this
9 defendant, when law enforcement was speaking with him, had
10 a busted knuckle which would ultimately corroborate what he
11 stated.

12 Stated they were tussling around the house and the
13 defendant claimed that the victim pulled a knife that the
14 defendant ultimately pushed out of his hand and stabbed the
15 victim, Mr. Allen Chancey, twice, once in the heart, once
16 in the stomach, killing him, Your Honor.

17 The Defendant stated that after he stabbed him, he ran
18 out of the residence after peeping out of the blinds to
19 make sure nobody saw him, taking the gun -- taking the
20 knife, rather, with him, disposing of it, disposing of the
21 clothes.

22 While law enforcement was looking for Mr. Lott -- I
23 kind of got ahead of myself there, Your Honor -- they did
24 go to his -- I believe his mother's residence, [REDACTED]
25 [REDACTED], here in Orangeburg County. They got a search

1 warrant. He was ultimately found in that residence, Your
2 Honor, the next day, on November 6.

3 But a pair of bloody shoes were found in that
4 residence. They were sent off to SLED. They were tested,
5 and the blood on those shoes came back to Mr. Allen
6 Chancey, Your Honor.

7 So ultimately those would be the facts for both -- for
8 all -- all three charges, the armed robbery -- attempted
9 armed robbery, the manslaughter charge, and possession of a
10 knife during the commission of a violent crime.

11 DIRECT EXAMINATION

12 BY THE COURT:

13 Q Mr. Lott, do you agree with the facts as stated by the
14 State?

15 A Yes, ma'am.

16 Q And are you, in fact, guilty of these charges?

17 A Yes, ma'am.

18 Q You understand by pleading guilty, you're waiving
19 certain constitutional rights. You're waiving your right
20 to have a trial by jury where the State would have the
21 burden of proving your guilt beyond a reasonable doubt.
22 You're also waiving the right to remain silent during that
23 trial at which point the judge would instruct the jury they
24 could not use that against you. And you're waiving the
25 right to challenge the State's evidence as well as cross-

1 examine witnesses and present any defenses that you may
2 have. And you're also waiving the right to challenge any
3 potential incriminating statements that you may have made.
4 You understand that you're waiving each of those rights?

5 A Yes, ma'am.

6 Q You've been represented by two attorneys in this
7 matter. Have you been satisfied with how they have advised
8 and represented you in each of these cases?

9 A Yes, ma'am.

10 Q Have you spoken with them for as often and for as long
11 as you feel is necessary for them to properly represent
12 you?

13 A Yes, ma'am.

14 Q Have you understood your talks with your attorneys?

15 A Yes.

16 Q You have any complaints against your attorneys?

17 A No, ma'am.

18 Q Has anyone promised you anything or held out any hope
19 of reward to get you to plead guilty?

20 A No, ma'am.

21 Q Anyone threaten or coerce you in any way to get you to
22 plead guilty?

23 A No, ma'am.

24 Q Has anyone associated with your case whatsoever
25 mistreated you in any way?

1 A No, ma'am.

2 Q Have you had enough time to make up your mind as to
3 whether or not you want to plead guilty?

4 A Yes.

5 Q Have you understood all of my questions?

6 A Yes.

7 Q Is there anything you need to ask me about what we
8 have just been over?

9 A No, ma'am.

10 Q Has each and every answer that you've given the Court
11 been completely truthful and honest?

12 A Yes, ma'am.

13 Q You understand that you have 10 days to appeal the
14 guilty plea and the sentence of the Court, and if you
15 cannot afford an attorney, one will be appointed to
16 represent you?

17 A Yes.

18 THE COURT: I do find that there is a substantial
19 factual basis for each of the pleas of the defendant's
20 decision to plead guilty he's freely, knowingly,
21 intelligently made with the advice of counsel of whom he
22 says he's satisfied with. I'll accept your plea.

23 Gentlemen, I suppose we'll be at ease until -- it was
24 June 12 ---

25 MS. FOARD: June 12 at two o'clock.

1 THE COURT: June 12 at two o'clock ---

2 MS. FOARD: Yes.

3 THE COURT: --- for -- for sentencing.

4 MS. MEYER: Thank you, Your Honor.

5 MS. FOARD: Thank you, Your Honor.

6

7 -- END OF TRANSCRIPT RECORD --

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CERTIFICATE

I, the undersigned Bonnie H. Kelly, 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 First Circuit Court for Orangeburg County, South Carolina, on the 22nd day of May, 2017.

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

E/Bonnie H. Kelly, CVR

Bonnie H. Kelly, CVR
Official Court Reporter

Columbia, South Carolina

June 12, 2018

1

STATE OF SOUTH CAROLINA) IN THE GENERAL SESSIONS COURT
COUNTY OF ORANGEBURG) FIRST JUDICIAL CIRCUIT

2016-GS-38-0160; 0161; 0162

State of South Carolina,)
)
 Plaintiff,)
)
 v.) Transcript of Record
)
 Ailkeen Keonity Lott,)
)
 Defendant.)
)
)
)
)
)
)
)

June 12, 2017
Orangeburg, South Carolina

B E F O R E:

The Honorable Maite Murphy, Judge

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

Sarah Ford, Esquire
Attorney for the State

Stanley Meyers, Esquire
Doug Mellard, Esquire
Attorneys for the Defendant

Hilda M. Jordan, CVR-M
Circuit Court Reporter

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EXHIBITS:

NO EXHIBITS WERE MARKED TO THIS PROCEEDING

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1 MS. FORD: Your Honor, we're here for sentencing
2 of Mr. Lott. He pled guilty on May 22nd of this year in
3 front of Your Honor. He pled to voluntary manslaughter,
4 possession of a firearm during the commission of a violent
5 crime and attempted armed robbery, Your Honor. I could
6 quickly go into the facts too.

7 THE COURT: If you would please recite the facts
8 again?

9 MS. FORD: Yes, ma'am. The first incident took
10 place, Your Honor, back on October 28th of 2015 at 1400
11 Rutherton (sp) Circle in Orangeburg County. On that date
12 the victim, Ms. Pamela O'Brien, worked for Domino's, was
13 delivering pizza. She was approached in the parking lot by
14 four unknown black males and robbed at gunpoint. The
15 individual put a gun to her face, demanded that he give her
16 all of her money. He ended up getting some cigarettes, some
17 cash, a cellphone and then the four individuals fled the
18 scene, Your Honor. While the Orangeburg County Sheriff's
19 Office was investigation that case, there was another
20 incident, Your Honor, out at Roosevelt Gardens, this time at
21 ■ Presidential Drive here in Orangeburg County. That
22 incident location back on November 5th, 2015, the victim,
23 Mr. Alan Chancey, was killed in his home. His girlfriend
24 found him after she returned home. There were several knife
25 wounds to his chest and stomach. Law enforcement responded,

1 made contact with some individuals who identified this
2 Defendant as an individual who was seen arguing with the
3 victim, Mr. Chancey the evening before and was also seen
4 that afternoon that Mr. Chancey was found dead in his home
5 at the back door, pushing on the back door of Mr. Chancey's
6 home.

7 Ultimately, law enforcement went to the girlfriend's
8 house of this Defendant, who also lived out at Roosevelt
9 Gardens. The door was open. They did a protective sweep.
10 And during that protective sweep found the Domino's Pizza
11 bag and other items that basically lead them to believe that
12 he was involved in the armed robbery. Considering the armed
13 robbery, Your Honor, they ultimate did a lineup with this
14 Defendant in the lineup and Ms. O'Brien was able to identify
15 this Defendant as the individual who did point a gun in her
16 face and demand that she give up the pizza money and
17 cellphone. At the same time, Your Honor, this Defendant was
18 brought in for questioning, this Defendant did ultimately
19 admit to killing Mr. Chancey. There was blood found on this
20 Defendant's shoes, Your Honor, that was the victim's blood
21 and he did admit to killing this victim, Your Honor. I can
22 go further into the facts, Your Honor, concerning witness
23 statements and such, but that would be the general factual
24 we have at this time.

25 THE COURT: And the victims, do they care to be

1 heard prior to sentencing?

2 MS. FORD: Yes, ma'am, they do. The victims'
3 family, Mr. Chancey's family is here. They've been here for
4 every hearing, for everything we've had in this case. Ms.
5 LaVerne Chancey, Mr. Chancey's mother, I do believe that she
6 would have something to say as well as his brother.

7 And state your name for the record, okay?

8 MS. CHANCEY: My name's LaVerne Chancey.

9 THE COURT: Yes, ma'am.

10 MS. CHANCEY: I'm the mother of Alan Chancey.
11 Revenge belongs to the Lord. He will repay. My son's life
12 is over but you are someone's son. Jesus ask that the
13 Father forgive them that kill him for they knew what not the
14 depth of what they did. For this reason, I have to forgive
15 you. I ask that you find Christ and salvation while you
16 still have time in life.

17 MR. JOHNSON: May name is Darius Johnson. I'm
18 Alan's brother. Nothing will bring my brother back and now
19 his two daughters will grow up without their father. We
20 loved him and how jovial he was with others. He always was
21 good at saying things to make you laugh. Alan was not one
22 to start fights and he would always try to talk his way out
23 of it first, then walk away. And the thing family has a
24 concern about violence and crime and violence has always
25 escalated. We, the family would like the Defendant to

1 receive the maximum sentence without parole. Thank you.

2 MS. FORD: Your Honor, this was a terrible string
3 of crimes that this Defendant was involved, all basically
4 within a weeks period of time in a neighborhood which he
5 lived, robbing Ms. O'Brein and ultimately killing Mr.
6 Chancey. My office negotiated the charges that this
7 Defendant would plead guilty to and made an offer of a cap
8 of twenty-five years concerning the manslaughter charge,
9 Your Honor. The State would ask for the max on that, Your
10 Honor. We would ask for the full twenty-five years as this
11 Defendant does have a prior criminal background and he has
12 convictions for burglary, malicious injury to personal
13 property.

14 THE COURT: Burglary?

15 MS. FORD: Burglary second, Your Honor. I believe
16 he had been released less than a year when he was charged
17 with these crimes, Your Honor. And it's also my
18 understanding that he also had a prior burg second, but I
19 believe that was a juvenile adjudication, Your Honor. But
20 the burg second degree was from 2011, Your Honor. He
21 received a four-year sentence for that.

22 So, Your Honor, we would ask -- we would echo the
23 Chancey family, what they're asking of the Court. We would
24 ask for the full twenty-five years, Your Honor, on the
25 manslaughter charge. Obviously, this is a recommendation.

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1 It's not a negotiation but that is the recommendation of our
2 office, Your Honor.

3 THE COURT: Anything further from the State?

4 MS. FORD: Not at this time, Your Honor.

5 THE COURT: Yes, sir.

6 MR. : Thank you, Your Honor. May it please the
7 Court. Your Honor, I want to first and foremost thank Ms.
8 Chancey and Mr. Johnson for their statements and truly let
9 them know that we're sorry. They'll hear from Ailkeen
10 momentarily. He'll tell them he's sorry. This is truly a
11 sad case all around, because again, no matter how much time
12 you give Ailkeen, a mother is going to be taken away. We
13 understand Ms. Chancey's feelings. Mr. Chancey will never
14 come back. We get that.

15 This is a case, Your Honor, that shows how quickly
16 things can escalate from zero to sixty in a matter of
17 seconds. This is not a case, Judge, where Mr. Lott is
18 pleading guilty to a lesser included voluntary because --
19 just to get the benefit because this is a true murder. He's
20 pleading guilty because we believe that the facts would
21 indicate that this is a voluntary manslaughter charge. And
22 he's here pleading guilty and accepting all blame for that.

23 Here's what his side of the story shows. Mr. Lott is
24 twenty-eight years old -- twenty-seven years old. Roosevelt
25 Gardens is an apartment complex where there's a lot of

1 traffic, there's a lot moving parts, there's a lot of
2 apartments and people living there. His grandmother was
3 living there at the time. He was changing and going back
4 and forth between the grandmother's home at Roosevelt
5 Gardens, his mother's home, and his girlfriend/fiance's
6 home. On this particular day he's at Roosevelt Gardens and
7 earlier that morning he had gone to the apartment where Mr.
8 Chancey was sharing with another female. Ailkeen knew this
9 female from like third grade. They went to school together.
10 They'd known each other. There was testimony -- there would
11 be testimony at trial to show that this young lady sold
12 cigarettes and alcohol out of the apartment. Ailkeen goes
13 there and he sees her and he purchases two cigarettes. I
14 believe the cigarettes were two for one dollar or something
15 like that. He purchases two cigarettes from her.
16 Everything happened without incident. He then goes back --
17 and admittedly, he loiters around Roosevelt Gardens, not
18 causing any trouble. Later on that day at about 3:00, he
19 returns to the residence only to basically purchase more
20 cigarettes. Unbeknownst to him, the young lady was not
21 there. Mr. Chancey was there. They were not strangers to
22 each other. Mr. Lott did not intend to go in to try to rob
23 or do anything other than to basically purchase more
24 cigarettes. At that point he tells me that a conversation
25 and an argument ensued because Mr. Chancey accused him of

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1 coming over to try and talk to his girlfriend. He denied
2 it. Judge, the problem you had was that you had two alpha
3 males in the same building at the same time and it escalated
4 from zero to sixty rather quickly. He did not go there with
5 the intent to kill Mr. Chancey. He did not go in there with
6 the intent to harm him. He simply went to do what he did
7 initially, which was to purchase cigarettes. A fight broke
8 out. Mr. Lott said that Mr. Chancey pulled out a knife from
9 his left pocket or from his left hip and they engaged in
10 combat. He got the better of Mr. Chancey. He doesn't deny
11 that. When Mr. Chancey's body was found, it was found
12 beaten up because they had gotten into this sudden combat.
13 But when he picked up the knife, when Mr. Chancey came at
14 him with a knife, Ailkeen says that the knife fell, they
15 both were going for it. He picked it up. Mr. Chancey's
16 still coming towards him and that's when he stabbed him in
17 the abdomen and in the chest. The worst mistake that he
18 did, Judge, was actually leaving that scene. He left and it
19 wasn't until law enforcement came as Sarah indicated, they
20 came to the location where he was living. And they
21 basically found exactly what she said that they were looking
22 for. He then voluntarily gave them a statement, basically
23 stating every single thing that we just stated here. He
24 gave two statements. Actually, he gave more than two
25 statements. But nevertheless, he never denied being there.

1 We believe that had he not given that statement there would
2 be some problem as to whether or not he was ever the
3 individual who caused his death. But I say all of that,
4 Judge, because this is not a case where he acted with malice
5 aforethought. This is not a situation he went to try and
6 rob Mr. Chancey. Again, it's a situation where he probably
7 never -- he should have just gone back out when the young
8 lady wasn't there. But that's not how it happened. And all
9 of a sudden you end up with him being charged with murder
10 and accepting guilt to a voluntary manslaughter.

11 The young man, as I stated, is twenty-seven years old.
12 In the courtroom with us are his fiancé, his grandmother,
13 brothers, nephews, uncles and all sorts of individuals. We
14 couldn't go forward with the mitigation two weeks ago
15 because some of these folks had to work and we appreciate
16 the Court kindly for allowing us the opportunity to come
17 back weeks later to do this. But, Judge, this is a
18 situation where a young male was born into this world,
19 didn't have a father figure to basically put a foot up his
20 behind when he needed it. And so all of a sudden you get a
21 juvenile running around, doing the things that Ailkeen has
22 done. I've known this young man now for about a year and a
23 half. And I'll tell you that he has shown remorse. You
24 might not see the tears right now within this fifteen minute
25 time frame we have to present, but he has truly been

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1 remorseful to me. He's been remorseful to the associate who
2 has helped me on this case.

3 I don't envy the Court's role in this. I've never sat
4 where you're sitting, never had to send someone to jail.
5 I've prosecuted cases, stood next to individuals just as I
6 am now, but if I could suggest, Judge, in my years of
7 experience, in my years of serving this fine country, and of
8 serving this judicial system, I strongly believe that I can
9 look at this Court and understand and ask the Court that I
10 believe that a sentence of under twelve years would be
11 appropriate in this case. Again, this is not a murder case
12 that we're pleading down just for the benefit of saying
13 well, it's really murder but we want to avoid going to trial
14 so we're taking a voluntary manslaughter. This is a
15 voluntary manslaughter. This is what it has been from the
16 beginning and this young man is here to basically admit
17 guilt to that and accept whatever punishment that the Court
18 may give.

19 But I've gone on too long. Your Honor, I believe that
20 is fiancé and his mother wish to address the Court very
21 briefly, and then Ailkeen will address the Court.

22 MS. : Good afternoon, Your Honor.

23 THE COURT: Good afternoon.

24 MS. WRIGHT: My name is Jalisa Wright (sp). I'm
25 Ailkeen's fiancé. We were only dating for four years.

1 Despite how, you know, everybody might feel about him, he's
2 not a bad person at all. I was just -- I have a seven-year
3 old who he has taken, you know, upon hisself to help me
4 raise him every since he was four years old. And every day
5 my child will ask, you know, where Ailkeen? When Ailkeen
6 coming home or whatever. And I never have a answer for him.
7 The only thing I can do is just put on a front every time he
8 call for him. So I'm just asking today that, you know, if
9 you could give him any kind of leniency, you know, anything
10 under twelve years. Thank you.

11 THE COURT: Yes, ma'am.

12 MS. LOTT: How are you doing, Your Honor? I'm
13 Ailkeen Lott's mother.

14 THE COURT: Yes, ma'am.

15 MS. LOTT: I've been a single mother raising him
16 and two other brothers, three sons. I worked every day to
17 make sure that they would have, make sure they went to
18 school. My son is a loving person. He's caring for people.
19 He just got a situation, a real bad situation and I plead to
20 the Court and if you could have leniency on the sentence.
21 Thank you.

22 THE COURT: Yes, ma'am.

23 MR. MEYERS: Your Honor, I want to clarify
24 something because I think it goes with the State's
25 indication that this may have been some sort of malice. And

1 I only address it because it was brought up about this
2 argument that they may have seen. My investigator in my
3 office, we worked diligently and we interviewed every single
4 witness who provided a statement to law enforcement. And it
5 wasn't an argument that Ailkeen had with Mr. Chancey that
6 night before. In fact, from what that witness tells us that
7 she was standing away and she just saw two individuals
8 having a conversation and she may have heard voices, but it
9 wasn't any sort of threat that Ailkeen said hey, I'm coming
10 back to get you because if that were the case, to go into
11 this man house in broad daylight and to get -- and he was
12 killed with a knife and not a gun, then it doesn't support
13 the facts of a murder. This incident didn't occur at 3:00
14 in the morning. It occurred at 3:00 in the daytime, during
15 a crowded apartment complex and the weapon that was used to
16 kill him was a knife. And I think that the Court in all of
17 their experience will understand that a knife is certainly
18 an unusual weapon to use if you have intent to go in and
19 murder someone. But that concludes our presentation, Your
20 Honor, on the murder case. I understand his other attorney
21 has mitigation on the armed robbery. Thank you for hearing
22 us, Your Honor.

23 MR. MELLARD: Just briefly, I'd like to echo what
24 his family said about him. I've dealt with him for a very
25 long time. And, you know, he has always been respectful.

1 He's always been polite towards me. He understands that
2 he's going to have to pay for what he's done, but I do
3 believe that he can and he will be a valuable member of
4 society when he is released, Your Honor.

5 THE COURT: Thank you. Anything further

6 MR. MELLARD: Do you have anything?

7 MR. MEYERS: Thank you, Your Honor. Ailkeen.

8 DEFENDANT LOTT: Yeah, I just wanted to say, you
9 know, what I did was wrong but, you know, I can't change it.
10 You know what I'm saying. So I just try to look forward
11 every day because it could have easily been the other way
12 around, you know. I just want to say, you know, I'm sorry
13 something had to lead to that. I just hope you show a
14 little mercy because I know I'm going to have to do some
15 time, so just hope for mercy.

16 THE COURT: Ms. Ford, can you remind me again as
17 far the facts are concerned regarding the relationship
18 between the victim, Mr. Chancey, and the Defendant as far as
19 the incident that occurred?

20 MS. FORD: Yes, ma'am. There was a witness, who
21 was with her son, who observed this Defendant having an
22 argument, for which actually the witness, her son asked, you
23 know, you all right Mr. Chancey? You all right? They
24 actually called him Bama. You all right, Bama? And he said
25 yeah, I'm okay. There had been some -- apparently, where

1 this Defendant used to work, Bimbo Bakery, this Defendant
2 was actually fired and Mr. Chancey actually was hired,
3 presumably in his place. So according to most people around
4 Roosevelt Gardens, there was not a good relationship between
5 Mr. Chancey and this Defendant.

6 And as far -- if I could just address a couple of
7 things that Mr. Meyers went into. The State was prepared to
8 go forward on a murder charge that morning back in May. And
9 we do have certainly the evidence to show that this was
10 murder, Your Honor. Shayna Davis, who is the victim's
11 girlfriend would testify that she never sold this Defendant
12 any cigarettes or anything that morning. And, in fact, she
13 was not the individual that sold cigarettes. It was
14 generally Bama. It was generally the victim. So she would
15 refute any of that. And the fact that this Defendant would
16 be coming to his house period, many people in the
17 neighborhood, many of our witnesses thought that that was
18 very odd. And, again, with the -- seeing this Defendant
19 arguing the night before and going over to his house,
20 pushing on the door and then by his own admission during a
21 videotaped statement, Your Honor, he admits that he went
22 into the house and basically pummeled the victim from the
23 get-go, almost in a bragging that he was stronger than the
24 victim and overpowered him almost instantaneously. So the
25 State would have sufficient evidence, we believe, to have

1 gone forward on the murder charge. Otherwise, we wouldn't
2 have presented to the Grand Jury and been prepared to move
3 forward on that charge, Your Honor.

4 THE COURT: Anything further from anyone?

5 MR. MEYERS: Your Honor, this cigarette -- I mean,
6 this was the neighborhood individual -- the record was
7 complete regarding -- there were two witnesses who all said
8 that they went and purchased these items from Bama. And
9 that is right. That's his code name, Bama. As far as the
10 pummeling, Mr. Lott gave a statement stating that he went in
11 there to do that and it was Bama who got aggressive and
12 that's how it all started. So I just want to make sure that
13 -- this prosecutor is picking and choosing certain things,
14 but this is a situation where they were not strangers.
15 You're not going to live in Roosevelt Gardens and not know
16 each and every individual. It wasn't that type
17 neighborhood. This wasn't an HOA type controlled
18 neighborhood. This wasn't a gated community. This was an
19 individual that if you went to Roosevelt Gardens everybody
20 knew each other and that's how Mr. Lott knew Bama.

21 THE COURT: All right. Mr. Lott, certainly your
22 mother says she has worked hard for you and helped raise you
23 in a manner that you wouldn't end up here today and
24 unfortunately her work hard and caused a lot of pain to a
25 lot of people, not only your family but to the victim's

State v Lott

6/12/17

17

1 family as far as Mr. Chancey but also for the armed robbery
2 victim who was held at gunpoint. And all of this to be
3 within days of each other, a short period of time, it's
4 quite alarming that something would escalate to this
5 juncture. I think both of your attorneys have done an
6 excellent job in getting the State to recommend the cap that
7 they did, because you're obviously looking at violent and
8 most serious offenses, which they were done consecutively
9 and by all this time that you're looking at. They've done
10 an excellent job in getting the State to recommend what they
11 did.

12 On indictment 2016-GS-38-0160, that is for the armed
13 robbery, you're hereby committed to the State Department of
14 Corrections for the period of twenty years.

15 On indictment 2016-GS-38-0161 for voluntary
16 manslaughter, you are hereby committed the State Department
17 of Corrections for the period of twenty-three years and
18 that's concurrent to the previous indictment.

19 And on indictment 2016-GS-38-1062, you're hereby
20 committed to the State Department of Corrections for a
21 period five years and it's concurrent.

22 MR. MELLARD: Thank you, Your Honor.

23 MS. FORD: Thank you, Your Honor.

24 (This proceeding was concluded.)

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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE PROCEEDING IN THE CAPTIONED CAUSE, IN THE GENERAL SESSIONS COURT OF DORCHESTER COUNTY, SOUTH CAROLINA, ON THE 12 DAY OF JUNE, 2017.

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

Hilda M. Jordan, CVR-M

June 26, 2018

(c) _____
5. The date upon which sentence was imposed and the terms of the sentence:

(a) 6-12-2017 23 years / MARIJUANA

(b) 6-12-2017 20 years - CONCURRENT / ROBBERY

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

NO

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

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

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) INEFFECTIVE ASSISTANCE OF COUNSEL

(b) COUNSEL DID NOT FILE NOTICE OF APPEAL

(c) _____

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

(a) INEFFECTIVE ASSISTANCE OF COUNSEL

(b) MANIFEST MISCARriage OF JUSTICE

(c) ACTUAL INNOCENCE OF THE CRIME AND SENTENCE

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

(a) COUNSEL ADVISED ME TO PLEAD GUILTY UNDER THE THEORY

(b) THAT IF I DIDN'T I WOULD BE FOUND GUILTY AT TRIAL UNDER

(c) "SOLBY MURDER" RULE, TO WHICH THERE IS NO SUCH RULE IN (KRO) LOURY V. STAR, 370 SC. 499, 657 S.E. 2d 760

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

(a) any petition in a State Court under South Carolina Law? NO

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO

(d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

i. ~~_____~~

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

NO

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

(a) which grounds have been presented:

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

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

- i. _____
- 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) N/A
- (b) N/A
- (c) N/A

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? ~~Yes~~ N/A
- (c) your sentencing? Yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
~~Yes~~ NO

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

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

- i. STANLEY L. MYERS - MOORE/TAYLOR LAW FIRM
1700 SUNSET BOULEVARD P.O. BOX 5709 WEST COLUMBIA, SC 29171
- ii. DOUGLAS MELLARD - OFFICE OF PUBLIC DEFENDER
P.O. BOX 1112, ORANGEBURG, SC 29116
- iii. _____

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

- i. TRIAL COUNSEL
- ii. _____
- iii. _____

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

VACATE SENTENCES AND CONVICTIONS AND DEMAND FOR NEW PROCEEDINGS, OR WHATEVER RELIEF THIS COURT DEEMS JUST AND APPROPRIATE IN THE INSTANT.

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

NO

STATE OF SOUTH CAROLINA)

County of ORANGEBURG)

VERIFICATION

I, Aikeem K. Lott #344784, 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.

Aikeem K. Lott

SWORN to and subscribed before me this 10th day of April, 2018.

Ludrean Bryant (L.S.)
Notary Public

My Commission Expires: May 26, 2020

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

I, Aikeem K. Lott #344784, 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.

Aikeem Lott
Applicant

SWORN or affirmed to and subscribed before me this
10th day of April, 2018.

Luchean Bryant
Notary Public

My Commission Expires: May 26, 2020

Orangeburg County Clerk of Court Office

WINNIFA B. CLARK
CLERK OF COURT

YOJUANA T. CREWS
DEPUTY CLERK OF COURT

SANDRA P. OWEN
DEPUTY CLERK OF COURT



PO Box 9000
ORANGEBURG, SC 29116-9000
PHONE: (803) 533-6260
FAX: (803) 534-3848

PCR APPLICATION

PLEASE BE ADVISED OF THE FOLLOWING WHEN FILING YOUR PCR APPLICATION:

1. To receive a copy of your application you must provide a copy with your original application and a self addressed stamped envelope for its return.
2. If you request any information by mail you must send a self addressed stamped envelope for the response to your question to be returned to you. This includes: Case number/warrant number; attorney's name; charge(s); previous address; date of birth, etc.

STATE OF SOUTH CAROLINA)
 COUNTY OF ORANGEBURG)
)
)
 Ailkeen Lott, #344784,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 IN THE FIRST JUDICIAL CIRCUIT

Case No.: 2018-CP-38-0466

**RETURN AND PARTIAL
 MOTION TO DISMISS**

FILED FOR RECORD
 MINISTERS
 CLERK OF COURT
 2018 APR 27 10 12 AM

Respondent, making its Return to the application for Post-Conviction Relief ("PCR") filed on April 27, 2018, would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Orangeburg County Clerk of Court. In May 2017, the Orangeburg County Grand Jury indicted Applicant for murder (2016-GS-38-0161), armed robbery (2016-GS-38-0160), and possession of a firearm or knife during the commission of a violent crime (2016-GS-38-0162). The charges resulted from first an October 2015 incident in which Applicant and accomplices robbed a Domino's Pizza delivery driver, and law enforcement learned the number who called Domino's belonged to Applicant. Tr. p. 9, l. 18 – p. 10, l. 12. The victim also identified Applicant in a photo lineup. Tr. p. 10, l. 13. Then, in November 2015, Applicant robbed and stabbed to death a separate victim in the victim's home. Tr. p. 10, l. 15 – p. 12, l. 16. Stanley L. Myers, Sr., Esquire, represented Applicant on the charges for murder and possession of a firearm or knife during the commission of a violent crime. S, Esquire, represented Applicant on the charge for armed robbery. Assistant Solicitor Sarah Ford, Esquire, prosecuted the case. On May 22, 2016, Applicant pled guilty

to voluntary manslaughter, attempted armed robbery, and possession of a firearm or knife during the commission of a violent crime before the Honorable Maite' Murphy. Sentencing was deferred until June 12, 2017. Pursuant to the State's recommended cap of twenty-five years, Judge Murphy sentenced Applicant to imprisonment for concurrent terms of twenty-three years for voluntary manslaughter, twenty years for attempted armed robbery, and five years for possession of a firearm or knife during the commission of a violent crime. Applicant did not appeal from his guilty plea or sentence.

Attached to this Return and incorporated by reference are the records of the Orangeburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the plea transcript, the sentencing transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective Assistance of Counsel
 - a. "Counsel advised me to plead guilty under the theory that if I didn't I would be found guilty at trial under 'felony murder' rule, to which there is no such rule in law. Lowry v. State, 376 S.C. 499, 657 S.E.2d 760."
2. Manifest Miscarriage of Justice
3. Actual Innocence of the Crime and Sentence

III.

Respondent submits 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 (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 v. Washington, 466 U.S. 668. First, Applicant must prove that counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985).

Respondent submits Applicant can satisfy neither requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully

resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Applicant also alleges he suffered a manifest miscarriage of justice and was actually innocent of the crimes charged. The Court should summarily dismiss these grounds for failure to state a claim cognizable under the Post-Conviction Procedure Act, S.C. Code Ann. § 17-27-10 to -160 (2003). An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy.... S.C. Code Ann. § 17-27-20 (1976).

“Actual innocence” is not a claim properly raised in post-conviction relief. Furthermore, the record demonstrates Applicant voluntarily and knowingly pled guilty to his charges. A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea are conclusive unless the defendant presents reasons why they should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The Respondent therefore moves for summary dismissal of this allegation pursuant to S.C. Code Ann. § 17-27-70(c) (2003).

V.

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. 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. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

VI.

Respondent therefore requests that this Court convene an evidentiary hearing on the allegations of ineffective assistance of counsel. As to all other allegations, Respondent moves for summary dismissal pursuant to § 17-27-70 of the South Carolina Code of Laws on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

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

[Signature block on following page]

VIII.

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of plea counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHRISTIAN SAVILLE
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

7/2, 2018

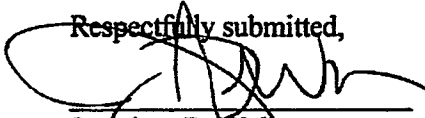
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|-------------------------------|---|-------------------------------------|
| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| |) | FIRST JUDICIAL CIRCUIT |
| COUNTY OF ORANGEBURG |) | |
| Ailkeen Keonity Lott, 344784, |) | AMENDMENT TO APPLICATION FOR |
| |) | POST CONVICTION RELIEF |
| Applicant, |) | |
| |) | Case No. 2018-CP-38-00466 |
| Vs. |) | |
| |) | |
| State of South Carolina |) | |
| |) | |
| Respondent. |) | |

Applicant, by and through his Attorney, Jonathan D. Waller, Esquire, would amend his Application for Post Conviction Relief filed April 24, 2018, by adding the claims of ineffective assistance of to question 10 and by adding the following specific prayers for relief to his original allegations:

1. As to representation rendered by Stanley Myers, Esquire and Douglas Mellard, Esquire:
 - a. Counsel was ineffective for failing to properly investigate the facts and circumstances surrounding the allegations of each of the charges against Applicant, thus rendering Applicant’s plea unknowingly and involuntarily entered into.
 - b. Counsel was ineffective for providing Applicant improper advice regarding the amount of time he would receive in exchange for his plea, inducing Applicant to stop his trial, waive his rights, and enter into an unknowingly and involuntarily plea.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,



Jonathan D. Waller
Waller Law Group
1116 Blanding Street
Suite 2B
Columbia, South Carolina 29201
ATTORNEY FOR APPLICANT

May 24, 2019

Columbia, South Carolina

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

(WHEREUPON, no witnesses were called
during these proceedings.)

E X H I B I T S

(WHEREUPON, no exhibits were introduced
during these proceedings.)

1 SEPTEMBER 9, 2019

2 (WHEREUPON, the hearing commenced at
3 10:20 a.m.)

4 MR. LIMBAUGH: May I approach, Your Honor?

5 THE COURT: And we are awaiting your client,
6 Mr. Waller?

7 MR. WALLER: Judge, this is Ailkeen Lott.

8 THE COURT: Okay.

9 MR. WALLER: And Mr. Lott is not with us this
10 morning. And I think that is what we will talk
11 about right here.

12 THE COURT: Okay, yes.

13 MR. WALLER: I'll let Mr. Limbaugh lead us
14 off.

15 THE COURT: Thank you. Yes, sir?

16 MR. LIMBAUGH: Yes, Your Honor. I would like
17 to make a motion. I called SCDC this morning as we
18 didn't see Mr. Lott. He was not here. We believe
19 there was some issue with transport. I called SCDC
20 to figure out what was happening. They told me
21 that he refused transport and did not give them any
22 particularly valid reason as to why, he just didn't
23 want to come.

24 With that in mind, the State would move to
25 dismiss for failure to prosecute. He didn't give

1 them some medical reason, he didn't say any other
2 particularly good reason why he didn't want to
3 come, he just refused to be transported. So the
4 State would ask Your Honor to dismiss the
5 application for failure to prosecute.

6 THE COURT: Got you. Mr. Limbaugh, here is
7 what I'm going to do. And first of all, what comes
8 to my mind is -- well, first of all, let me hear
9 from you, Mr. Waller.

10 MR. WALLER: Thank you, Your Honor. Judge,
11 this obviously was a surprise to me when I got
12 here. This case was continued once before I
13 believe from the June term. Mr. Lott was here.
14 One of the witnesses was unable to be here. I
15 think there was some confusion with the subpoena.
16 So he was here ready to go forward at that point.
17 We have previously amended his application. So,
18 Judge, I had no indication that he did not intend
19 to go forward. Your Honor, if you are inclined to
20 --

21 THE COURT: Well, let me say this before
22 you -- let me tell you what my position is.
23 Obviously you are not able to get an affidavit or
24 any sort of proof whatsoever from the transport
25 team. That would be impossible under the

1 circumstances. What I'm going to do is I'm going
2 to leave the record open for 60 days. And over the
3 course of 60 days, Mr. Limbaugh, I need you to get
4 an affidavit from the transport team folks, whoever
5 actually interacted with him, and this is what he
6 said and this is what he did. That way this record
7 will be supported by some element of proof.

8 MR. LIMBAUGH: Okay.

9 THE COURT: And, Mr. Waller, I want you to
10 have an opportunity to have another conversation
11 with your client and investigate the matter. And
12 if you believe it is appropriate, then you can
13 submit an affidavit as well from your client.

14 MR. WALLER: Thank you, Your Honor. That is
15 exactly what I was going to ask for.

16 THE COURT: Yes. Absolutely. Well, then,
17 just put -- I mean, that way we have made a record.

18 MR. WALLER: Thank you, Your Honor.

19 THE COURT: Particularly under the
20 circumstances that you are surprised. I don't
21 want to put you in that position. Wonderful.
22 Thank you so much.

23 MR. LIMBAUGH: Thank you, Your Honor.

24 THE COURT: So I am going to leave this record
25 open. And I will look to get -- really, I guess

1 Mr. Limbaugh, if you can maybe get that, your
2 affidavit, 30 days you say?

3 MR. LIMBAUGH: I will do my absolute best,
4 Your Honor. I have never tried to get an affidavit
5 from SCDC, but I will.

6 THE COURT: Do this. Do this for me. Do this
7 for me. If you need longer, get with Mr. Waller,
8 y'all get a time lapse that works for y'all, and
9 then let my law clerk know. It will be fine.

10 MR. WALLER: Thank you, Your Honor.

11 MR. LIMBAUGH: Thank you, Your Honor.

12 THE COURT: Very well. Just keep me in the
13 loop.

14 MR. LIMBAUGH: I will. Thank you, Your Honor.
15 (WHEREUPON, the hearing adjourned at
16 10:24 a.m.)

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(END OF TRANSCRIPT)

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

Ailkeem K. Lott, SCDC #344784,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Case No.: 2018-CP-38-00466

ORDER OF DISMISSAL

FILED FOR RECORD
WINNIEA B. CLARK
2019 FEB - 8 AM 9:00
CLERK OF COURT
ORANGEBURG, SC

This matter comes before this Court pursuant to an application for post-conviction relief filed by Applicant Ailkeem K. Lott on April 27, 2018. Respondent the State of South Carolina made its return and partial motion to dismiss on July 2, 2018, requesting an evidentiary hearing be held on Applicant's claims of ineffective assistance of counsel. Thereafter, Applicant, through his counsel, filed an amended application for post-conviction relief, on May 28, 2019. An evidentiary hearing was scheduled for September 9, 2019, at the Dorchester County Courthouse before the undersigned. Applicant did not appear at the hearing. The South Carolina Department of Corrections indicated Applicant refused transport and would not attend the hearing. An incident report documenting Applicant's refusal of transport was subsequently provided. Jonathan D. Waller, Esquire, was present to represent Applicant. Assistant Attorney General Benjamin H. Limbaugh, of the South Carolina Attorney General's Office, represented Respondent.

At the hearing, Respondent moved for dismissal pursuant to Rule 41(b), SCRPC, for failure to prosecute because Applicant had refused transportation by the South Carolina Department of Corrections ("SCDC") to the courthouse. This Court notes it is incumbent upon Applicant, as the plaintiff in this action, to appear at his scheduled court appearances. If Applicant has some complaint, concern, or request relating to his case, he should be present to address those issues with the Court instead of refusing transportation. Therefore, this Court finds Respondent's motion

to dismiss must be granted and the PCR application dismissed with prejudice.

I. PROCEDURAL HISTORY

The records before this Court indicate Applicant is presently confined pursuant to orders of commitment of the Orangeburg County Clerk of Court. During its May 2017 term, the Orangeburg County Grand Jury indicted Applicant for murder (2016-GS-38-00161), armed robbery (2016-GS-38-00160), and possession of a firearm or knife during the commission of a violent crime (2016-GS-38-00162)¹. Stanley Meyers, Esquire, represented Applicant on the murder and possession of a weapon charges. Doug Mellard, Esquire, represented Applicant on the armed robbery charge. Sarah Foard of the First Circuit Solicitor's Office prosecuted the case. On May 22, 2016, Applicant appeared before the Honorable Maite Murphy and pleaded guilty to the lesser-included offenses of voluntary manslaughter and attempted armed robbery, and to possession of a firearm or knife during the commission of a violent crime.

The State recommended a sentencing cap of twenty-five years. On June 12, 2017, pursuant to the State's recommendation, Judge Murphy sentenced Applicant to concurrent terms of twenty-three years' imprisonment for voluntary manslaughter, twenty years' imprisonment for attempted armed robbery, and five years' imprisonment for the weapons charge. Applicant did not appeal or challenge his guilty plea or sentence.

II. SUMMARY OF RECITATION OF FACTS AT THE GUILTY PLEA HEARING

The facts for these indictments were articulated by the State at Applicant's plea hearing.

1. Facts presented on armed robbery and possession of a weapon charges

On October 28, 2015, Victim Pamela O'Brien was called to make a pizza delivery at Roosevelt Gardens Apartments in Orangeburg. (Plea Tr. 9). As Ms. O'Brien got out of her vehicle, she was

¹ Despite these three charges stemming from two separate incidents on two separate dates, the State pleaded all cases together.

approached by a black male wearing a white shirt. (Plea Tr. 9). As this man approached, Applicant struck Ms. O'Brien from behind, pointed a gun in her face, and demanded she give him all the money she had. (Plea Tr. 9-10). Applicant took roughly \$15 in cash, Ms. O'Brien's cell phone, some cigarettes, and the pizza Ms. O'Brien had in her pizza heater bag. (Plea Tr. 10). Applicant then fled on foot. (Plea Tr. 10). Thereafter, Ms. O'Brien called law enforcement who traced the cell phone number that had called in the pizza delivery order. (Plea Tr. 10). Law enforcement found the phone number belonged to Applicant. (Plea Tr. 10). Ms. O'Brien was also shown a photo lineup and identified Applicant as the individual who had pointed a gun in her face during the robbery. (Plea Tr. 10).

2. Facts presented on murder charge

On November 5, 2015, the Orangeburg County Sheriff's Office responded to the stabbing death of Victim Allen Chancey in his home. (Plea Tr. 10). After further investigation, law enforcement learned through witnesses, Applicant – who witnesses referred to as "Keem" – had been seen peeping around Mr. Chancey's home. (Plea Tr. 11). One witness who identified Applicant, told law enforcement she saw Applicant approaching and pushing on Mr. Chancey's door. (Plea Tr. 11).

As a result of their investigation, law enforcement went to Roosevelt Gardens where Applicant lived with his girlfriend to talk to him. (Plea Tr. 11). The door to Applicant's residence was open when officers arrived; therefore, they entered to do a safety sweep. (Plea Tr. 11). During that sweep, officers found a Domino's Pizza heater bag. (Plea Tr. 11). Upon finding the bag, the officers exited the residence and got a search warrant to search the residence. (Plea Tr. 11). Later, when executing a search warrant at Applicant's mother's house, officers found a pair of bloody shoes. (Plea Tr. 12). Law enforcement officers sent those shoes to SLED (South Carolina Law Enforcement Division) to be tested and confirmed Mr. Chancey's blood was the blood found on

the shoes. (Plea Tr. 12-13). Importantly, during an interview following his arrest, Applicant admitted to stabbing Mr. Chancey in his home. (Plea Tr. 11-12).

III. CURRENT APPLICATION

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following grounds:

1. Ineffective Assistance of Counsel
 - a. "Counsel advised me to plead guilty under the theory that if I didn't I would be found guilty at trial under 'felony murder' rule, to which there is no such rule in law. Lowry v. State, 376 S.C. 499, 657 S.E.2d 760."
2. Manifest Miscarriage of Justice
3. Actual Innocence of the Crime and Sentence

In his amended application for post-conviction relief, Applicant raises the following additional grounds for relief:

1. As to representation rendered by Stanley Myers, Esquire and Douglas Mellard, Esquire:
 - a. Counsel was ineffective for failing to properly investigate the facts and circumstances surrounding the allegations of each of the charges against Applicant, thus rendering Applicant's plea unknowingly and involuntarily entered into.
 - b. Counsel was ineffective for providing Applicant improper advice regarding the amount of time he would receive in exchange for his plea, inducing Applicant to stop his trial, waive his rights, and enter into an unknowingly and involuntarily plea.

IV. FINDINGS OF FACTS AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the arguments at the post-conviction relief hearing. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

At the start of the evidentiary hearing, Respondent moved to dismiss this action for failure to prosecute based on Applicant's refusal to appear for the hearing. Applicant has the burden of prosecuting his action, and this Court may properly dismiss an action for a plaintiff's "unreasonable neglect in proceeding with his cause." *Don Shevey & Spires, Inc. v. Am. Motors Realty Corp.*, 279 S.C. 58, 60, 301 S.E.2d 757, 758 (1983) (citing *Thomas & Howard Co. v.*

Fowler, et al., 238 S.C. 46, 119 S.E.2d 97 (1961)). "This authority is necessary if the courts are to control and efficiently manage an ever-expanding docket." *Id.*

On September 9, 2019, Applicant's hearing on his post-conviction relief application was set for a hearing. Applicant simply refused to be transported for this hearing, despite SCDC's attempt at transporting him. Furthermore, to continue to require Respondent and plea counsel to prepare for and appear at an evidentiary hearing, despite Applicant's clear indifference to proceeding with the action, would be burdensome and prejudicial to both parties. Based on the foregoing, this Court hereby grants Respondent's motion and dismisses this matter with prejudice.

IT IS THEREFORE ORDERED:

1. The above-captioned application is dismissed with prejudice for failure of Applicant to prosecute; and
2. Applicant shall remain in the custody of Respondent.

AND IT IS SO ORDERED this 3rd day of February, 2022.



DIANE S. GOODSTEIN
Presiding Judge
First Judicial Circuit

Summerville, South Carolina

RECEIVED

FEB 22 2022

S.C. SUPREME COURT

WITNESSES

John C Stokes

Orangeburg County Sheriff

2015-8631

ARREST WARRANT NUMBER

2015A3810100092

Arrested: November 9, 2015

ACTION OF GRAND JURY
TRUE BILL



Date **MAY 03 2017**

Foreperson of Grand Jury

Date: May 3, 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS38-0160

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 8, 2017 TERM

THE STATE

vs.

Ailkeen Keonity Lott

Indictment for

ARMED ROBBERY

SC Code: 16-11-330(A)

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

Defendant

Witness:

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

FILED FOR RECORD
MINNIE B. CLARK
2017 MAY -3 P 12:18
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

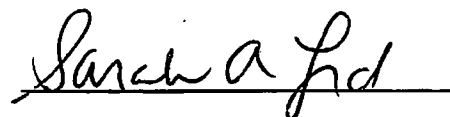
INDICTMENT
2016GS38-0160

At a Court of General Sessions, convened on May 3, 2017 the Grand Jurors of Orangeburg County present upon their oath:

ARMED ROBBERY

That on or about October 28, 2015, in Orangeburg County, the defendant, Ailkeen Keonity Lott did by use of force, threats or intimidation and while armed with a deadly weapon or while alleging either by words or action that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, take and carry away goods and/or monies from the person or presence of the victim, Pamela O'Brien, with the intent to permanently deprive the victim of possession of the goods or monies. Such weapon or alleged weapon described as a handgun. This offense in violation of Section 16-11-330 of the South Carolina Code of Laws, as amended.

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



Sarah A. Ford, Solicitor

WITNESSES

Craig Davis

Orangeburg County Sheriff

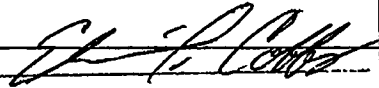
2015008831

ARREST WARRANT NUMBER

2015A3810200223

Arrested: November 9, 2015

**ACTION OF GRAND JURY
TRUE BILL**



MAY 03 2017

Foreperson of Grand Jury

Date: May 3, 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS38-0161

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 8, 2017 TERM

THE STATE

vs.

Ailkeen Keonity Lott

Indictment for

MURDER

SC Code: 16-3-10

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

Defendant

Witness:

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

FILED FOR RECORD
WYNIFA B. CLARK
2017 MAY - 3 P 12:17
CLERK OF COURT
ORANGEBURG, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

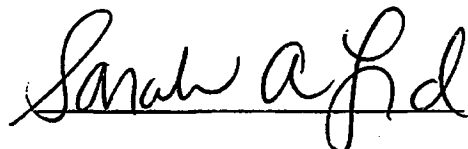
INDICTMENT
2016GS38-0161

At a Court of General Sessions, convened on May 3, 2017 the Grand Jurors of Orangeburg County present upon their oath:

MURDER

That in Orangeburg County on or about November 5, 2015, with malice aforethought, the defendant, Ailkeen Keonity Lott did kill one Allen Levar Chancy by means of stabbing the victim, with a knife. The victim did die as a proximate result thereof. This offense being in violation of the Common Law and Section 16-3-10, of the South Carolina Code of Laws, as amended.

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



Sarah A. Ford, Solicitor

WITNESSES

Craig Davis

Orangeburg County Sheriff

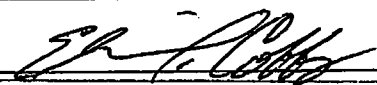
2015008831

ARREST WARRANT NUMBER

2015A3810200224

Arrested: November 9, 2015

**ACTION OF GRAND JURY
TRUE BILL**



Date **MAY 03 2017**

Foreperson of Grand Jury

Date: May 3, 2017

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2016GS38-0162

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

May 8, 2017 TERM

THE STATE

vs.

Ailkeen Keonity Lott

Indictment for

**POSSESSION OF A FIREARM OR
KNIFE DURING THE COMMISSION OF
A VIOLENT CRIME**

SC Code: 16-23-490

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

Defendant

Witness:

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

FILED FOR RECORD
MIRNAFA B. CLARK
2017 MAY -3 P 12:18
CLERK OF COURT
ORANGEBURG, SC

