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STATE OF SOUTH CAROLINA

MAY 24 2013

IN THE SUPREME COURT

**S.C. Supreme Court**

\_\_\_\_\_  
Appeal from Richland County

J. Ernest Kinard, Jr., Circuit Court Judge  
\_\_\_\_\_

WADDELL MCGHEE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213131

\_\_\_\_\_  
APPENDIX  
\_\_\_\_\_

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STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS  
COUNTY OF RICHLAND ) 2011-GS-40-2640, 2877

The State of South Carolina, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Waddell J. McGhee, )  
 )  
 Defendant. )

TRANSCRIPT OF RECORD

May 16, 2011  
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE.

A P P E A R A N C E S:  
KATHRYN LUCK CAMPBELL, ESQUIRE  
Attorney for the State

JAMES COOPER, ESQUIRE  
TRACY E. PINNOCK, ESQUIRE  
Attorney for the Defendant

Crystal Holmes  
Official Court Reporter



1 Monday, May 16, 2011:

2 (WADDELL J. MCGHEE, the Defendant, was first  
3 duly sworn.)

4 THE COURT: Yes, ma'am.

5 MS. CAMPBELL: May it please the Court, Your  
6 Honor. This is Mr. Waddell McGhee who is before you  
7 today for purposes of pleading guilty on a waiver to  
8 voluntary manslaughter and one count of criminal  
9 domestic violence on an unrelated event. And in  
10 exchange for that, the State is going to nol pros at the  
11 culmination of this plea a homicide by child abuse and  
12 an arson indictment as well as a gun charge.

13 THE COURT: All right. And he's going to make  
14 this plea, am I not correct, Mr. Cooper, under North  
15 Carolina versus Alford?

16 MR. COOPER: Yes, Your Honor.

17 THE COURT: Have you explained that to Mr.  
18 McGhee?

19 MR. COOPER: Yes, Your Honor.

20 THE COURT: All right. You are Waddell McGhee,  
21 sir, is that correct?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. McGhee, before I can accept  
24 your plea of guilty under North Carolina versus Alford,  
25 it's necessary for me to make sure that you understand

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1 what you're doing so I've got to ask you a series of  
2 questions. Now, at any point during my questioning of  
3 you, if you do not understand anything that I say or any  
4 words that I use, please stop me. I will be more than  
5 happy to repeat or explain anything I say to you,  
6 explain any words I use or any terms I might use or  
7 anything.

8 Do you understand, sir?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And I've got to make sure that  
11 you're making this plea freely, voluntarily and  
12 knowingly and intelligently.

13 Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: So I've got to ask you a series of  
16 questions. Stop me at any time you feel you don't  
17 understand anything or something is different than what  
18 your lawyer might have told me.

19 Do you understand that, sir?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: How old are you, Mr. McGhee?

22 THE DEFENDANT: 25, sir.

23 THE COURT: 25. And how far did you go in  
24 school?

25 THE DEFENDANT: Tenth grade.

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1 THE COURT: Tenth grade. What kind of work  
2 have you done?

3 THE DEFENDANT: In school or?

4 THE COURT: Just any work at all.

5 THE DEFENDANT: Oh, chicken farm.

6 THE COURT: Like Columbia Farms maybe or  
7 something like that?

8 THE DEFENDANT: Yeah, building houses...

9 THE COURT: Okay. Mr. McGhee, have you ever  
10 been treated for the abuse of alcohol or drugs or mental  
11 illness?

12 THE DEFENDANT: No, sir.

13 THE COURT: Have you taken any medications,  
14 drugs or alcohol in the past 24 hours?

15 THE DEFENDANT: No, sir.

16 THE COURT: Are you today aware of any  
17 physical, nervous or emotional problem that might keep  
18 you from understanding what you're doing?

19 THE DEFENDANT: No, sir.

20 THE COURT: You know what you're doing,  
21 Mr. McGhee?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Is that fair enough?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now, Mr. Cooper and Ms. ...

1 MS. PINNOCK: Pinnock.

2 THE COURT: I was about to call you Ms.  
3 Thornwell (phonetic).

4 MS. PINNOCK: No, sir.

5 THE COURT: Y'all both have explained to  
6 Mr. McGhee the charges contained in these indictments,  
7 the possible punishments and all that. But first of  
8 all, do y'all agree that he knows and understands and  
9 appreciates what he's doing here today?

10 MR. COOPER: Yes, Your Honor.

11 MS. PINNOCK: Yes, Your Honor.

12 THE COURT: Mr. McGhee, you heard your lawyers  
13 tell me that they feel you know what you're doing. That  
14 they've explained to you the charges contained in these  
15 two indictments, the possible punishments and your  
16 rights including your Constitutional right to a jury  
17 trial and that you understand these things, is that  
18 correct, is that fair enough?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: All right. Now, Mr. McGhee, you're  
21 first before me on indictment number 2011-2877, The  
22 State versus Waddell Jacoby McGhee. This is an  
23 indictment for voluntary manslaughter.

24 Do you understand this charge, sir?

25 THE DEFENDANT: Yes, sir.

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1 THE COURT: All right. Now, this indictment,  
 2 Mr. McGhee -- and you make this plea under the United  
 3 States Supreme Court that's commonly known as North  
 4 Carolina versus Alford. And I'm sure your lawyers have  
 5 explained to you the, I guess, parameters of Alford.  
 6 That you were, I think, technically indicted for  
 7 homicide by child abuse, they're going to drop that  
 8 charge in exchange for a plea of voluntary manslaughter.

9 Do you understand all this, sir?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: There's no lesser included offense  
 12 for voluntary manslaughter, I do believe, and homicide  
 13 by child abuse. I'm not going to talk too much but I  
 14 think I'm correct in making this assessment so far?

15 MS. CAMPBELL: (Affirmative response.)

16 MR. COOPER: Yes, sir.

17 MS. PINNOCK: (Affirmative response.)

18 THE COURT: We all agree with that.

19 Now, so you understand the charge of voluntary  
 20 manslaughter, is that correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. This indictment,  
 23 Mr. McGhee, alleges that you did here in Richland County  
 24 on or about May 16th of 2011, unlawfully kill one Cecil  
 25 Grimes, without malice, in a sudden heat of passion,

1 upon sufficient legal provocation in violation of  
2 Section 16-350 of the South Carolina Code of Laws, 1976  
3 as amended.

4 Do you understand this allegation?,

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You accept the responsibility for  
7 the death of one Cecil Grimes, do you -- am I correct so  
8 far?

9 MS. CAMPBELL: Yes, sir.

10 THE COURT: All right. Do you understand that,  
11 Mr. McGhee?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You understand, sir, that by  
14 pleading guilty to voluntary manslaughter you could go  
15 to jail for 30 years?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Understanding then, Mr. McGhee,  
18 that you can go to prison for 30 years by pleading  
19 guilty under North Carolina versus Alford for voluntary  
20 manslaughter, do you still wish to enter this plea?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. Next, Mr. McGhee, I  
23 have before me indictment number 2010-2640, The State  
24 versus Waddell McGhee. This is an indictment for  
25 criminal domestic violence. This indictment has nothing

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1 to do with the voluntary manslaughter indictment, it's a  
2 totally different offense and incident, dates and time,  
3 you understand this?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Now, do you understand the charge  
6 of criminal domestic violence, Mr. McGhee?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. This particular  
9 indictment, sir, alleges that you did here in Richland  
10 County on or about May 6th, 2010, cause physical harm or  
11 injury or did offer or attempt to cause physical harm or  
12 injury to your own household member, Janay Curry, J-a-n-  
13 a-y Curry.

14 Do you understand this allegation?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You want to plead guilty to  
17 criminal domestic violence? This is a simple CDV, I  
18 would assume?

19 MS. CAMPBELL: Simple.

20 THE COURT: You understand this, sir?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And y'all explained that to Mr.  
23 McGhee, is that correct, Mr. Cooper?

24 MR. COOPER: Yes, sir.

25 THE COURT: You realize, Mr. McGhee, that by

1 pleading guilty to this indictment for criminal domestic  
2 violence, sir, that you could go to jail for 30 days?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Knowing that, that is that you can  
5 go to jail for 30 days by pleading guilty to criminal  
6 domestic violence, do you still wish to do so?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Now, Mr. McGhee, are  
9 you currently on probation or parole for any prior  
10 offense?

11 THE DEFENDANT: No, sir.

12 THE COURT: All right. Now, Mr. McGhee, I  
13 could run these sentences on these two charges  
14 consecutively, that is put one after the other or add  
15 one to the other. If I did so, you're looking at 30  
16 years and 30 days in jail.

17 Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Knowing then, sir, that you're  
20 facing 30 years and 30 days in jail by pleading guilty  
21 to these two charges, do you still wish to plead guilty  
22 to them?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now, you're pleading guilty to the  
25 CDV straight up but you're pleading guilty under North

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1 Carolina versus Alford to the voluntary manslaughter,  
2 once again.

3 Do you understand that distinction?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And knowing that distinction, you  
6 still want to continue with this plea, is that correct,  
7 Mr. McGhee?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Now, Mr. McGhee, when you plead  
10 guilty you have to give up certain basic rights. First  
11 of all, you have to give up your right to remain silent.  
12 Now, this is your right against self-incrimination, Mr.  
13 McGhee, your right to say nothing at all. No one can  
14 compel you to come into court to provide evidence or  
15 testify against yourself.

16 Do you understand this, Mr. McGhee?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And that's when you plead guilty  
19 straight up or when you plead guilty under North  
20 Carolina versus Alford.

21 Also, Mr. McGhee, when you plead guilty, you  
22 have to give up your right to a jury trial. That is  
23 your right to for a jury here in Richland County to  
24 decide whether or not you're guilty of these two charges  
25 beyond a reasonable doubt. A jury would base its

1 decision on whatever evidence the State would introduce  
2 at trial against you and also on whatever evidence you  
3 and your lawyers may wish to introduce. I emphasize may  
4 wish to introduce, Mr. McGhee, because in a trial you  
5 would be presumed innocent, wouldn't have to prove  
6 anything and you could not be convicted unless the State  
7 convinced all 12 jurors of your guilt beyond a  
8 reasonable doubt. The jury's decision would have to be  
9 unanimous, all 12 would have to agree that you're guilty  
10 on these two indictments you're pleading guilty to.

11 Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Now, I know you're  
14 nervous, Mr. McGhee, I don't blame you, I understand  
15 that.

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And I have to ask you these  
18 questions so you've got to bear with me. Once again, if  
19 you don't understand anything I say or any words I use,  
20 stop me and I'll repeat them, give you a chance to talk  
21 to your lawyers at any time you may wish to.

22 Do you understand all this?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now, you still wish to continue?

25 THE DEFENDANT: Yes, sir.

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1 THE COURT: All right. Thirdly, Mr. McGhee,  
2 when you plead guilty you give up your right to confront  
3 and to be confronted by the witnesses against you, that  
4 is your right to see, hear and cross-examine any  
5 witnesses the State may call to testify against you  
6 during the trial.

7 And also, Mr. McGhee, when you plead guilty,  
8 whether it's guilty straight up or guilty under North  
9 Carolina versus Alford, you give up your right to  
10 subpoena and call witnesses on your own behalf, that is  
11 someone may testify for you.

12 Do you understand this?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. Fourthly, Mr. McGhee,  
15 indictment number 2011-2877, this is the voluntary  
16 manslaughter indictment, this indictment, Mr. McGhee,  
17 has not been presented to or considered by the Richland  
18 County Grand Jury. After hearing evidence, 12 of the 18  
19 members of the Grand Jury have to agree that you're  
20 probably guilty of voluntary manslaughter before a true  
21 bill of indictment could be returned indicating that  
22 this case would be ready for trial. It's possible, Mr.  
23 McGhee, that the Grand Jury could no bill this  
24 indictment and the case against you could be dismissed.

25 Now, do you want the Grand Jury to consider

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1 this indictment on voluntary manslaughter, Mr. McGhee,  
2 or do you want to waive presentment and continue with  
3 your guilty plea here and now, that's guilty under North  
4 Carolina versus Alford?

5 What do you want to do, Mr. McGhee?

6 (Pause.)

7 THE DEFENDANT: I want to do it now.

8 THE COURT: Beg your pardon?

9 THE DEFENDANT: I said I'd go on with it now.

10 THE COURT: You want to continue, is that  
11 correct?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, Mr. McGhee -- Mr. McGhee, do  
14 you understand these rights I just mentioned to you?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand, sir, that when  
17 you plead guilty, whether it's straight up or under  
18 Alford, you have to give up these Constitutional rights?

19 Do you understand this?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now, is this what you want to do,  
22 Mr. McGhee, give up your Constitutional rights?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now, you realize, Mr. McGhee, that  
25 by entering these pleas, you will not receive a jury

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1 trial on any of these two charges?

2 You understand this, don't you?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: I tell you that, Mr. McGhee,  
5 because you may have some defenses to these charges, of  
6 course I have no way of knowing that, but you need to  
7 realize that by pleading the way you are here today,  
8 guilty under Alford to voluntary manslaughter and guilty  
9 straight up to CDV, that you give up your right to jury  
10 trials.

11 You understand that, don't you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Additionally I tell you  
14 that, Mr. McGhee, because when you were arrested by the  
15 Richland County Sheriff's Department, you may have given  
16 some type of incriminating statements, that is made some  
17 admissions or confessions about your guilt, you need to  
18 realize that by pleading guilty here today, you waive  
19 your right to later on challenge or contest, if you gave  
20 any statements, whether or not they were taken or  
21 obtained from you freely and voluntarily in accordance  
22 with your Constitutional rights.

23 Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now, Mr. McGhee, I will ask you

1 once again, regarding indictment number 2011-2877,  
2 voluntary manslaughter, once again you want to enter a  
3 guilty plea under North Carolina versus Alford to the  
4 allegation that you did here in Richland County on or  
5 about May 16th of 2011, unlawfully kill one Cecil  
6 Grimes, without malice and in the sudden heat of passion  
7 upon legal -- upon sufficient legal provocation.

8 Do you understand this allegation?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And once again, you want to enter  
11 your plea to the voluntary manslaughter under Alford, is  
12 that correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. And once again, Mr.  
15 McGhee, in connection with indictment number 2010-2640,  
16 criminal domestic violence, once again you're telling me  
17 you want to plead guilty to the allegation that you did  
18 her in Richland County on or about May 6th of 2010,  
19 cause physical harm or injury or did offer or attempt to  
20 cause physical harm to one of your household members,  
21 one Janay Curry.

22 You understand this, once again and once again  
23 you want to plead guilty to CDV, is that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. Have there been any

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1 plea negotiations, Solicitor?

2 MS. CAMPBELL: Your Honor, other than what's  
3 been stated on the record, there are no plea  
4 negotiations. One thing I do want to make sure, on the  
5 indictment for the voluntary manslaughter, the victim's  
6 name should be listed as Minor

7 THE COURT: It says Cecil Grimes.

8 MS. CAMPBELL: We would move to amend it, I  
9 apologize, Your Honor.

10 THE COURT: Minor

11 MS. CAMPBELL: Minor

12 THE COURT: Minor ?

13 MS. CAMPBELL: Yes, sir.

14 THE COURT: All right. Y'all mind if I correct  
15 it?

16 MR. COOPER: No, sir.

17 MS. PINNOCK: No, sir.

18 THE COURT: All right. Also, I need to back up  
19 a little bit, this indictment says that you did in  
20 Richland County on or about May 16th -- the date of the  
21 offense ---

22 MS. CAMPBELL: May the 7th, Your Honor.

23 THE COURT: May the 7th?

24 MS. CAMPBELL: Yes, sir.

25 THE COURT: Do y'all mind if I change that

1 portion of it?

2 MS. PINNOCK: (Shakes head.)

3 THE COURT: You understand that, Mr. McGhee? I  
4 can see why you might be somewhat confused in what I  
5 just read. But the indictment should have read, and  
6 I've read it to you three or four times, that on or  
7 about May 7th of 2011, that's when the death of one  
8 Minor occurred.

9 Do you understand all this, once again, backing  
10 up a little bit to correct these errors?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Having backed up and corrected  
13 these errors, do you still wish to continue and enter  
14 this plea, is that correct, Mr. McGhee?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Now I'm at the point  
17 where I need to say -- there have been no plea  
18 negotiations except for the dropping of the child --  
19 homicide by child abuse provided he pleads guilty under  
20 Alford to the voluntary manslaughter?

21 MS. CAMPBELL: Yes, sir.

22 THE COURT: Anything additional that needs to  
23 be added to the record ---

24 MS. CAMPBELL: The only other charges that were  
25 out there that would be dismissed as a result of these

1 pleas is the arson in the second degree that accompanied  
2 the CDV and additionally there was -- he was originally  
3 charged with a gun charge for possession of a person  
4 convicted of a crime of violence. And that gun charge  
5 we nol prossed as a result of this plea.

6 THE COURT: All right. And I don't want to  
7 complicate anything but that was the gun -- when I read  
8 the story, that was the gun that was found that was  
9 unfortunately picked up by another child ---

10 MS. CAMPBELL: Yes. The gun was never  
11 recovered but it was the gun ---

12 THE COURT: Okay.

13 MS. CAMPBELL: --- that was used.

14 THE COURT: But that was the situation that led  
15 to all this today, is that fair enough ---

16 MR. COOPER: Yes, sir.

17 MS. PINNOCK: Yes, sir.

18 THE COURT: All right. And you understand all  
19 this, do you not, Mr. McGhee?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: All right. So, Mr. Cooper, that  
22 covers everything in terms of any plea negotiations or  
23 any recommendations on behalf of the State?

24 MR. COOPER: That's right, Your Honor.

25 THE COURT: You understand all this, Mr.

1 McGhee?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You still wish to continue with  
4 this plea, sir?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. Now, Mr. McGhee, has  
7 anyone promised you anything or has anyone held out any  
8 hope or reward in order to get you to plead guilty?

9 THE DEFENDANT: No, sir.

10 THE COURT: Has anyone threatened you or used  
11 force to get you to plead guilty?

12 THE DEFENDANT: No, sir.

13 THE COURT: Has anyone used any pressure or  
14 intimidation to cause you to plead guilty?

15 THE DEFENDANT: No, sir.

16 THE COURT: Have you had enough time to make up  
17 your mind as to whether or not you want to plead guilty?

18 THE DEFENDANT: No, sir.

19 THE COURT: Have you had enough time?

20 THE DEFENDANT: No, sir.

21 THE COURT: You need some more time?

22 THE DEFENDANT: I'm...

23 THE COURT: Slow down, listen carefully. Have  
24 you had enough time to make up your mind about entering  
25 this plea?

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1 THE DEFENDANT: No, sir, but I'm going to plead  
2 today.

3 THE COURT: Okay. You're misunderstanding my  
4 question. You want to plead guilty here and now, is  
5 that correct?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. So when I ask you, have  
8 you had enough time to make up your mind about pleading  
9 guilty here today, right now, the answer is yes, is that  
10 fair enough?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. So you have had enough  
13 time?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. Do you need any more  
16 time to think about it, Mr. McGhee?

17 THE DEFENDANT: No, sir.

18 THE COURT: All right. Now, Mr. McGhee, are  
19 you satisfied with the services of your lawyers, Mr.  
20 Cooper and Ms. ...

21 MS. PINNOCK: Pinnock.

22 THE COURT: Pinnock and Ms. Pinnock has a  
23 little girl named Macy (phonetic) and I kid her a little  
24 bit. And as well as Mr. May (phonetic) that was  
25 originally on this case. I think he might be some place

1 else now.. But, yeah, Mr. May, Ms. Pinnock as well as  
2 Mr. Cooper representing you on this case or these cases,  
3 and you're satisfied with their service?

4 Is that correct, Mr. McGhee?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Have you talked with them for as  
7 long and for as often as you feel it necessary for them  
8 to properly represent you?

9 (Pause.)

10 THE DEFENDANT: Sort of, I mean...

11 THE COURT: Beg your pardon?

12 THE DEFENDANT: I said, kind of but I ---

13 THE COURT: All right. I need to ask you these  
14 questions, it's my job to do so.

15 THE DEFENDANT: I ---

16 THE COURT: Have you had enough time to talk to  
17 them?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: No, sir, you said?

20 THE DEFENDANT: I said, yes, sir.

21 THE COURT: All right. Do you need any more  
22 time to talk with them?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Did you say no or yes?

25 THE DEFENDANT: No -- yes, sir ---

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1 THE COURT: Okay, relax. Look, look. I know  
 2 you're nervous. I've done this a long time. I don't  
 3 blame you, I'd be nervous to, it's understandable. I'm  
 4 just doing my job so I've got to ask you some questions.  
 5 It may seem like I'm trying to pick on you, I'm not. I  
 6 have to ask you these questions. I've been asking them  
 7 this way for the last 17 years.

8 So you've had enough time to talk to your  
 9 lawyers, is that correct?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: All right. Do you need any more  
 12 time to talk with them?

13 THE DEFENDANT: No, sir.

14 THE COURT: Have you understood your talks with  
 15 them?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You said, yes, sir, is that  
 18 correct?

19 THE DEFENDANT: (Affirmative response.)

20 THE COURT: All right. Now, Mr. McGhee, has  
 21 Mr. May, Mr. Cooper and Ms. Pinnock done everything for  
 22 you you feel they should do or could do on your behalf  
 23 in advising and representing you on these charges?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Have they done anything you feel

1 they should not have done?

2 THE DEFENDANT: No, sir.

3 THE COURT: Are you completely satisfied with  
4 their services?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You said, yes, is that correct?

7 THE DEFENDANT: (Affirmative response.)

8 THE COURT: I'm having a little trouble  
9 understanding you.

10 Now, do you have any complaints, Mr. McGhee,  
11 against anyone at the Richland County Sheriff's  
12 Department?

13 THE DEFENDANT: Excuse me?

14 THE COURT: Do you have any complaints against  
15 anyone at the Richland County Sheriff's Department, the  
16 agency that arrested you on these charges?

17 THE DEFENDANT: No, sir.

18 THE COURT: Do you have any complaints against  
19 anyone working here at the Fifth Circuit Solicitor's  
20 office, the prosecutors that are prosecuting on this  
21 case?

22 THE DEFENDANT: No, sir.

23 THE COURT: All right. Have you understood my  
24 questions, Mr. McGhee?

25 THE DEFENDANT: Except the one you just said?

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1 THE COURT: Beg your pardon?

2 THE DEFENDANT: You said do I have any problems  
3 with the Solicitor's office?

4 THE COURT: Yeah.

5 THE DEFENDANT: Oh, no, sir.

6 THE COURT: No, you said, no, right?

7 THE DEFENDANT: Right.

8 THE COURT: All right. Now, Mr. McGhee, you  
9 realize that you have a right to appeal this guilty plea  
10 and whatever sentence I may impose upon you but if  
11 you're going to appeal, you need file a notice of intent  
12 to appeal within 10 days of today's date.

13 Additionally -- I understand, but I need to put  
14 in on the record anyway. Additionally, you have a right  
15 to file a post conviction relief application within one  
16 year of the date you're sentenced, that will be today.  
17 But I think your lawyers have something to say in  
18 regards to both your appeal and your right to a PCR.

19 Mr. Cooper, I will be happy to hear from you at  
20 this time, sir.

21 MR. COOPER: Yes, sir. I have explained to Mr.  
22 McGhee that as part of this understanding -- deal today,  
23 the dropped charges and everything, that he understands  
24 he is giving up his right to that ancillary appeal.

25 THE COURT: All right. That is you want to

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1 drop your right to any appeal and any PCR. Post  
2 conviction relief involves, oh, some allegations that  
3 your lawyers could have been ineffective or the police  
4 might have mistreated you or this sort of thing. And  
5 basically under Alford, you're doing this in order to  
6 take advantage of the deal that's been made to you, Mr.  
7 McGhee.

8 And you understand all this, is that correct?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Now, so once again, you  
11 have a right to appeal this or waive it or drop, you  
12 have a right to post conviction application or PCR that  
13 you will also waive or drop.

14 Is that correct, Mr. McGhee?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Very well, sir.

17 Solicitor, I think I'd be happy to hear from  
18 y'all now.

19 MS. CAMPBELL: May it please the Court, Your  
20 Honor, if I could take up the criminal domestic violence  
21 first. That did occur the day before this offense on  
22 May the 6th of 2010 at (phonetic) a. The  
23 Defendant and the victim in the case, Janay Curry, were  
24 girlfriend and boyfriend at that time or in an on-  
25 again/off-again relationship. Earlier in the day there

1 had been an argument between the two of them. The  
2 Defendant indicated to Ms. Curry that he would get her  
3 or she was going to pay for it or something to that  
4 effect, some words to that effect which would be the  
5 basis of the CDV.

6 Later that day, Ms. Curry showed up at her  
7 house and her bedroom was on fire, some clothing had  
8 been put on fire on the bed and things of that nature.  
9 Ms. Curry called the police and reported it. Since then  
10 she has sent in a victim impact statement. I believe  
11 she still sees the Defendant on a basis, he has been out  
12 on bond. She indicated in her victim impact that she  
13 truly believes she falsely accused him of being there as  
14 far as the arson part of it and she has spoken to  
15 investigators in my office indicating that she didn't  
16 think he had done it and that she had falsely accused  
17 him.

18 Based on that, we are dismissing the arson  
19 charge, Your Honor.

20 THE COURT: All right.

21 MS. CAMPBELL: Standing next to me, Your Honor,  
22 is Sergeant Matt Ellis with the Richland County  
23 Sheriff's Department who will give you a factual basis  
24 and then I'll be glad to fill in ---

25 THE COURT: Matt Allen (sic).

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1 MS. CAMPBELL: Ellis.

2 MR. ELLIS: Ellis.

3 THE COURT: Spell it for me.

4 MR. ELLIS: E-l-l-i-s.

5 THE COURT: Spell it again.

6 MR. ELLIS: E-l-l-i-s.

7 THE COURT: Okay, Ella (sic)?

8 MR. ELLIS: Ellis.

9 THE COURT: Okay, sorry, go ahead, from the  
10 Richland County Sheriff's Department.

11 MR. ELLIS: Yes, sir. This occurred on May the  
12 7th, 2010. At approximately 6:20 in the evening we  
13 received a call in reference to a child being shot who  
14 was at Richland Memorial Hospital. Our officers  
15 responded to that location and started gathering the  
16 facts of the case and we were able to determine that  
17 this incident actually transpired at  
18 out off of Crane Church Road.

19 And later on that -- after this individual,  
20 Minor is the five year old victim that was shot,  
21 we started gathering information as to what had  
22 happened. We were able to conclude that Minor was  
23 outside with several other children and the Defendant  
24 before you was outside with them too. Statements  
25 indicated, witness indicated, that he was the only adult

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1 outside with these children at the time. He was  
2 actually showing them how to hula hoop or teaching them  
3 how, explaining it to them. At some point in time while  
4 they were doing this, a gun actually fell either from  
5 his -- somewhere upon his body, waistband, pocket,  
6 wherever it came from and obviously he must not have  
7 known it at which time. A three year old who was out  
8 there, a cousin of Minor picked the weapon up,  
9 probably assuming it was a toy, and shot, pulled the  
10 trigger. The gun went off and it struck Minor in his  
11 back and obviously he was transported to the hospital by  
12 I believe his mother and where he was later pronounced  
13 -- he was deceased.

14 We looked into this case, all the individuals  
15 that were outside we could interview, we sent the three  
16 year old and his sister to the ARC to have them  
17 forensically interviewed. Their stories were very  
18 similar, about the same. Both stated that Minor (sic)  
19 was the only one out there with them during this time.  
20 It was concluded that the gun came from Minor (sic).

21 With this record of what he has, I talked to  
22 the Solicitor's office in reference to proper charges in  
23 this. We waited a day or two before we actually charged  
24 him on this actual incident and it was determined, based  
25 upon his record of gun charges and so forth, that

1 homicide by child abuse did apply due to the fact that  
2 he was around kids at the time with a gun. He's  
3 prohibited to having a gun. It obviously fell from his  
4 person, he didn't even know it. So he was charged on I  
5 believe the 9th -- he was charged on the 9th of May.

6 The night of the incident, he was later  
7 arrested, I believe it was on the 8th, in the early  
8 morning hours, on the CDV. He actually came to our  
9 office after there was numerous conversations back and  
10 forth with him. We were actually in the presence of his  
11 step-father, I believe that's right, when he talked to  
12 him on the phone several times. There was a pretty  
13 consistent story as to what had happened. And then when  
14 he arrived at our office his story somewhat changed that  
15 somebody else was out there with him by the name of Tye  
16 (phonetic) or Trey (phonetic) and that he had the gun.

17 At that point in time when he finally -- he  
18 turned himself in I believe around 5:00 that morning, we  
19 still wanted to do a little more on this actual death  
20 case and we knew of this CDV charge or incident that had  
21 happened so he was actually placed in custody for the  
22 CDV and the arson. And as I spoke, we later charged  
23 him, a day or a day and a half later, with the death of  
24 Minor

25 THE COURT: All right.

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1 MS. CAMPBELL: Your Honor, the gun was never  
2 recovered. This is a case that's been very emotional and  
3 hard to deal with. All the children that were out there  
4 that day were related. Waddell was the actual -- if not  
5 by blood, in family -- for all purposes, is related to  
6 the child. The mother is here today, Ms. Roylecia  
7 Baymon, the mother of Minor There is a surviving  
8 sibling, a miracle, who was about a year younger than  
9 Minor when all this occurred. So their families are  
10 still connected through this relationship with the  
11 grandchild or the child or however -- whatever.

12 So it's been a very very difficult case. We  
13 have met with the victims. We've met with Mr. McGhee's  
14 parents. We've met with Ms. Baymon. We've met with the  
15 Grimes family on multiple occasions in an effort to  
16 resolve this case. As I pointed out, there is no good  
17 resolution to it because a child has died.

18 We do feel like this is a fair resolution and  
19 part of the reason is I think for everyone involved  
20 getting it resolved is in the best interest of everyone.

21 At the appropriate time, Your Honor, once you  
22 take the plea, you would like to hear, I know, from -- I  
23 believe Ms. Dudley (phonetic) wants to speak on behalf  
24 of the family.

25 THE COURT: All right.

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1 First of all, Ms. Pinnock, Mr. Cooper, and I'm  
2 sure Mr. May, y'all understood that these would have  
3 been, the facts that would have been presented if it  
4 proceeded to trial. Y'all prepared for all that,  
5 explained that to your client and that was one reason  
6 why we've been able to resolve this matter the way that  
7 we have.

8 Is that fair enough? There's nothing that  
9 you've heard today that you didn't anticipate hearing,  
10 that you didn't know about ---

11 MR. COOPER: No, sir.

12 THE COURT: Is that a fair enough statement,  
13 Mr. McGhee?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Very well, sir. Then of course  
16 your prior record was -- there's no dispute about that,  
17 is there?

18 MR. COOPER: No, sir.

19 THE COURT: You agree, Mr. McGhee, that's your  
20 prior record, sir?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Very well. I find that there's a  
23 substantial factual basis for your plea, Mr. McGhee. I  
24 further find your decision to plead guilty under Alford  
25 and straight up to be freely and voluntarily, knowingly

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1 and intelligently made. That you had the advice of  
2 competent counsel, Mr. May, Mr. Cooper and Ms. Pinnock,  
3 whom you indicated to me you're completely satisfied  
4 with. Therefore, I will accept this plea.

5 And I will be happy to hear from ---

6 MS. CAMPBELL: Your Honor, specifically as to  
7 his prior record, he does in 2005 have a simple assault  
8 conviction and a possession of marijuana. Then in 2007  
9 he was convicted on three counts of assault of a high  
10 and aggravated nature which would be the crimes of  
11 violence we've referred to. And then that probation was  
12 revoked when he was convicted on pointing and presenting  
13 and unlawful carrying of a weapon from 2008.

14 THE COURT: Let me back up a little bit.

15 Is that your prior record, once again, is that  
16 complete, is that a fair statement of the prior record

17 ---

18 MS. PINNOCK: Yes, sir.

19 MR. COOPER: (Affirmative response.)

20 THE COURT: --- Mr. McGhee?

21 THE DEFENDANT: Making it sound worse than what  
22 it is.

23 THE COURT: That's all right, Mr. McGhee.

24 THE DEFENDANT: That's my record.

25 THE COURT: But that's accurate, Mr. Cooper and

1 Ms. Pinnock?

2 MR. COOPER: Yes, sir.

3 MS. PINNOCK: Yes, sir.

4 THE COURT: All right. Very well. I'll be  
5 happy to hear anything additional from the State at this  
6 time. But this is the mother or ---

7 MS. CAMPBELL: Ms. Dudley is the grandmother of  
8 the child who was killed. And standing next to her is  
9 Ms. Baymon who is the mother of Minor

10 THE COURT: Okay. Yes, ma'am, your name,  
11 please.

12 MS. DUDLEY: My name is Gail (phonetic) Grimes  
13 Dudley.

14 THE COURT: All right, Ms. Dudley.

15 MS. PINNOCK: I'm the grandmother to Minor  
16 Grimes. My son, Cecil Grimes ---

17 THE COURT: Yes, ma'am.

18 MS. PINNOCK: --- is the father.

19 THE COURT: Okay. That's where the other came  
20 in on ---

21 MS. DUDLEY: Yes.

22 THE COURT: I'm sure y'all understand, it was  
23 nothing ---

24 MS. DUDLEY: Yeah, of course, of course. And  
25 just for clarity, I think it was clarified that this

1 incident took -- took place on May 7th which is  
2 certainly etched in our memories ---

3 THE COURT: Yes, ma'am.

4 MS. DUDLEY: --- because of the tragedy.

5 We stand before you, we're here today, not in a  
6 spirit of vindictiveness but today we stand representing  
7 Minor in the matter of accountability. Children, the  
8 wonderful gifts that they are, are totally dependent on  
9 adults. They're totally dependent, totally trustworthy.  
10 So as adults, we have an accountability to children.

11 And on May 7th, Waddell, though I know, I'm hoping and I  
12 know that he loved Minor And I know some would say it  
13 was just an accident. An accident it may have been but  
14 not just because Waddell made a conscious decision to  
15 get up on May 7th and instead of putting a belt around  
16 his baggy pants he had on, he decided to arm himself  
17 with a weapon. And when he armed himself with that  
18 weapon and went into a place where children are, he took  
19 away my grandbaby's life, his rights to his life. His  
20 rights. Minor had no rights on that day because of  
21 what an adult decided to do. And we have to be held  
22 accountable for the decisions we make involving  
23 children.

24 I know that his family loves him. I'm a  
25 mother, I understand that heart of a mother. But I also

1 have a heart of a grandmother. That was my grandbaby,  
2 five years old. He didn't die from any disease. He  
3 didn't die because he fell off a bicycle. He died  
4 because Waddell decided to have a gun that he wasn't  
5 supposed to have and take it into a crowd of children,  
6 babies who have no control over that situation at all.  
7 And even though he said he didn't pull the trigger,  
8 wherever there is an action, there's a reaction. And  
9 Waddell's action brought about the reaction of death for  
10 my grandson, five years old.

11           So now my memories that I'm left of him is that  
12 day when I walked out down that hall, that long hall at  
13 Richland Memorial Hospital and went into a room and  
14 there was laying my five year old grandbaby with a tube  
15 hanging -- with no more life in his body because Waddell  
16 decided that day that he needed to accessorize himself  
17 with an illegal weapon.

18           I know he's sorry today, I understand that, but  
19 it does not change the fact, it will not bring <sup>Minor</sup>  
20 back. And we as adults have to be aware of our actions,  
21 especially when it comes to babies, to children. Adonis  
22 had a right to live, he had a right to grow up. He had  
23 that right and Waddell McGhee on May 7th took my  
24 grandbaby's right away from him. And he lays now in a  
25 grave on Cushman (phonetic) Drive. That's our memory.

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1 So every time it's his birthday, that's where we'll go.  
2 We won't go to a birthday party, we'll go to the grave.  
3 That's where we'll go, that's where we'll go to  
4 celebrate the death, his death, not his life but his  
5 death and somebody has to be held accountable for that.  
6 There has to be accountability when it comes to these  
7 children.

8 That's all I have to say.

9 THE COURT: I understand perfectly, ma'am.  
10 Thank you, ma'am.

11 MS. CAMPBELL: I don't think Ms. Baymon is able  
12 to speak.

13 THE COURT: No one can say any better than you  
14 have, the grandmother.

15 Anything further from the State?

16 MS. CAMPBELL: No, Your Honor. And all plea  
17 negotiations were discussed extensively with the family  
18 and they are in agreement. We do feel like the term of  
19 imprisonment is appropriate in this case.

20 THE COURT: All right. Thank you, Ms.  
21 Campbell.

22 Mr. Copper, I know this is a difficult  
23 situation, for you and Ms. Pinnock. It's a difficult  
24 situation for everybody involved. But as you know, I  
25 always encourage you to do your best, you've done a good

1 job, so, I'd like to hear from you now, both of you.

2 MR. COOPER: Thank you, Your Honor. May it  
3 please the Court, Your Honor.

4 Indeed this is -- it's probably the most  
5 emotional, most difficult case I've worked on while I've  
6 been here. We have a family that is split apart as you  
7 can tell in the courtroom. We have people who used to  
8 talk on a regular basis and hang out with each other and  
9 now they're split a part because of this. But I can  
10 tell you, that from day one when I met Mr. McGhee, he's  
11 always been emotional and remorseful about this, just  
12 like you see him right now.

13 This has ripped him apart inside because it was  
14 a terrible accident, a terrible accident that he has  
15 taken his portion of responsibility for. He's here to  
16 do that. But he loved those children that he was out  
17 there hula hooping with. And that's why he was out  
18 there playing with toys with them is that he loved Mr.  
19 Grimes. And he's expressed that to me so many times, in  
20 my office, at the jail. He can't even get through  
21 telling me about him without crying. I know that this  
22 has -- no matter what time he does, this has altered him  
23 forever, this has ripped him up inside forever. And  
24 this has changed his relationship with his family  
25 forever. And I can say that he is truly deeply

1 remorseful and very sorry and I think every --  
2 everything I've heard him say and do after this has  
3 shown me that.

4           And I really feel -- I really feel for this  
5 family, everybody here, I feel for them. I feel for  
6 Waddell as well because this has happened -- that  
7 doesn't mean to say that he's not here doing what he  
8 should do but I know that this -- this has really ripped  
9 him up inside forever. I think someone who can probably  
10 speak to that a little better than me is Mr. Roy Baymon,  
11 if you'd allow him to speak. He is Waddell's father,  
12 he's sort of the ---

13           THE COURT: All right.

14           MR. COOPER: --- in their family. I've had  
15 many conversations with him about it, even in their  
16 home, I've been to their home several times and I've  
17 seen this family, their emotion. So I hope that you'll  
18 hear from him ---

19           THE COURT: Yes, sir, your name, please.

20           MR. BAYMON: Roy Baymon, Your Honor.

21           THE COURT: Mr. Baymon.

22           MR. BAYMON: And if you'll give me a little  
23 latitude, Your Honor, I would just like to speak freely  
24 here. In order to speak about my son, I have to speak  
25 about my children. There are five of them here.

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1 THE COURT: Yes, sir.

2 MR. BAYMON: And I have to say, that in growing  
3 up, they grew up in a very unique home, a very pleasant  
4 home. They were all fond of each other, they played  
5 with each other. And as they came of child bearing age,  
6 they had children. No one in this courtroom has been  
7 around those children more than I have. I've walked  
8 some hallways at night with my grandchildren, you know.  
9 My son, my daughter, I tell you, these are the best  
10 people in the world to me, the most -- I can't -- I  
11 can't fathom what they're going through right now. So I  
12 can't really say how they're feeling.

13 But I can say that in my home, Your Honor, I've  
14 raised my children to be children. I'm reminded of a  
15 particular passage that says that the glory of a silver  
16 headed man are arrows in his quiver and I have six  
17 arrows in my quiver and an additional quiver that gives  
18 me 11 grandchildren. Minor is gone. Do I wish he was  
19 here? Yes, I loved my grandson. I loved him to death.  
20 Now, like I said, no one in this courtroom has spent  
21 much more -- more time with him than I have and I always  
22 have. Am I wrong for not spending more time with my own  
23 son? Who knows.

24 Your Honor, I am just saying, my family has  
25 been hit very hard by this tragedy, very hard. Is it

1 ever going to end for us? No. Will my son and daughter  
2 ever be the same with each other? I don't know, only  
3 they know.

4 So, again, if I have -- if I were to speak on  
5 his behalf, I'd have to speak about all my children, and  
6 I tell you, they're the greatest, Your Honor.

7 Thank you, sir.

8 THE COURT: Thank you, sir. Mr. Cooper.

9 MR. COOPER: Your Honor, I just want to say a  
10 couple more things and that is that one of the things  
11 that Mr. McGhee described to me, just on his own, was  
12 his recent -- his recent visit to the young man's grave  
13 during the anniversary of this tragedy. That was in my  
14 office, it was just me and him, but I want you to know  
15 it was probably one of the most sincere expressions of  
16 remorse emotion that I've seen on the job. I mean, it  
17 was real. I didn't ask him, I didn't -- I didn't say,  
18 tell me, he just walked in there and started telling it  
19 to me.

20 This young man in front of you is destroyed  
21 inside and I just want to express that to the Court and  
22 I want to thank Mr. Baymon. And I know -- I don't know  
23 if Ms. Pinnock has anything to say. I know he would  
24 like to address the Court at the appropriate time.

25 THE COURT: Ms. Pinnock, is there anything

1 you'd like to say?

2 MS. PINNOCK: Your Honor, I would just add  
3 briefly, Mr. Cooper has already touched on it, Mr.  
4 Baymon put it the best I've heard it. This family, as  
5 close as they were, because of May 7th of last year, is  
6 now destroyed. Mr. Baymon, you know, asked me a very  
7 interesting question one day when Mr. Cooper wasn't  
8 there and we were in my office. He said, when we go to  
9 court, where do we sit? Because on one side is his  
10 daughter and his grandson and on the other side is his  
11 son.

12 So I think that question in and of itself shows  
13 how torn apart this family actually is. You know,  
14 they're trying -- I know they're -- you know, Mr.  
15 Baymon, Ms. Baymon, everybody's going to try and, you  
16 know, keep the family together, tie everything -- you  
17 know, try and get people to have a relationship again  
18 but, you know, only time will tell whether or not  
19 Waddell and Roylecia ever have a relationship again.

20 Your Honor, I know that Waddell is extremely  
21 sorry for what happened. He didn't mean to hurt  
22 anybody. He should not have had the gun, absolutely  
23 right, there's no excuse for it. But I don't think  
24 anybody in here can say that he would have ever wanted  
25 to hurt his -- his nephew in any way. I don't think the

1 tragic accident comes close to what -- you know, the  
2 real definition of what this is. But that's, you know,  
3 the best that I can come up with is an extremely tragic  
4 accident that this family's going to have to pay for and  
5 that Waddell's going to have to pay for for the rest of  
6 their lives.

7           You know, I do think this is a fair -- you  
8 know, a fair resolution, you know, hoping there would  
9 have been something different we could have done. But I  
10 do think in order to allow this family to try and move  
11 on, to try and reconcile everything, I think it's a fair  
12 resolution.

13           And if you would hear from Waddell.

14           THE COURT: All right. Thank you, Ms. Pinnock.

15           Yes, sir.

16           THE DEFENDANT: First, I'd like to say I never  
17 really got to apologize to my sister face to face  
18 because she never really talked to me.

19           (Pause.)

20           My kids were out there too and everybody in my  
21 family, even my sister, everybody know why I got a gun,  
22 okay. Let's not act all brand new in the courtroom,  
23 okay. I ain't got the perfect life. I -- I'm not  
24 saying I wasn't raised perfect. Everybody know me just  
25 like I know other peoples, I'm not saying that other

1 peoples ain't never had a gun around the kids.

2           Okay, they know our life, they know why we  
3 carry a gun, why we do what we do. I understand, I just  
4 wanted to say -- just turn around and say sorry to my  
5 sister, can I?

6           THE COURT: Yes, sir.

7           THE DEFENDANT: I apologize. I apologize to  
8 y'all (indicating), my kids was out there. Y'all never  
9 treated me like family after the situation. Y'all don't  
10 know what I'm going through, you know what I'm saying.  
11 That's my only sister I know right there (indicating),  
12 my sister, we grew up in the same house together, okay.  
13 Every birthday I bought my nephew something too, how I  
14 visit his grave on his birthday too, okay. I didn't  
15 mean for none of this to go down. But I can't change it  
16 now. I couldn't do nothing to save him, I couldn't do  
17 nothing. But now I've got to sit here and do all this  
18 time and when I get out is my sister still going to talk  
19 to me, is everything going to be the same, is everything  
20 going to change?

21           THE COURT: Mr. McGhee.

22           THE DEFENDANT: I don't know what to do.

23           THE COURT: There's not much that can be done.  
24 You've done about all you can, I guess as remorseful as  
25 anybody I've ever seen. You're entering the guilty plea

1 that's going to send you to prison, you're waiving your  
2 right to appeal, you're waiving your right for a PCR in  
3 an effort to try to bring closure for both sides of your  
4 family.

5           You know, my father used to say that time is a  
6 fortune teller. Time is a fortune teller and only time  
7 will tell how all this -- all this will unfold. And who  
8 knows the propensities of life, why one child lives and  
9 one child dies. I've done this a long time, I've never  
10 found an answer yet and never will. It's a mystery  
11 known only to God.

12           So why this happened, we don't know. How it  
13 will end, only time will tell. But in time I hope that  
14 out of this tragedy some light or some good can come to  
15 everybody involved. That's my sincere wish and hope.

16           But my job is to pronounce sentence and on  
17 indictment number 2011-2877, The State versus Wadell  
18 McGhee, an indictment for voluntary manslaughter, it's  
19 the sentence of the Court that you, Waddell McGhee, be  
20 committed to the South Carolina Department of  
21 corrections for a period of 20 years; provided, however,  
22 that upon the service of 10 years, the balance is  
23 suspended.

24           On indictment 2010-2640, criminal domestic  
25 violence, the sentence is 30 days, that's to run

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1 concurrent.

2 My best wishes to everybody involved. There's  
3 a reason why this happened that's beyond anybody here.  
4 But I hope that in this great divide that y'all can find  
5 some room to get closer together, some way, somehow in  
6 due time.

7 Good luck ---

8 MR. COOPER: There's one more thing for the  
9 record, Mr. McGhee, you heard he has several children  
10 and has a sick daughter who just got out of the  
11 hospital. He would respectfully request the Court if  
12 you would consider to give him a week to turn himself in

13 ---

14 THE COURT: No, I'm not going to do that.

15 Thank you all so very much. This matter is  
16 concluded.

17 MR. COOPER: Yes, sir.

18 ----- END OF TRANSCRIPT OF RECORD -----

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STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

I, Crystal Holmes, 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 the proceedings had and evidence introduced in the guilty plea hearing of the captioned case, relative to appeal, in the Court of General Session for Richland County, South Carolina, on the 16th day of May, 2011.

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

November 11, 2011

  
\_\_\_\_\_

Crystal Holmes, Court Reporter.

546BP

2011 CP 400 5883

STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

Waddell Jacoby McGhee #327728  
Full name and prison number (if any) of Applicant,

vs.

State of S.C  
Name of Respondent.

APPLICATION FOR  
POST-CONVICTION RELIEF

2011 SEP -6 AM 11:30  
JEANETTE W. COBRIDGE  
C.C.P. & C.D.  
RICHLAND COUNTY  
FILED

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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention Kirkland Correction Institution,  
Kirkland R & E center 4344 Broad River Columbia SC 29210

2. Name and location of Court which imposed sentence Richland County Judicial Center  
1701 Main Street Columbia SC 29201

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

- (a) 2011GS4002877 - Voluntary Manslaughter
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

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

- (a) 5-16-11 20 years suspended to 10 years
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

RECEIVED  
ADMINISTRATIVE INSTRUCTIONS  
LIFE OR FINE  
TYPE COURTS UNDER  
COURT CLERK RECORDER  
OTHER  
MICHIGAN BENEFIT & DRUGS

- 5. 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 \_\_\_\_\_

6. Did you appeal from the judgment of conviction or the imposition of sentence?  
NO

- 7. If you answered "yes" to (6), 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. \_\_\_\_\_

- 8. If you answered "no" to (6), state your reasons for not so appealing:
  - (a) Attorney Advise not to \_\_\_\_\_
  - (b) \_\_\_\_\_
  - (c) \_\_\_\_\_

- 9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
  - (a) Ineffective Assittance of counseling \_\_\_\_\_
  - (b) Violation of Duprocess \_\_\_\_\_
  - (c) \_\_\_\_\_

- 10. State concisely and in the same order the facts which support each of the grounds set out in (9):
  - (a) Consel Failed to Investage Properly \_\_\_\_\_
  - (b) Duprocess was not Followed in Signing Documents \_\_\_\_\_
  - (c) With out full understanding \_\_\_\_\_

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO

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

12. If you answered "yes" to any part of (11), 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. \_\_\_\_\_

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13) identify:

(a) which grounds have been presented:

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. \_\_\_\_\_
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

15. If any ground set forth in (9) 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) Ineffective Assitance of Counseling
- (b) Violation of Duprocess in Signing documents with
- (c) cut full understanding

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

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

17. If you answered "yes" to one or more parts of (16), list:

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

- i. Jcooper public Defender  
Richland County Judicial Center 1701 main Street  
Columbia S.C 29201
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

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

- i. Arraigment and plea
- ii. \_\_\_\_\_
- iii. \_\_\_\_\_

18. State clearly the relief you seek in filing this application.

Time Reduction

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

NO

STATE OF SOUTH CAROLINA

County of Richland

VERIFICATION

I, Waddell Jacoby McGhee #327728, 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.

Waddell J McGhee

SWORN to and subscribed before me this 29<sup>th</sup>

day of August, 2011

[Signature] (L.S.)  
Notary Public

My Commission Expires: 10/8/2014

RICHLAND COUNTY  
FILED  
2011 SEP -6 AM 11:30  
JANETTE M. MCGRIDE  
C.P. & D.S.

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

I, Waddell J McGhee #327728, 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.

Because of my poverty I am unable to pay the costs of said proceeding or give security therefor.

Waddell McGhee  
Applicant

SWORN or affirmed to and subscribed before me this

29<sup>th</sup> day of August, 2011

[Signature]  
Notary Public

My Commission Expires 10/8/2014

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS )  
FOR THE FIFTH JUDICIAL CIRCUIT )

MCGHEE Waddell J. - )  
# 00327728, )

2011CP4005883 )

Applicant, )

v. )

RETURN )

State of South Carolina, )

Respondent. )

RICHLAND COUNTY  
FILED  
2012 FEB - 6 PM 12:36  
JEANNETTE W. MORRIS  
C.C.P. & G.S.

The Respondent, making its Return to the application for post conviction relief (PCR) filed September 6, 2011, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant appeared May 16, 2011, before the Honorable L. Casey Manning in Richland County where he waived presentment to the grand jury for a charge of Voluntary Manslaughter (2011-GS-40-2877). He was represented by James Cooper, Esquire, and Tracy E. Pinnock, Esquire, at the hearing. The Applicant subsequently entered a guilty plea to the voluntary manslaughter charge in addition to an unrelated criminal domestic violence charge (2010-GS-40-2640).<sup>2</sup>

<sup>1</sup> <http://www4.rcgov.us/publicindex/PICaseDetails.aspx?County=40+&Casenum=2011CP4005883&CourtType=G&CaseType=Civil&CourtAgency=40002>

<sup>2</sup> Based on the allegations set forth in the application, it appears Applicant is not contesting the 2010 CDV plea.

Judge Manning sentenced Applicant to twenty (20) years imprisonment suspended to service of ten (10) years for the voluntary manslaughter plea, to run concurrent to the sentence on the CDV charge.<sup>3</sup>

## II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

### Direct Appeal

The Applicant did not appeal his conviction and/or sentence .

The application for post conviction relief (PCR) was filed September 6, 2011.

## III.

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

---

<sup>3</sup> Based on the plea transcript, as part of the plea negotiations Applicant waived his right to both direct appeal and subsequent post-conviction relief. Respondent will oppose the filing of this application at the evidentiary hearing based on Spoone v. State, 379 S.C. 138, 665 S.E.2d 605 (S.C. 2008). Applicant requests a hearing to allow the PCR court to advise Applicant of the consequence of moving forward on this application in violation of the contractual plea agreement with the State.

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

- (a) Ineffective Assistance of Counseling  
 (b) Violation of Due Process  
 (c) \_\_\_\_\_

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) Counsel failed to investigate properly  
 (b) Due process was not followed in signing documents  
 (c) With out full understanding

#### IV.

For the purposes of this Return, the Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The

courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. 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. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). Even with respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985)

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. **The Respondent requests an evidentiary hearing to fully resolve**

this issue, as well as to have the PCR court properly and fully advise Applicant of the potential consequences of proceeding with this application in violation of the plea agreement under which the voluntary manslaughter plea was entered. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983); see also Spoone v. State, 379 S.C. 138, 665 S.E.2d 605 (S.C. 2008).

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied. The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 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.

## VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held. The Respondent will coordinate with the Applicant's attorney who is, according to the Respondent's file, Heath M Stewart III, Esquire regarding when the hearing should be set.<sup>4</sup>

Respectfully submitted,

ALAN WILSON  
Attorney General

JOHN W. McINTOSH  
Chief Deputy Attorney General

SALLEY W. ELLIOTT  
Senior Assistant Deputy Attorney  
General

ROBERT D. CORNEY  
Assistant Attorney General

By:   
ATTORNEYS FOR RESPONDENT

Office of the Attorney General  
P.O. Box 11549  
Columbia, SC 29211  
Telephone: (803) 734-3737  
[rcorney@scag.gov](mailto:rcorney@scag.gov)

February 2, 2012

<sup>4</sup> The current PCR Roster for the 5<sup>th</sup> Circuit is available at <http://www.scag.gov/criminal-litigation/postconvictionrelief>

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS  
) FOR THE FIFTH JUDICIAL CIRCUIT

MCGHEE Waddell J. -  
# 00327728,

) 2011CP4005883

) Applicant,

) v.

) CERTIFICATE OF SERVICE

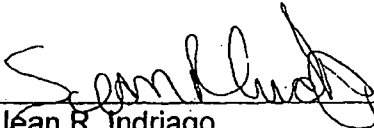
) State of South Carolina,

) Respondent.  
)

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

Heath M Stewart III, 1527 Richland Street , Columbia, SC 29907

DATED February 2, 2012.

  
Jean R. Indriago  
Legal Assistant

2012 FEB -6 PM 12:36  
JEANETTE W. MCBRIDE  
CLERK, P. & G.S.  
RICHLAND COUNTY  
FILED

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STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

COURT OF COMMON PLEAS  
2011-CP-40-05883

Waddell McGhee,  
Plaintiff,  
vs.  
State of South Carolina,  
Defendant.

TRANSCRIPT OF RECORD

September 12, 2012  
Columbia, South Carolina

B E F O R E:

THE HONORABLE J. ERNEST KINARD, JR., JUDGE.

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

ERNEST M. SPONG, III, ESQ.  
Attorney for the Plaintiff

ROBERT D. CORNEY, ASSISTANT ATTORNEY GENERAL  
Attorney for the Defendant

DEBORAH M. McCURDY, RPR  
Official Court Reporter

INDEX OF WITNESSES

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SEPTEMBER 12, 2012

1  
2 MR. CORNEY: May it please the Court, Your  
3 Honor?

4 THE COURT: Yep.

5 MR. CORNEY: Your Honor, the State calls the  
6 PCR application of Waddell McGhee, Docket Number  
7 2011-CP-40-5883.

8 Mr. McGhee was true-bill indicted at the July  
9 2010 term of the Richland County Grand Jury for  
10 criminal domestic violence, homicide by child  
11 abuse, arson, and unlawful possession of a pistol.

12 He appeared May 16th, 2011, before Judge  
13 Manning where he waived presentment to the Grand  
14 Jury for one count of voluntary manslaughter and  
15 pled guilty to the criminal domestic violence  
16 charge, while entering an Alford plea to the  
17 voluntary manslaughter charge.

18 The State nol-prossed the homicide by child  
19 abuse, arson, and unlawful possession of pistol as  
20 part of that plea negotiation. He was sentenced to  
21 20 years' imprisonment, suspended to service of 10  
22 years for the voluntary manslaughter charge, and 30  
23 days' imprisonment for the criminal domestic  
24 violence charge.

25 As part of the negotiations, Your Honor, with

1 the State -- and the record will reflect that Mr.  
2 McGhee waived his right to direct appeal and  
3 post-conviction relief. Therefore, pursuant to  
4 Spone v. State, which I have a copy to hand up to  
5 the Court, I'm sure Your Honor is likely familiar  
6 with that case, but I will hand it up regardless,  
7 the State requests the Court to summarily dismiss  
8 the application with prejudice or in the  
9 alternative advise him that choosing to go forward  
10 with his application would violate the terms of his  
11 plea negotiation contract with the State, at which

12 point in time I would like to get the Solicitor  
13 involved because obviously the negotiations would  
14 have to be reconsidered.

15 THE COURT: All right.

16 MR. CORNEY: And I have handed a copy of this  
17 case already to Mr. Ernest Spone, who is his PCR  
18 attorney, Your Honor.

19 If I may approach with the Spone v. State  
20 case.

21 (Mr. Corney complies.)

22 THE COURT: Okay.

23 MR. SPONG: May it please the Court? Of  
24 course we would oppose that motion. We do wish to  
25 go forward in opposition to that motion.

1           There is really very little record that I can  
2 see in the transcript about waiver of PCR. It is  
3 mentioned.

4           And I would add, Your Honor, that I've  
5 reviewed the transcript, obviously, and I do think  
6 there is a legitimate issue that we would like the  
7 Court to address.

8           I don't want to jump ahead, but if the Court  
9 would permit me to give you an idea of what that  
10 issue is.

11           THE COURT: Nope.

12           MR. CORNEY: And, Your Honor, I would be happy  
13 in the alternative to have a threshold issue  
14 hearing. Mr. Cooper is here to testify if we want  
15 to put him up and make sure this was entered into  
16 freely and voluntarily. He advised him of what it  
17 meant. I think Spooone deals --

18           THE COURT: I think we need to do -- at least  
19 do -- put Mr. Cooper up while I read the  
20 transcript.

21           MR. CORNEY: Absolutely. I have someone -- do  
22 you want me to go ahead and call him? Does it make  
23 a difference if I call him? It is my motion, I'll  
24 call him.

25           THE COURT: You call him.

1 MR. CORNEY: The State would call Mr. Cooper  
2 at this point in time, Your Honor.

3 THE COURT: Mr. Cooper, do you swear or affirm  
4 you are going to truthfully testify?

5 THE WITNESS: Yes, sir, Your Honor.

6 THE COURT: Then take the stand.

7 JAMES D. COOPER, III,  
8 after being duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CORNEY:

11 Q Mr. Cooper, do you recall Mr. McGhee's case.

12 A I do, yes, sir.

13 Q And how did you become involved in this case?

14 A I was appointed to the case.

15 Q And was that in your capacity as an Assistant  
16 Public Defender for Richland County?

17 A Yes, sir.

18 Q Or Public Defender for the Fifth Circuit?

19 A Yes, sir.

20 Q You had an opportunity to look over your file and  
21 look at his transcript before coming in today?

22 A I have, yes.

23 Q Just very briefly, if you can recall some of the  
24 facts giving rise to this charge and the charges  
25 that came out.

1 A Okay. Through the whole case?

2 Q Just very briefly. Just a very brief kind of  
3 overview just so the Court is aware.

4 A Okay. Well, Mr. McGhee was charged with homicide  
5 by child abuse because of the unfortunate incident  
6 that happened. It was alleged that a gun fell out  
7 of his pants, dropped a gun, another child picked  
8 up the gun and shot another child. Unfortunately,  
9 that child died. So he was charged with homicide  
10 by child abuse.

11 He was charged with CDV second for an incident  
12 that happened with a girlfriend. He was charged  
13 with arson for allegedly another incident that  
14 happened to the girlfriend.

15 So I was appointed to these cases in about May  
16 of 2010. As it approached the summer of 2011, the  
17 Solicitors started talking about calling the  
18 homicide by child abuse to trial.

19 So I and two other attorneys started working  
20 on the case, started negotiating with the  
21 Solicitors back and forth, back and forth. You  
22 know, we finally reached the deal that is reflected  
23 in the transcript.

24 As part of that deal, the discussions were  
25 that he would waive his right to ancillary appeal

1 and direct appeal.

2 That day I remember Judge Manning called me  
3 into chambers and said, listen, part of y'all's  
4 deal is going to be that he waive these rights and  
5 you better go down there to holding and tell him  
6 about it and come back and let me know when you  
7 did.

8 So I did that. I went back up to chambers.  
9 And Judge Manning said, did you tell him? Did you  
10 explain it to him?

11 I said, yes, sir.

12 He said, okay, we'll go out and go on the  
13 record.

14 We went on the record. He entered the plea.  
15 And as I recall, he went over it in the transcript,  
16 I mean, in the plea.

17 Q And, now, during your discussions with Mr. McGhee,  
18 did you ever have any concerns about his ability to  
19 understand what you were explaining to him?

20 A No. I mean, it was a face-to-face discussion. I  
21 felt like he understood what was going on.

22 Q You had the opportunity to kind of explain to him  
23 what PCR entailed or what exactly he was waiving as  
24 part of the plea negotiation?

25 A Well, I remember specifically that I did because --

1 and the reason I remember that is because Judge  
2 Manning was so adamant about it, that I go down  
3 there and do it. I made a special trip down to  
4 holding just to do that.

5 Q Okay. To that point, have you had the opportunity  
6 to kind of review the discovery file with him and  
7 go over potential defenses, that sort of thing, so  
8 that he was apprised as to what he was going to  
9 waive by pleading guilty and entering the  
10 negotiations?

11 A Well, I and all of his attorneys had met with him  
12 several times. We had discussions about the  
13 charges, about what he wanted to do, what he didn't  
14 want to do, what our defenses might be. So we had  
15 met with him and discussed the case on several  
16 occasions.

17 Q Okay. And based on your discussions with him prior  
18 to the plea and downstairs in the holding cell  
19 right before the plea, do you have any reason to  
20 believe that he did not understand what he was  
21 doing when he came into court to enter the plea  
22 offer to the negotiations?

23 A I don't have any reason to believe that. It was my  
24 impression that he did.

25 Q I believe that is all I have. Thank you.

1 MR. SPONG: May it please the Court, Your  
2 Honor?

3 THE COURT: Sure.

4 CROSS-EXAMINATION

5 BY MR. SPONG:

6 Q Mr. Cooper, when did this discussion take place,  
7 the discussion about the waiver of the right to PCR  
8 take place?

9 A The specific discussion I mentioned it took place  
10 the day of the plea. I went down to the holding  
11 cell here in the courthouse and talked to him about  
12 it.

13 Q How long after that discussion was the plea itself?

14 A Oh, man, I don't know. It was that day.

15 Q That's fine.

16 A I can't -- I can't -- I can't remember exact  
17 minutes or hours or -- I don't know.

18 Q Had that issue come up -- when I say that issue,  
19 had the waiver of PCR issue come up prior to that  
20 time?

21 A It had. We discussed it, but that -- I believe  
22 that was the first full explanation that I gave,  
23 yes.

24 Q So you are not testifying that there were prior  
25 discussions between yourself and Waddell before

1 that time, are you, Mr. McGhee?

2 A Well, the way I recall it is that we had discussed  
3 it with him, but I had never -- I had mentioned it,  
4 but that was the first full explanation of exactly  
5 what it meant.

6 Q So fair to say that may have been -- that  
7 discussion may have been the first time that he was  
8 aware that it was part of his deal?

9 A I think that it could have been the first time that  
10 he fully understood exactly what it meant, yes.

11 Q The victim in this case was the Defendant's  
12 relative, is that correct?

13 A Yes, sir.

14 Q A child?

15 A Yes, sir.

16 Q Is it fair to say that the Defendant was upset when  
17 you were talking to him?

18 A Well, he wasn't happy. He was -- it was a serious  
19 situation. I didn't expect him to be happy. No,  
20 he certainly was not happy.

21 Q Now, you mentioned that the PCR waiver was  
22 discussed in front of Judge Manning?

23 A It was, yes.

24 Q Did you review the transcript and are you familiar  
25 with where it was discussed?

1 A I mean, I have seen it in the transcript. I  
2 believe it is discussed in the middle of the  
3 transcript and then again right before the end I  
4 think Judge Manning goes over it again.

5 Q Was there ever any question posed to the Defendant  
6 regarding that?

7 A If I could have a second to review the transcript.  
8 I think -- Judge Manning is rather thorough. I  
9 don't know exactly what page it is on, but I do  
10 recall in my review and just from the plea itself  
11 that he went over it a couple of times with  
12 Mr. McGhee. I would have to find the right page.

13 Q I don't mean to put you on the spot, but I couldn't  
14 particularly find a spot where it was asked and  
15 answered.

16 A Okay.

17 Q It was mentioned, but not in the form of a  
18 question.

19 MR. CORNEY: Your Honor, I think the record  
20 will speak for itself. And I know Your Honor will  
21 flip through that pretty quickly, so I'm sure --

22 THE COURT: Well, I read it once. I am  
23 reading it again because it wasn't clearly done.

24 MR. CORNEY: Yes, sir.

25 THE COURT: Go ahead.

1 MR. SPONG: That's it, Your Honor.

2 THE COURT: Now, why didn't y'all just call it  
3 to Judge Manning's attention -- I read it one time,  
4 I'm not back there again -- when he starts  
5 explaining to the gentleman that he has got ten  
6 days to appeal. That is the first time that he is  
7 interjecting that he waived his right to appeal.

8 THE WITNESS: I'm sorry, what is the question?

9 THE COURT: Of course, I wasn't there. I have  
10 the benefit of being a speed reader, so I read this  
11 one time. I'm reading it again. When I read it  
12 the first time, it was not explained to Judge  
13 Manning that he was waiving his right to a direct  
14 appeal or to a PCR until Judge Manning is telling  
15 him after I sentence you, you've got ten days to  
16 file a notice of appeal.

17 THE WITNESS: Uh-huh.

18 THE COURT: Why was not that put up  
19 straightforward? You know, then at that point --  
20 and I'm not back there again -- you or the  
21 Solicitor or somebody said, well, he has waived his  
22 right to a direct appeal.

23 THE WITNESS: Uh-huh. Well, Judge, as I  
24 recall, the way I recall the way it happened is  
25 before the plea ever began it was a part of our

1 discussions, I believe Judge Manning knew it was  
2 going to come up during the plea.

3 THE COURT: Well, I understand y'all might  
4 have discussed it with Judge Manning in chambers,  
5 but there is no documentation of it. And if you  
6 discussed it to him in chambers, he didn't  
7 understand it, because he then tells him he has got  
8 ten days to appeal.

9 THE WITNESS: Right.

10 THE COURT: All right. I'll get to it in a  
11 little bit.

12 MR. CORNEY: Your Honor, are you talking about  
13 on Page 25?

14 THE COURT: Well, basically, Ms. Campbell on  
15 Page 17 says, other than what has been stated on  
16 the record there are no plea negotiations. That is  
17 not so. She may have meant to say sentence, but  
18 there were other negotiations in that he was  
19 waiving -- and then on 18 and 19 talked about  
20 things that they had dropped.

21 And then on 19 the Court says, that covers  
22 everything in terms of any plea negotiations.

23 Finally, on Page 25, when Judge Manning says,  
24 you need to file a notice of intent to appeal  
25 within ten days, finally Mr. Cooper says, I've

1 explained to Mr. McGhee that part of this deal  
2 today are the dropped charges and everything, he  
3 understands he is giving up his right to an appeal.  
4 And Judge Manning had said a PCR.

5 And on 25 Judge Manning alluded to the fact  
6 that he is aware that y'all have done that and  
7 y'all haven't put it on the record right.

8 MR. CORNEY: I'm sorry, Your Honor?

9 THE COURT: On Page 25 --

10 MR. CORNEY: Right.

11 THE COURT: Judge Manning tells him about his  
12 ten days to appeal, but he then says, you have the  
13 right to file a post-conviction relief within one  
14 year, but I think your lawyers have something to  
15 say in regards to both your appeal and your right  
16 to a PCR. But nobody has on the record said  
17 anything to that point.

18 MR. CORNEY: Well, Your Honor, I think -- I  
19 mean, the Spone case stands for the proposition  
20 that the plain language of his waiver be addressed.  
21 And I think that is the exact -- I mean, that is as  
22 plain as it gets.

23 THE COURT: I am not arguing with you. I am  
24 only saying --

25 MR. CORNEY: Yes, sir. That is what the

1 record reflects.

2 THE COURT: Even if I rule for you, it was  
3 sloppily, sloppily done. I mean, I've got a record  
4 here, and at no point until Judge Manning tells the  
5 gentleman he's got ten days to file an appeal does  
6 it come out on the record that part of the  
7 negotiations were that he would waive his PCR, and  
8 so forth.

9 MR. CORNEY: Yes, Your Honor.

10 THE COURT: So, Mr. Cooper, when did you talk  
11 to the client, before or after that occurred?

12 THE WITNESS: It was before that occurred.

13 THE COURT: And you covered all that with him  
14 at that point?

15 THE WITNESS: Yes, sir. And the -- yes, sir.

16 THE COURT: Well, for future reference, if you  
17 are going to get somebody to waive that, you better  
18 get it in writing. Did you get this in writing  
19 from him?

20 THE WITNESS: No, I did not, sir.

21 THE COURT: Clear mistake on your part.

22 THE WITNESS: Yes, sir.

23 THE COURT: Well, it saves this kind of  
24 situation.

25 THE WITNESS: Yes, sir.

1 THE COURT: Not an error, it is just something  
2 y'all don't do. I'm just saying when you get an  
3 unusual circumstance, whether you are in private  
4 practice on a civil matter or a civil matter, when  
5 something unusual comes up, get everybody to sign  
6 off on it in writing, and then you don't have  
7 problems later. That's why I use plea sheets in my  
8 pleas, so everything is spelled out if there are  
9 any kind of deals.

10 Okay. Well, under the Spooone case, he loses.  
11 That's all. Sorry.

12 MR. SPONG: That is the Court's decision?

13 THE COURT: Yes. You have heard his  
14 testimony. And they can change the case. And you  
15 can appeal and get them to change the case, but the  
16 case says if you waive your right to a PCR or a  
17 direct appeal as part of your plea negotiations,  
18 that is the end of it.

19 MR. SPONG: Certainly I do not want to argue  
20 with the Court. Even if that is not a matter of  
21 record?

22 THE COURT: It is enough on record,  
23 unfortunately. I'm saying Judge Manning asked him  
24 specifically about it. He didn't go into it in any  
25 detail, which backed up that he did go into it.

1 They had already talked to the judge about it. On  
2 Page 25 it indicates that. And to supplement the  
3 record he made sure that it was covered. Judge  
4 Manning, I'm talking about.

5 MR. SPONG: Correct.

6 THE COURT: On the record. He could have gone  
7 into it in a little more detail, but he went into  
8 it adequately enough.

9 So that is the best I can do for you.

10 MR. SPONG: Thank you, Your Honor.

11 MR. CORNEY: Thank you, Your Honor.

12 (WHEREUPON; the proceedings were concluded.)

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(END OF TRANSCRIPT)



STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT

2011-CP-40-05883

Waddell McGhee, #327728,  
Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,  
Respondent.

This matter comes before the Court by way of Post-Conviction Relief application filed September 6, 2011. An evidentiary hearing into the matter was convened on Wednesday, September 12, 2012, at the Richland County Courthouse. The Applicant was present at the hearing with counsel, Ernest Spong, III, Esquire. The Respondent was represented by Robert D. Corney of the South Carolina Attorney General's Office.

At the hearing, Applicant's former plea counsel, James Cooper, Esquire ("counsel"), testified. This Court also had before it a copy of the transcript of the proceedings against the Applicant, the records of the Richland County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections.

**PROCEDURAL HISTORY**

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was true bill indicted at the July 2010 term of the Richland County Grand Jury for Criminal Domestic Violence, Homicide by Child Abuse, Arson and Unlawful Possession of a Pistol (2010-GS-40-2378 / -2379 / -2381 / -2640). Assistant Public

Defenders James Cooper, Esquire, and Tracy Pinnock, Esquire, represented Applicant on the charges. On May 16, 2011, Applicant appeared with counsel before the Honorable L. Casey Manning at the Richland County General Sessions Court where he waived presentment to the Grand Jury on one count of Voluntary Manslaughter. Applicant pled guilty to Criminal Domestic Violence as indicted, as well as entered an Alford plea to Voluntary Manslaughter, and was sentenced to twenty (20) years imprisonment suspended to service of ten (10) years imprisonment for Voluntary Manslaughter and a concurrent thirty (30) day term of imprisonment for the CDV charge. As a result of the plea, the State *nolle prossed* the Arson, Unlawful Possession of a Pistol and Homicide by Child Abuse charges, while Applicant agreed to waive his right to direct appeal and post-conviction relief of the charges.<sup>1</sup>

#### POST-CONVICTION RELIEF APPLICATION

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

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

- (a) Ineffective Assistance of Counsel
- (b) Violation of Due Process
- (c) \_\_\_\_\_

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) Counsel failed to investigate properly
- (b) Due process was not followed in signing documents
- (c) With out full understanding

<sup>1</sup> The Voluntary Manslaughter charge served in the place of the Homicide By Child Abuse pursuant to plea negotiations. Because Voluntary Manslaughter is not a "lesser included" offense to Homicide by Child Abuse, the Applicant agreed to waive presentment on the Voluntary Manslaughter in exchange for the Homicide by Child Abuse to be dismissed.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. 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).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). 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.

*Spoone v. State Waiver of Post-Conviction Relief*

At the start of the evidentiary hearing, Respondent requested the application be summarily dismissed due to Applicant's explicit waiver of the right to attack the convictions/sentences through a post-conviction relief action. In light of the allegation set forth in the application, this Court must analyze the validity of Applicant's waiver of post-conviction relief as a condition of the plea agreement.

As a preliminary matter, it is important to note the South Carolina Supreme Court has held a defendant may waive both his constitutional right to direct appeal and his statutorily imposed right to collateral attack as part of a plea agreement. Spoone v. State, 379 S.C. 138, 665 S.E.2d 605 (S.C. 2008) citing United States v. Wessells, 936 F.2d 165, 167 (4<sup>th</sup> Cir. 1991) and United States v. Lemaster, 403 F.3d 216 (4<sup>th</sup> Cir. 2005). The Court in Spoone went on to say such a waiver will be effective only where the defendant's waiver was entered knowingly and voluntarily, a standard that will be determined based on the particular facts and circumstances surrounding the case. Id. at 142, 607. Applicant here does not contest he did in fact enter into a plea agreement under which he waived his right to both appellate and post-conviction review; he does, however, contest the threshold issue of whether he had sufficient understanding of the terms of the plea agreement to knowingly and voluntarily waive those rights.

Applicant's plea counsel, James Cooper, Esquire, ("counsel"), testified at the PCR hearing that Applicant incurred the current charges after having a gun fall out of his waistband that was picked up by a child who accidentally shot someone. Counsel went on to say he

negotiated plea offers extensively with the State and eventually was able to obtain an offer on the morning of that plea that was premised on Applicant's waiver of both direct appeal and post-conviction relief. Counsel said he and opposing counsel met with the plea judge in chambers at which time the judge asked counsel to speak with Applicant for a bit longer to ensure Applicant understood what such a waiver would mean. Counsel testified he met with Applicant for an additional ten (10) or fifteen (15) minutes prior to the plea, during which he reviewed the waiver with Applicant and explained in plain language exactly what it meant, including the post-conviction relief process. Counsel said he never had any concerns about Applicant's ability to understand and participate in the discussions, and reasonably believed Applicant was fully informed of the ramifications of such a waiver. He also noted he had reviewed all discovery materials and potential defenses with Applicant during the course of his representation, and Applicant was aware he was waiving his right to challenge the State's evidence and/or present defenses at a jury trial by pleading.

Based on the testimony presented at the hearing in conjunction with a thorough review of the plea transcript, this Court finds Applicant did in fact make a voluntary and knowing decision to waive his right to collateral attack through a post-conviction relief application. Therefore, pursuant to Spoone, Applicant's waiver of PCR must be enforced and the application for PCR dismissed without this Court turning to the merits of the application. Further, this Court finds counsel's testimony to be particularly credible. Counsel was able to effectively relay the terms of the plea offer to Applicant during their pre-plea hearing, all of which counsel credibly testified Applicant seemed to have a full understanding of. Further, Applicant's waiver of direct appeal and PCR were reviewed in plain language on the record, after which Applicant stated he still wished to enter the plea. Based on the record before this Court and the testimony presented at the

PCR hearing, this Court has no doubt Applicant made a voluntary and knowing decision to enter the plea under the terms of the state's offer with full understanding of the consequences flowing there from. Applicant made the decision to enter the plea to take the benefit of a beneficial plea offer where several charges were dismissed by the State. Applicant has failed to carry his burden in proving his waiver of PCR was not voluntarily, intelligently and knowingly entered. Accordingly, this Court must enforce Applicant's waiver of PCR and dismiss the application with prejudice without reaching the merits of the application.

### CONCLUSION

Based on all the foregoing, this Court finds and concludes that the 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.


Except as discussed above, this Court finds that the Applicant failed to raise all additional allegations raised in his application at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issue at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court notes Applicant 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 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.I(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 Respondent.

AND IT IS SO ORDERED this 19<sup>th</sup> day of September, 2012.

  
\_\_\_\_\_  
J. Ernest Kinard, Jr.  
Presiding Judge  
Fifth Judicial Circuit

Columbia, South Carolina

WITNESSES

(S) - Richland County Sheriff

*DAF Elliz*

DOCKET NO. 2011GS4002877

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

May TERM 2011

42

THE STATE  
vs.

WADDELL JACOBY MCGHEE

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

Defendant

*X Waddell Mcghee*

*X Waddell Mcghee*  
hereby appear in my own behalf and plead guilty to the within indictment.

FILED TRUE COPY ORIGINAL FILED  
JUL 10 2011  
RICHLAND COUNTY  
SOUTH CAROLINA

Defendant  
*X Waddell Mcghee*

Witness:  
*[Signature]*  
C.C.P.S. AND G.S.

ACTION OF GRAND JURY

ARREST WARRANT NUMBER

DP11087

Foreperson of Grand Jury

Date:

VERDICT

Indictment for  
MANSLAUGHTER - VOLUNTARY

SC Code: 16-03-0050  
CDR Code: 0217

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

INDICTMENT

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

VOLUNTARY MANSLAUGHTER

CDR: 0217 16-03-0050

*William J*

*Wade*

That WADDELL JACOBY MCGHEE did, in Richland County on or about May 16, 2011, unlawfully kill one Minor ss, without malice, in the sudden heat of passion upon sufficient legal provocation, in violation of Section 16-03-0050, 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*  
DAN JOHNSON, SOLICITOR

COUNTY OF Richland
STATE VS.
WADDELL JACOBY MCGHEE
AKA:
Race: Sex: M Age: 25
DOB: SS#:
Address: NO PERM ADDRESS
City, State, Zip: COLUMBIA, SC 29201
DL#: SID#:

INDICTMENT/CASE#: 2011GS4002877
A/W#: DP11087
Date of Offense: 5/6/2011 5-7-2011
S.C. Code §: 16-03-0085(A)(1)(B)(1)
CDR Code #: 2356

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Manslaughter / Voluntary manslaughter

CONVICTED OF or PLEADS

in violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

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

ATTEST:
Campbell, Luck SC Bar#
WaddeLL McGhee 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 20 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of 10 days/months/years and/or payment
of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
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 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPS

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

Recipient:

\*Fine:

Table with 3 columns: Description, Amount, Total. Includes items like § 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 47.9 (Public Def/Prob) \$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, Proviso 90.5 (SCCJA Surcharge) \$5, § 44-53-450(C) (Conditional Discharge) \$350, 3% to County (if paid in installments) \$, TOTAL \$

Condition Discharge, § 44-53-450(C) requires \$350 be paid to the Clerk prior to case disposition
Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk: Jeanette Z. Mc Bride, PF
Court Reporter: C. Holmes
SCCA/217 (06/2010)

Presiding Judge: [Signature]
Judge Code: 2061
Sentence Date: 5-16-11

WITNESSES

✓ (S) A D Goff - Richland County Sheriff

DOCKET NO. 2010-GS-40

2640

The State of South Carolina

County of

Richland

Defendant

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

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

ARREST WARRANT NUMBER

DP10128

42

JULY TERM 2010

COURT OF GENERAL SESSIONS

Defendant

ACTION OF GRAND JURY

THE STATE  
vs.

Waddell Jacoby McGhee

Witness:

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

TRUE BILL

Foreperson of Grand Jury

Jul 14 2010

VERDICT

Indictment for  
CRIMINAL DOMESTIC VIOLENCE

SC Code: 16-25-0020(A)(B)

CDR Code: 2671

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

INDICTMENT

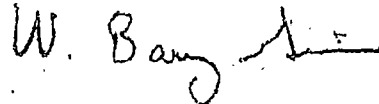
At a Court of General Sessions, convened on July 14, 2010, the Jurors of Richland County present upon their oath:

CRIMINAL DOMESTIC VIOLENCE

CDR: 2671 16-25-0020(A)(B)

That Waddell Jacoby McGhee did in Richland County on or about May 6, 2010, cause physical harm or injury, or did offer or attempt to cause physical harm or injury to the defendant's own household member, JANAY CURRY, in violation of Section 16-25-20(A)(B), 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.



WARREN B. GIESE, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS.
Waddell Jacoby Mcghee
AKA:
Race: Sex: M Age: 25
DOB: SS#:
Address:
City, State, Zip: Columbia, SC
DL#: SID#:

INDICTMENT/CASE#: 2010-GS-40-2640
A/W#: DP10128
Date of Offense: 5/6/2010
S.C. Code §: 16-25-0020(A)
CDR Code #: 2671

SENTENCE SHEET

\*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Domestic / Criminal Domestic Violence

CONVICTED OF or PLEADS

in violation of § 16-25-0020(A) of the S.C. Code of Laws, bearing CDR Code # 2671
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

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

ATTEST: Campbell, Dick SC Bar# 13009 Defendant Waddell Mcghee Attorney for Defendant 25388 SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 30 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable\*; the balance is suspended with probation for

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

CONCURRENT or CONSECUTIVE to sentence on: 2011-GS-40-2877
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
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 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPPS

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

Recipient:
\*Fine:

Table with 3 columns: Description, Amount, and Unit. Includes items like § 14-1-206 (Assessments 107.5 %), § 14-1-211(A)(1) (Conv. Surcharge), § 14-1-211(A)(2) (DUI Surcharge), § 56-5-2995 (DUI Assessment), § 56-1-286 (DUI Breath Test), Proviso 47.9 (Public Def/Prob), § 14-1-212 (Law Enforce. Funding), § 14-1-213 (Drug Court Surcharge), § 50-21-114(BUI Breath Test Fee), § 56-5-2942(J) (Vehicle Assessment), Proviso 90.5 (SCCJA Surcharge), § 44-53-450(C) (Conditional Discharge), 3% to County (if paid in installments), and TOTAL.

Condition Discharge, § 44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition
Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation

Clerk of Court/ Deputy Clerk: Jannette M. McBrider
Court Reporter: C. Holmes
SCCA/217 (06/2010)

Presiding Judge: [Signature]
Judge Code: 2061
Sentence Date: 5-16-11