

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Richland County

S.C. Supreme Court

R. Knox McMahon, Circuit Court Judge

CHARLES GAMBLE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213328

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS
2011-GS-40-03169
2006-GS-40-10427--10431

State of South Carolina,)
Plaintiff,)
vs.) TRANSCRIPT OF RECORD
Charles E. Gamble,)
Defendant.)

January 19, 2011
Columbia, South Carolina

B E F O R E:

THE HONORABLE CLIFTON B. NEWMAN, JUDGE.

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

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DEBORAH M. McCURDY, RPR
Official Court Reporter

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

2

3

4 (WHEREUPON, no witnesses were called

5 during these proceedings.)

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8

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10 E X H I B I T S

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13 (WHEREUPON, no exhibits were introduced

14 during these proceedings.)

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1 JANUARY 19, 2011

2 MR. MEADORS: May it please the Court?

3 THE COURT: Yes, sir.

4 MR. MEADORS: Good morning to Your Honor.

5 THE COURT: Good morning.

6 MR. MEADORS: Your Honor, this is The State of
7 South Carolina versus Charles Gamble, 2006-GS-40-
8 10427, indictment for murder; 2006-GS-40-10431,
9 murder indictment; 2006-GS-40-10480, murder
10 indictment; 2006-GS-10428, possession of a weapon
11 during the commission of a violent crime; 10429 --
12 excuse me -- 2006-GS-40-10429, burglary in the
13 first degree, all true-billed Richland County
14 indictments.

15 The Defendant is here with his attorneys,
16 Ms. Fielding Pringle and Mr. Doug Strickler, Your
17 Honor.

18 Your Honor, very briefly for the record, the
19 State in October I believe 2008 filed a notice of
20 intent to seek death. After extensive negotiations
21 with these three fine families, who I will
22 recognize at another point, Your Honor, in talking
23 with both Solicitors and talking with Mr. Strickler
24 and Ms. Pringle, we have agreed, we are dropping
25 the death penalty in exchange for a plea to

1 three -- all the charges straight up, Your Honor,
2 with a negotiated sentence, if you would consider
3 it, three consecutive life sentences. And of
4 course the other sentences on the other indictments
5 we didn't discuss, but the gravamen of the plea was
6 three consecutive life sentences. So we
7 respectfully ask you to consider that.

8 And that is all I have at this time.

9 THE CLERK: Do you want me to swear him?

10 THE COURT: Yes.

11 THE CLERK: Please stand and raise your right
12 hand.

13 (Defendant complies.)

14 THE CLERK: Do you swear or affirm to tell the
15 truth, the whole truth, and nothing but the truth,
16 so help you God?

17 THE DEFENDANT: Yes, ma'am.

18 THE CLERK: Thank you.

19 THE COURT: All right, Mr. Strickler,
20 Mr. Young or Ms. Pringle, you have heard what the
21 Solicitor said. What do you say?

22 MR. YOUNG: That is correct.

23 THE COURT: All right. And is that right,
24 Mr. Gamble?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And you want to plead guilty to
2 three counts of murder -- three counts of murder
3 and one possession of a weapon during a violent
4 crime? Is that the plea deal?

5 MR. MEADORS: Yes, sir.

6 MS. PRINGLE: And a count of burglary, Your
7 Honor.

8 MR. MEADORS: And a count of burglary. I
9 think there are five total, Your Honor.

10 MS. PRINGLE: There are. There are five.
11 Three counts of murder, one unlawful use of weapon
12 and one burglary first.

13 THE COURT: All right. And, Mr. Gamble, are
14 you guilty of those crimes?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Before I can accept your guilty
17 plea, I need to go through an extensive questioning
18 with you.

19 You are represented by three lawyers. Are you
20 satisfied with their representation of you?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And, counsel, have you explained
23 to Mr. Gamble the charges contained in these
24 indictments and the possible punishment and his
25 constitutional rights?

1 MS. PRINGLE: Yes, Your Honor, I have
2 discussed those greatly.

3 THE COURT: And in your opinion does he
4 understand the crime, the punishment, and as well
5 as his constitutional rights?

6 MS. PRINGLE: He does, Your Honor.

7 THE COURT: And do you agree with his decision
8 to plead guilty?

9 MS. PRINGLE: Absolutely.

10 THE COURT: And from your investigation of the
11 facts and circumstances of the case, do you believe
12 that the State has produced sufficient evidence to
13 convince the jury of his guilt beyond a reasonable
14 doubt and that if he were to have a trial he would
15 most likely be found guilty?

16 MS. PRINGLE: I'm certain that they could,
17 Your Honor.

18 THE COURT: And has Mr. Gamble had a mental
19 examination?

20 MS. PRINGLE: No, sir, he has never been
21 evaluated for competency or criminal
22 responsibility.

23 THE COURT: And is that necessary in this
24 case?

25 MS. PRINGLE: No. No, sir.

1 THE COURT: Mr. Gamble, how old are you?

2 THE DEFENDANT: Twenty-eight.

3 THE COURT: Twenty-eight?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And what is your educational

6 background?

7 THE DEFENDANT: To the 11th.

8 THE COURT: Tenth or 11th grade?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And what school?

11 THE DEFENDANT: Keenan.

12 THE COURT: Do you have an employment history?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And where have you worked?

15 THE DEFENDANT: Wendy's on Assembly Street.

16 THE COURT: Are you married or single?

17 THE DEFENDANT: Single.

18 THE COURT: Do you have children?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: How many children do you have?

21 THE DEFENDANT: Two.

22 THE COURT: Before this case, have you been in

23 court before on any other cases?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You have? You have been in court

1 before?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you ever been treated for the
4 abuse of alcohol, drugs or mental illness?

5 THE DEFENDANT: No, sir.

6 THE COURT: And are you now under the
7 influence of any drugs, alcohol or anything that
8 might affect your ability to understand what is
9 going on here today?

10 THE DEFENDANT: No, sir.

11 THE COURT: Do you understand everything that
12 is happening?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you believe from the evidence
15 that the State has against you that if you were to
16 have a jury trial you would most likely be found
17 guilty of all five of these charges?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And do you understand that the
20 offense of murder carries a sentence of 30 years to
21 life; burglary first degree, 15 years to life; and
22 possession of a weapon during a violent crime
23 carries up to five years?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And that of course in this case

1 the State has elected up to this point to seek the
2 death penalty, so the maximum penalty could have
3 been the death penalty if you were to have -- go
4 through proceedings that result in your receiving
5 the death penalty. Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And now the Solicitor says that he
8 has negotiated a sentence with the consent of the
9 families and with you and your lawyers that will
10 result in your receiving consecutive life
11 sentences?

12 MR. MEADORS: Yes, sir, three consecutive life
13 sentences.

14 THE COURT: Three consecutive life sentences.
15 Is that your understanding?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Now, where the State enters into
18 plea negotiations with a Defendant and the
19 Defendant and the State enter into a negotiated
20 sentence, either I will accept a guilty plea and
21 give you the exact sentence that you, your lawyers
22 and the State have negotiated, or I will not accept
23 your guilty plea. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And do you want me to accept the

1 guilty plea and sentence you to three consecutive
2 life sentences?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you on probation or parole
5 now?

6 THE DEFENDANT: No, sir.

7 THE COURT: Now, Mr. Gamble, do you understand
8 that when you plead guilty you are giving up
9 important constitutional rights, including your
10 presumption of innocence, your right to remain
11 silent, your right to challenge any incriminating
12 statements you may have made, your right to
13 challenge any incriminating evidence the State may
14 offer against you, the right to confront any
15 witnesses against you, the right to a jury trial,
16 and the right to present any defense that you may
17 have to these charges.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And do you want to give up each
20 one of those rights?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And, Solicitor, has the Defendant
23 been allowed access to all the discovery materials
24 in this case?

25 MR. MEADORS: Yes, sir. Ms. Joanna McDuffie

1 and I know Ms. Pringle extensively reviewed all the
2 documents, and we have supplied them with all the
3 discovery in this case, Your Honor.

4 THE COURT: And do you agree with that,
5 counsel?

6 MS. PRINGLE: Yes, sir, Your Honor,
7 absolutely. Mr. Gamble has reviewed the discovery
8 on more than one occasion, both with us and on his
9 own several times.

10 THE COURT: Is that right, Mr. Gamble?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And, Mr. Gamble, have you met with
13 the lawyers as much as you think you need to meet
14 with them to be in a position to make an informed
15 decision here today?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Have they done everything that you
18 think they could have done or should have done to
19 help you?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you have any complaint that you
22 want to make about your lawyers, the Solicitors,
23 the police, or anyone?

24 THE DEFENDANT: No, sir.

25 THE COURT: Has anyone threatened you or used

1 force to get you to plead guilty or intimidated you
2 in any kind of way?

3 THE DEFENDANT: No, sir.

4 THE COURT: Are you making a free and
5 voluntary decision here today?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you have any questions about
8 what we have discussed?

9 THE DEFENDANT: No, sir.

10 THE COURT: And has anyone suggested any
11 answer that you should give to any of the
12 questions?

13 THE DEFENDANT: No, sir.

14 THE COURT: Do you understand that you have
15 the right -- a right to appeal the guilty plea and
16 the sentence of this Court and if you do so you
17 must do so within ten days?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And if you cannot afford an
20 attorney for an appeal one would be appointed at no
21 cost to you. Do you understand that, sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And therefore understanding the
24 nature of the charge and the possible punishment,
25 how do you plead to the offense of the murder of

1 Charlene Yarborough?

2 THE DEFENDANT: Guilty.

3 THE COURT: And how do you plead to the
4 offense of the murder of Marcus Wilson?

5 THE DEFENDANT: Guilty.

6 THE COURT: And how do you plead to the
7 offense of the murder of Marquis Mitchell?

8 THE DEFENDANT: Guilty.

9 THE COURT: And how do you plead to the
10 offense of burglary in the first degree in relation
11 to these offenses -- is that right?

12 THE DEFENDANT: Yes, sir.

13 MR. STRICKLER: Yes, sir.

14 THE COURT: How do you plead to that offense?

15 THE DEFENDANT: Guilty.

16 THE COURT: And possession of a weapon during
17 a violent crime in connection with the committing
18 of these things?

19 THE DEFENDANT: Guilty.

20 THE COURT: All right, Mr. Solicitor.

21 MR. MEADORS: If it pleases, Your Honor?

22 THE COURT: I will hear from the State. And
23 you all can be seated until you need to stand
24 again.

25 MR. MEADORS: Thank you, Your Honor. If it

1 pleases the Court? Judge, this happened on
2 November 2nd of 2006, as the indictment stated, at
3 the Colony Apartments, Your Honor. That is here in
4 the City of Columbia in Richland County.

5 THE COURT: Colony Apartments.

6 MR. MEADORS: Street specifically,
7 Your Honor.

8 THE COURT: Is that on Beltline?

9 MR. MEADORS: Yes, sir, off that. On
10 Beltline, correct, sir.

11 THE COURT: On Beltline.

12 MR. MEADORS: It was the apartment of one of
13 the victims, Ms. Charlene Yarborough.

14 Judge, the facts are really pretty
15 straightforward in this case. They are awful. But
16 this tragedy happened because Mr. Gamble was upset
17 that his ex-girlfriend was now with somebody else.
18 I think that unfortunately we see is the motive and
19 unfortunately was the case here that if he couldn't
20 have her, basically nobody was going to have her,
21 Your Honor.

22 It was around 3:00 o'clock in the morning on
23 November 2nd, 2006. The Defendant did enter the
24 residence of Ms. Yarborough without her consent.
25 That is the burglary first indictment, Your Honor.

1 Once he went inside, one of the victims, Mr.
2 Marcus Wilson -- and Marcus was Marquis Mitchell's
3 best friend. Marquis Mitchell was Charlene
4 Yarborough's new boyfriend. Those are our three
5 deceased victims, Your Honor. Marcus Wilson was on
6 the couch and Marquis Mitchell and Ms. Charlene
7 Yarborough were in the bedroom. The Defendant shot
8 Marquis Mitchell with a .38-caliber handgun, and
9 then he stabbed Ms. Charlene with a knife,
10 Ms. Charlene Yarborough with a knife that he had
11 gone to the kitchen and took from the kitchen, Your
12 Honor. He shot Mr. Wilson until he emptied the
13 .22-caliber we believe.

14 Judge, that was it. He came in and killed all
15 of them. Shot them, stabbed Ms. Yarborough. Kind
16 of simple facts. And three deaths resulted in it.

17 After that, the Defendant, along with the help
18 of Mr. Jeremal Robinson, dragged three bodies --
19 and I apologize to the family -- dragged them in
20 front of the apartments. And it is during this
21 time that there were several witnesses in the area
22 that saw them dragging. I think the third body to
23 the ditch and then saw them walk off as the police
24 were coming.

25 Judge, Mr. Gamble was picked up by law

1 enforcement after a very excellent investigation by
2 the city at approximately 3:00 p.m. on November
3 2nd, 2006 at 2014 Heidt Street.

4 Judge, initially he denied any involvement in
5 this situation. He said his car was stolen.
6 Ultimately Investigator Thomas and Investigator
7 Reese did get a statement from the Defendant where
8 he admitted to killing all three of these
9 individuals, Judge.

10 To further investigate the case, they went and
11 found Mr. Jeremal Robinson. After an initial
12 denial, he did confirm that he had helped drag all
13 the bodies from the apartment to the ditch which
14 was nearby, Your Honor, in the Colony Apartments.

15 Judge, I think it is fair to say there was
16 plenty of DNA in there. I think we had DNA from --
17 that matches at least one of the victims. Each of
18 the victims had some DNA that I think we would have
19 been able to provide according to the notes that I
20 have been given, Judge. There is also at least one
21 ballistic that was matched to a revolver.

22 Judge, for cause of death, Judge, Charlene
23 Yarborough died from cardiac arrest due to internal
24 hemorrhage from a stab wound to the back. The
25 knife blade was recovered in her back, Judge.

1 Sharp force injuries to her head, mid forehead, and
2 two stab wounds to her back.

3 Mr. Marcus Ford died of cardiac arrest due to
4 internal hemorrhage due to multiple gunshot wounds,
5 four, Your Honor: One to the eye, one to the neck,
6 and two to the chest. It appeared and common
7 sense would tell you there was some post-mortem
8 abrasions which would have been from the dragging
9 on his back, Judge.

10 And, finally, Marquis Mitchell, the
11 pathologist's testimony would have been that he
12 died from internal hemorrhage due to multiple
13 gunshot wounds and stab wounds, six all total,
14 Judge: Head, face, eye, cheek, jaw, hand, stab
15 wound to upper chest and upper shoulder,
16 lacerations and contusions to his head, shoulder
17 and knee, and, again, post-mortem abrasions to his
18 back, hip, buttocks and knee.

19 If he wasn't going to have her, nobody
20 was going to have her. Nobody was going to
21 have her and be around her. And there is no
22 other simpler way to say it. And that
23 describes this case.

24 Judge, the investigators did an
25 outstanding job, the CPD. This has been a

1 difficult case. I mean, I know that goes
2 without saying. It is difficult on the
3 Defense attorneys, it is difficult on our
4 office. But obviously, most important --
5 difficult on the Defendant's family, I'm
6 sure -- but obviously the most difficult for
7 these folks back here.

8 We initially met with the Solicitor at
9 the time, Mr. Giese, and decided that -- made
10 a decision we were going to seek the death
11 penalty. Over a series of years, I would
12 say, we discussed this case. I have met with
13 this family on the telephone, in person
14 several times, all three of the families.

15 And about a month or so ago an offer was
16 extended in front of Your Honor towards the
17 end of last year on the record, I believe in
18 one of the smaller courtrooms, to plead for a
19 life sentence. I brought the family in one
20 more time, as my tenure is coming to an end,
21 and discussed with them the possibility, and
22 after earnest and sincere -- and I will tell
23 you something, Judge, what I remember about
24 it was that, and I told these families this,
25 you know everybody has got different views on

1 the death penalty, and I think when we
2 started this there were differing views in
3 the family. I told them that is
4 understandable. But one thing the family did
5 was listen to each other. They listened to
6 each other, and I think some families -- one
7 family may have given a little bit more than
8 the other two, but what they all came to a
9 conclusion was that they wanted closure as
10 soon as possible, Judge. They wanted closure
11 as soon as possible. And the families came
12 together, hugged each other, cried together.

13 And I say all that because we wouldn't
14 be sitting here doing this, the old Solicitor
15 and the new Solicitor, Solicitor Johnson. I
16 informed him, and he agrees with this also.
17 We and law enforcement -- but none of us
18 would be doing this if this isn't what the
19 victims wanted. And I think -- and I told
20 them under these circumstances and the
21 appeals, they all agreed that they thought
22 this was the perfect thing. But they did
23 want to see if we could get consecutive
24 lives. Symbolic as it may be, it means
25 something for everybody to have their own

1 life. I approached Ms. Pringle and
2 Mr. Strickler with that and want to thank
3 them for their corporation. They came back
4 and said that they would agree to that
5 negotiated sentence if you would take it,
6 Your Honor.

7 Judge, at the appropriate time, he has
8 got a little prior record, Judge, burglary
9 third degree in 2000, a little marijuana
10 charge in 2002. And kind of a prelude to
11 this, I guess you would say, there was a
12 stalking conviction in February 16th, 2006,
13 with this same victim, and then this
14 happened.

15 Judge, at the appropriate time, we
16 narrowed it down to very reasonable, I think
17 there are some victims spokesmen --
18 spokespersons from each family that may want
19 to address you at the appropriate time.

20 THE COURT: All right. Mr. Gamble, if you
21 will stand.

22 (Defendant complies.)

23 THE COURT: Are all the facts stated by the
24 Solicitor true?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And do you disagree or dispute
2 anything that he said?

3 THE DEFENDANT: No, sir.

4 THE COURT: Did he saying anything that isn't
5 or wasn't true?

6 THE DEFENDANT: No, sir.

7 THE COURT: All right. Thank you.

8 All right, we'll then hear from anyone who
9 would like to address the Court.

10 MR. MEADORS: Judge, what I'd like to do,
11 would the family and friends and relatives of
12 Charlene Yarborough just stand up?

13 (Victims comply.)

14 MR. MEADORS: Judge, on behalf of this family,
15 Mr. Darrell Young I believe is going to speak.

16 THE COURT: Yes, sir, Mr. Young?

17 MR. YOUNG: Good morning, Your Honor.

18 THE COURT: Good morning.

19 MR. YOUNG: My name is Darrell Young. I'm
20 Octavius' uncle. I just wanted to say that, you
21 know, she was a fun and loving niece, give you the
22 shirt off her back.

23 When I first met Mr. Gamble I didn't like him,
24 but she said she loved him, so I went along with
25 it. I guess he didn't love her. That is why we

1 are here. Now we are forced to take care of my
2 little nephew, his son.

3 And he asks for, you know, mommy, where is
4 mommy. I mean, how do you tell a 4-year-old where
5 his mommy is?

6 That is basically it. I mean, he thought he
7 separated us, but all he did was brought us closer
8 together.

9 So whatever your decision is, Your Honor,
10 we'll take it.

11 Thank you.

12 MR. MEADORS: Your Honor, I have showed these
13 to Mr. Strickler. They have no objection. These
14 are just some pictures of her during her years.

15 The lady that is getting upset back there is
16 her grandmother, loved her to death.

17 VICTIM'S MOTHER: I'm her mother.

18 MR. MEADORS: And her mother is right to her
19 left. I want to thank both of them for being here,
20 and I hope they get their closure, their part of it
21 today, Judge, they are looking for, but thank them.

22 THE COURT: Thank you, Mr. Young.

23 MR. YOUNG: Yes, sir.

24 MR. MEADORS: Your Honor, next is Marquis
25 Wilson's mother, Judith Johnson.

1 Beg the Court's indulgence.

2 (Pause.)

3 MR. MEADORS: The Defense has no objection
4 from them, just some pictures for Your Honor's
5 perusal. His mama is speaking.

6 MS. JOHNSON: Hello, Your Honor.

7 THE COURT: Good morning.

8 MS. JOHNSON: My name is Judith Johnson, and
9 I'm the mother of Marcus Wilson.

10 November 2nd, '06, that was one of the most --
11 that was a life-changing day for me. And when I
12 say that, I'm finding out that my son Marcus was
13 dead. And I got a call. I didn't -- I didn't
14 really know, but I just, well, let me go check on
15 Marcus, let me go to the Colony. I went out there
16 and I saw, you know, all the police cars and
17 everything. I saw all the people. I was like,
18 hmm, I got to find somebody, somebody to help me
19 and let me know.

20 So I tried. I finally got -- I talked -- they
21 directed me to a detective, and he took me in this
22 big trailer and he told me, he said, well,
23 Ms. Johnson, he said, from the looks of it, it
24 looks like one of the victims could be your son.
25 And I still didn't want to believe it, you know.

1 But through that day, through the time I realized
2 that it was true. I realized that it was true.
3 And I had to begin calling all my family members.
4 I had to call his grandmama and his daddy to tell
5 him, your boy is gone, you know.

6 My mama, what you mean he's gone? He is dead,
7 mama.

8 I had to call his dad and tell him, Jerome,
9 your best friend is gone. And he said, what? I
10 said, yes, your best friend is gone.

11 And after that, I'm calling aunts, uncles,
12 cousins.

13 And then the worst thing is having to tell my
14 sons. Marcus had three other brothers. I had to
15 tell my sons that their brother was gone. I had to
16 tell my two daughters that their big brother was
17 gone and they wasn't going to see him any more.

18 And on top of that, if that wasn't worse
19 enough, I had to tell -- Marcus had two sons -- I
20 had to tell Maleke, baby, your daddy is dead. I
21 had to tell Jordan, I had to tell his mama because
22 I could not tell a baby on his birthday,

23 , his birthday, that his dad was dead. That was
24 the worst. But I did.

25 It is devastating. It is just -- and it

1 doesn't get any easier. It has been four years.
2 It doesn't get any easier. Especially now, my
3 children are older, my daughter is older. But they
4 still cry. All of a sudden they just break down
5 and cry.

6 I ask, why are you crying? They miss Marcus.
7 Mama, I miss Marcus.

8 Maleke, Nana, I miss Marcus. I miss my dad.
9 I said, baby, I miss him too. You know? I said,
10 it is okay, he is looking down at us.

11 And at the same time I have to deal with -- I
12 have custody of Maleke now. I have to -- he has
13 problems in school. He has been to counseling, you
14 know. He is getting better. It is getting better.
15 But for a child, that is just devastating. He is
16 not going to ever forget.

17 And the holidays, the holidays and the
18 birthdays, that is the worst. I got all my
19 children home visiting with me and hugging and
20 grandkids visiting with me, but Marcus is the one I
21 can't hug, I can't get kisses from. I miss -- I
22 miss him the most because I can't see him, I can't
23 touch him, I can't get any hugs from him any more.

24 And the last thing I remember -- the last
25 thing I remember, the last conversation that Monday

1 before he died, I went out there, I went out there
2 to see him, and I remember -- I remember he used to
3 smile, he used to come to me with a big bright
4 smile. And he had the prettiest white teeth. And
5 he would smile at me.

6 And I said, Marcus, are you doing okay? And
7 he would say, yes, mama, I'm good. I said, you
8 doing okay out here? He said, mama, I'm good. He
9 said, these are my people out here. I said, okay.
10 I said, well, if you are all right, I'm all right.

11 And then -- oh God -- I just -- I know I got
12 to come to grips with it. But I just want you to
13 know that it doesn't get easier.

14 But what gets me through, I'll say what gets
15 me through is God loaned Marcus to me for the 26
16 years that I had him, and unfortunately I wasn't
17 ready to let him go, but the good Lord was ready
18 for him to come home. And that is how I get
19 through the days and my nights. And it is hard,
20 but that is how I make it. I got to be strong for
21 everybody.

22 And that is all I wanted to say.

23 MR. MEADORS: Would the family and friends of
24 Marcus Wilson stand up, please, for His Honor?

25 (Victim's family complies.)

1 MR. MEADORS: Thank all of y'all.

2 THE COURT: All right, thank you, Ms. Johnson.

3 MR. MEADORS: And, Your Honor, finally -- and
4 thank you for your patience -- is Marquis
5 Mitchell's sister, Ms. Lashanna Hall. And, again,
6 I believe without any objection, just some -- it
7 looks like poster signs and signatures and just a
8 few pictures showing their loved one, Judge.

9 THE COURT: Yes, ma'am.

10 MS. HALL: Your Honor, I'm Lashanna Hall,
11 sister of Marquis Mitchell.

12 First of all, for the Mitchell-Horry family, I
13 would like to forgive Mr. Gamble.

14 Second, I want to say to all four families, be
15 strong. This is a hard time for all of us, but
16 just know you will forever be in my prayers.

17 Your Honor, on this paper I did not put it,
18 but Ms. Johnson replayed her day, I just want to
19 replay my day of November 2nd.

20 That morning I was at my house washing dishes,
21 me and my niece. My niece was there. This is five
22 days after a major tragedy had already happened in
23 our family. So we had already suffered five days
24 prior. And then on that morning, you know, me and
25 my niece was just there trying to get through what

1 happened to our family five days prior when she
2 received a phone call.

3 And she started screaming. And I said, what?
4 And all I could do is just say, oh, Lord, who is
5 it? I thought it was her brother, but she said
6 Marquis. And all I could do is fall on the floor
7 and cry. Not my brother. That is the only
8 brother. I have other siblings that I was really
9 really close to. I am a child of eight that was
10 adopted. Marquis was adopted also. But we were
11 adopted in a loving family to Ms. Katherine Horry.
12 And she had me and Marquis. But her sister had the
13 other four siblings that we had.

14 And I just -- I just don't know. I'm missing
15 him. I'm missing his smile. Marquis was a loving
16 and hard working, caring person. Meeting a
17 stranger, Your Honor, was just like family to him.
18 His smile, sense of humor and hilarious comments
19 were what caught our eyes. He kept the whole
20 family laughing. And that is what we miss. He was
21 a respectful person. Marquis always kept his
22 appearance neat. He loved children. I would never
23 forget him because that is one trait we shared.

24 When he lived with me, he always would clean
25 and make sure the children was okay. Marquis is

1 also known to the family and friends as EQ and
2 Frankie. We have and always will miss his smile,
3 jokes and love he had for everyone.

4 This tragedy has affected the entire family.
5 This is my mother's second child to go this way.
6 Second child to go this way. And I know she is --
7 I'm trying to be strong for her because she is
8 sick. She is, you know, she does dialysis. You
9 know, and I thank God for the dialysis people, they
10 let her be here today. She is over at the VA and I
11 know she is still with me right now.

12 But I know my son went through a lot. He
13 couldn't even function in school, Your Honor. He
14 was just that close to Marquis. Marquis lived with
15 me. We had these shirts made and he would wear
16 that shirt. He wanted to wear that jacket to
17 school every day. And the kids would ask him, who
18 is that? And it just bothered him to explain who
19 that was and that was his favorite uncle.

20 Now today my son -- and this happened in
21 elementary school. My son is in middle school.
22 And it has affected him. He has that picture, Your
23 Honor, you have of Marquis in the frame in his room
24 on his bed dresser. He would never let anybody
25 take it. I had to beg him to bring that picture to

1 court this morning. He said, just bring it back,
2 mom. Just bring it back.

3 Your Honor, I just, like I say, I just
4 forgive, because that is the right thing to do. We
5 are working through this still. And he has a set
6 of twin boys, DeAndre and Devonte Moore, that will
7 be affected by this and will miss their father
8 dearly. And one of the twins look just like
9 Marquis.

10 Now that I -- you know, I met back up with
11 them. I haven't seen them since that incident.
12 I'm so glad that God sent those little boys back
13 into my life because now that is all I have to
14 remember Marquis. One looks just like him.

15 And to his mother, anything that I can do for
16 those boys I will, because I know my brother would
17 be smiling at me right now.

18 But we love Marquis. And whatever your
19 decision is, Your Honor, we will accept it.

20 THE COURT: All right. Thank you, Ms. Hall.

21 MR. MEADORS: Your Honor, just briefly in
22 conclusion, I want to thank again Investigator
23 Reese and Investigator Thomas with the Columbia
24 Police Department for the outstanding job they did.

25 Judge, I think Ms. Johnson kind of summed it

1 up. It is just senseless, there is no other way to
2 describe it.

3 On behalf of Solicitor Johnson, on behalf of
4 law enforcement, and on behalf of these three
5 families, we respectfully ask Your Honor to
6 sentence the Defendant to three consecutive life
7 sentences.

8 Thank you.

9 THE COURT: All right. Thank you.

10 All right, Ms. Pringle, Mr. Young,
11 Mr. Strickler?

12 MS. PRINGLE: Thank you, Your Honor.. May it
13 please the Court?

14 Your Honor, you asked early in your causeway
15 if Mr. Gamble had been evaluated psychologically.
16 And I wanted to add and clarify that he was.
17 During the course of these capital case
18 investigations and preparation, we have clients
19 evaluated. And we did that, for neurological
20 functioning, for intellectual functioning, and
21 looking basically for mitigating information, not
22 so much for competency or criminal responsibility
23 evaluation. And there isn't anything. I want to
24 make sure that that is clear for the record. You
25 encouraged me after I sat down that in response to

1 your question I wanted to add that.

2 He certainly in that process uncovered
3 information that I think would have been mitigating
4 in a capital trial, nothing that would have come
5 into play at the guilt phase. But it has been a
6 process for us and in getting to know Mr. Gamble,
7 trying to understand the way that he thinks, how on
8 earth this could have possibly happened, how
9 reconciled the person that we see in the face of so
10 much horror and sadness and such a tragedy and a
11 horrific act, and I think we have come to
12 understand him.

13 There are so many things I could say to you
14 about him, and I'm going to try to be brief. I'll
15 let Mr. Strickler and Mr. Young pick up and add
16 anything that I miss.

17 I will tell you that as far as pleading, he
18 has never hesitated. He is 100 percent willing to
19 come in here and do this. The thought of being
20 here today has been very, very difficult. He did
21 not want to put them through a trial, through a
22 three-week proceeding. He doesn't want to put his
23 family through a trial. He has been 100 percent
24 willing to accept this.

25 He was 24 when this happened. He is 28 years

1 old now. And he has never hesitated, Your Honor.
2 He knows that he is never getting out. He
3 understands that. And while that may seem obvious,
4 you know, when you are facing the death penalty, it
5 is not always. Sometimes that can be a really
6 difficult conversation with a client and a
7 difficult thing for them to face. And he has never
8 hesitated. He takes full responsibility. And he
9 knows that he has to pay for what he did. And he
10 is here to do that, Your Honor.

11 Your Honor, in the face of so much sorrow,
12 like I said, I think it is my job to tell you the
13 things about Charles that are redeeming. And there
14 are things about him that are redeeming. And for
15 you to understand this person that you are going to
16 sentence today. And I hope that you will accept
17 the negotiated sentence. We have really come to
18 understand Charles. And what I see with him is a
19 person who -- he is a person who feels things with
20 great intensity. And this can have -- that quality
21 can have bad consequences and it can have really
22 good consequences. And there are good qualities
23 about him, there really are.

24 His parents are here today. I ask that they
25 stand, Mr. and Ms. Gamble.

1 (Mr. and Ms. Gamble comply.)

2 MS. PRINGLE: Charles was raised by them. He
3 has as devoted and loving, dedicated, committed
4 parents as you could ever have. This has torn them
5 apart, but they have stood by his side, they have
6 helped us, they have been there for him
7 100 percent, and they will continue to be.

8 Ms. Gamble just, you know, she is a mother who
9 loves her son, as any mother does. And this has
10 been agonizing for them, as you might imagine.
11 That love is returned. Charles adores them. He is
12 as close to them as he is to anyone. He has two
13 sons. One is Ms. Yarborough's son. Cameron is
14 four. He has another son who is seven, going to
15 turn eight in April. And Charles loves those boys.
16 He doesn't have contact with them the way a father
17 should. And those are his words. He doesn't have
18 the kind -- he never will. But I can tell you that
19 he does.

20 I found something out about him recently that
21 surprised me a little bit. And some of the things
22 that -- Charles isn't the type to brag, first of
23 all, but the things he does he does fairly quietly.
24 But he, I learned writes a letter to his son every
25 month. I talked to his mother about this this

1 morning. I started finding out about this a little
2 while ago, but I didn't realize it was all that
3 regular. He does it every month. Sometimes he
4 will get a little behind, and then he will catch
5 up. The letters that go to his youngest son just
6 stay with his mother. So when he gets older his
7 mother is going to read them to him when he can
8 understand them. His older son actually can read
9 the letters now. I was talking to Ms. Gamble this
10 morning, and he can read them.

11 And I have been asking him, you know, what
12 does he say and, you know, what is in these
13 letters. And they are just the kind of things that
14 you would want to tell your child to be a better
15 person.

16 And I asked Charles, why do you do this? What
17 do you want from them? He said, I want them to
18 turn out better than I did. I don't want them to
19 end up here. I want them to have a good life. And
20 he has hope for them.

21 And I really think that that is significant.
22 And it says something about him. I think that for
23 somebody that you are going to send to prison you
24 want them to have hope, you want them to have some
25 optimism and to want to lead a positive life.

1 Your Honor, finally, we have talked a lot the
2 last couple of weeks, as you might imagine. And
3 one thing that Charles said to me really struck me.
4 He is a man of few words, but when he talks he --
5 like I said, he feels very deeply and very
6 strongly, and he has a very tender side to him.

7 And he said -- I said, what do you want? You
8 know, what do you hope for? He said he wants this
9 to be over for them, for his family, he wants it to
10 be over. He said, you know, I hope for forgiveness
11 but I don't expect it. And so all I can do is try
12 to be a better man and be as good a man as I can
13 be.

14 And I can't think of anything else to say to
15 you that I think is more promising and hopeful in
16 going forward from today.

17 I am grateful, Your Honor, and thankful to the
18 victims' families that they have the grace and the
19 wisdom to be able to come in here and do this and
20 proceed in this manner. And I am very grateful for
21 that, Your Honor.

22 And I think for everyone, and I understand it
23 will never ever get better, I know that, but it
24 certainly will end today if you would accept this.
25 We won't be here for a three-week trial. We won't

1 be going back into court for ten years. And it
2 will end today. And I think that that is a start.
3 And I would ask you to accept that, Your Honor.

4 THE COURT: Thank you.

5 MR. YOUNG: I don't have anything to add.
6 Ms. Pringle has said it. I think she has covered
7 it all, Your Honor.

8 THE COURT: Mr. Strickler?

9 MR. STRICKLER: No, I agree.

10 THE COURT: Mr. Gamble?

11 THE DEFENDANT: I mean, I just want to say I
12 am truly sorry and regret what I did, you know what
13 I'm saying.

14 THE COURT: Pull that mic closer to you and
15 make sure I hear what you are saying.

16 THE DEFENDANT: I mean, I just want to say
17 that, you know what I'm saying, I truly regret what
18 I did to these three families, taking their loved
19 ones away from them, you know what I'm saying. And
20 I just hope they can find in their heart to forgive
21 me, you know what I'm saying. I know I caused a
22 lot of pain in their lives. So I just hope that,
23 you know, one day they will be able to forgive me,
24 you know what I'm saying, because I have got to
25 live with this the rest of my life, you know what

1 I'm saying.

2 That is all I've got to say.

3 THE COURT: Mr. Gamble, what is all this
4 about? Why did this come about?

5 THE DEFENDANT: I mean, it is really hard to
6 say. This happened too fast, you know what I'm
7 saying. Just really it is hard to say. I kind of
8 held a lot of stuff in, so it is hard for me to put
9 in words right now. But I just wanted to say that.
10 I just wanted them to understand I was -- I'm
11 sorry. I can't do nothing but say I'm sorry. I
12 can't bring them back. So I would like them to
13 forgive me.

14 What it was about I can't really tell you.
15 I'm sorry.

16 THE COURT: What time of night was this when
17 you went over there?

18 THE DEFENDANT: It was night.

19 THE COURT: What time of night was it?

20 THE DEFENDANT: In the morning, 2:00 in the
21 morning.

22 THE COURT: And how did you get in the house?
23 The apartment?

24 THE DEFENDANT: I mean, it was open.

25 THE COURT: What do you mean?

1 THE DEFENDANT: As in someone met me at the
2 door and I opened it.

3 THE COURT: Who met you at the door?

4 THE DEFENDANT: The one that was in the bed
5 with Charlene.

6 MR. MEADORS: Your Honor, I'm certainly not
7 looking to do anything to mess this up. In a
8 statement I believe he said he had had a key and
9 went in without consent, and old key. And I'm not
10 disputing it here today, but anyway we believe it
11 was evidence without -- for the burglary
12 indictment, if that is concerning Your Honor, we
13 had evidence to present that he did enter without
14 consent with intent to commit a crime. I just
15 wanted to put that on the record.

16 THE COURT: All right. Which way is it,
17 Mr. Gamble? Did someone let you in or did you have
18 a key?

19 MS. PRINGLE: I think the -- I'll let
20 Mr. Gamble answer. What is happening here is --
21 and a couple of things that the Court is not aware
22 of. He was on probation for stalking. And he
23 also -- there was also an active restraining order
24 in effect. And as I understand it -- I will let --
25 I know you want to hear Charles' version, but as I

1 understand it, there was an altercation there. And
2 he said to me he went in without permission.

3 There are certainly things from his statement
4 that differ, but none of those things that --
5 discrepancies refute the fact that he was there, he
6 shouldn't have gone in there, and he did.

7 It was absolutely unlawful entering. He
8 shouldn't -- he was not allowed to even be there,
9 Your Honor.

10 THE COURT: You all have brought to me a
11 guilty plea that you want me to accept. The
12 Defendant has been sworn to tell the truth, the
13 whole truth, and nothing but the truth, so help
14 you -- so help him God. He has asked me to accept
15 his guilty plea. And I need to know the facts as I
16 decide whether or not to accept the guilty plea.

17 All the forgiveness and regrets and sympathy
18 and all that you might express towards the family,
19 all of that is beyond them. They have had the
20 funeral, a period of mourning. And all they are
21 here today for is justice in this case. And that
22 is what I'm here to listen to, and to listen to the
23 facts and have you answer my questions and me
24 evaluate whether or not I'm accepting this guilty
25 plea.

1 MS. PRINGLE: Your Honor, I think the thing --

2 THE COURT: I'm talking to Mr. Gamble. Do you
3 understand, Mr. Gamble?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Now, I have asked you a question.
6 How did you get in the house?

7 THE DEFENDANT: I went in there without
8 consent.

9 THE COURT: And did someone let you in, did
10 you have a key, did you break in? How did you get
11 in there?

12 THE DEFENDANT: I broke in. I went in with a
13 key.

14 THE COURT: Sir?

15 THE DEFENDANT: I went in with a key.

16 THE COURT: And who did you encounter first
17 when you got in the house?

18 THE DEFENDANT: Marquis. The one that was
19 laying in the bed with her.

20 THE COURT: Marquis is his name.

21 THE DEFENDANT: Right.

22 THE COURT: And where was Mr. Mitchell -- or
23 let's see.

24 Mr. Gamble, what else do you want me to know?

25 THE DEFENDANT: You have got everything in

1 front of you as to what happened.

2 THE COURT: Ms. Pringle, go ahead.

3 MS. PRINGLE: I don't have anything else to
4 add, Your Honor. I think that -- I think it is
5 hard for him to talk about. He doesn't dispute his
6 guilt on anything at all. And if that is your
7 concern, there is no question. He has never --

8 THE COURT: The entire matter is my concern.
9 Everything is my concern. Everything is my
10 concern. That is why I'm speaking to him because
11 it is my concern. It is my concern for the victims
12 and my concern for the citizens of South Carolina
13 and my concern for Mr. Gamble as well. And it is
14 my concern that I make a proper judgment as I
15 have -- and am required to attempt to do by virtue
16 of my sitting in the seat I am sitting in.

17 Anything else you'd like to say, Mr. Gamble?

18 THE DEFENDANT: No, sir.

19 THE COURT: Mr. Solicitor?

20 MR. MEADORS: Judge, that is all we have. We
21 respectfully ask that you sentence him to three
22 consecutive life sentences.

23 Thank you.

24 THE COURT: I find that there is a sufficient
25 factual basis for accepting the guilty pleas. My

1 experience over the years in dealing with people
2 who kill, people who slaughter, people who murder
3 is that they have an amazing ability to block it
4 out of their mind, to wipe it from their memory and
5 act as if it didn't happen, to be unable to explain
6 it because they seek to not relive it. They leave
7 the reliving it to the people who suffer as a
8 result of the acts, as a result of the murder. And
9 in this instance, Mr. Gamble seeks not to attempt
10 to explain it, to attempt to relive it, he wants to
11 move on. And that is the same thing that everyone
12 is attempting to do is to move on, but they move on
13 without their loved ones, without the ability to
14 have the children of the loved one receive letters
15 that they can later read or have someone read to
16 them. They have been wiped out by Mr. Gamble.

17 It has been a case where the State has -- and
18 the Defense has worked a long time on. I was
19 assigned by the chief justice to have exclusive
20 jurisdiction of this case, which was assigned as a
21 death penalty case.

22 As a result of the plea negotiations, the
23 State, as well as the victims and the Defense, have
24 negotiated a sentence of three consecutive life
25 sentences for each of the murders, which means that

1 Mr. Gamble will be incarcerated for all of his
2 natural days. And I will accept the negotiated
3 plea. I find that it is proper to do so in this
4 instance, particularly considering the nature of
5 capital punishment in this state, the dwindling
6 number of capital and death penalty verdicts,
7 particularly in counties like this, the long
8 periods of appeal associated with it. And I think
9 that the State and the Defense has done a good job
10 in reaching the conclusion that you all have
11 reached in this case.

12 Mr. Gamble, for the murder of Charlene
13 Yarborough in Indictment Number 2006-GS-40-10430,
14 it is the sentence of the Court that you be
15 committed to the State Department of Corrections
16 for life.

17 For the murder of Marquis Mitchell, Indictment
18 Number 2006-GS-40-10427, it is the sentence of the
19 Court that you be committed to the State Department
20 of Corrections for life.

21 For the murder of Marcus Wilson, Indictment
22 Number 2006-40-10429, it is the sentence of the
23 Court that you be committed to the State Department
24 of Corrections for life.

25 Have you negotiated a sentence on the two

1 other indictments?

2 MR. MEADORS: We have not, sir.

3 THE COURT: Is that correct, Ms. Pringle?

4 MS. PRINGLE: Yes, sir.

5 THE COURT: And Mr. Wilson?

6 MS. PRINGLE: That is correct. We did not
7 negotiate that, but we understand that could be
8 consecutive. He understands the range of
9 penalties, Your Honor.

10 THE COURT: Is that correct, Mr. Gamble?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: The burglary first degree, it is
13 the sentence of the Court that you be committed to
14 the State Department of Corrections for life.

15 For possession of -- for use of a weapon
16 during the commission of a violent crime, it is the
17 sentence of the Court that you be committed to the
18 State Department of Corrections for a period of
19 five years.

20 That is the sentence of the Court.

21 Good luck to you, Mr. Gamble.

22 MR. MEADORS: Thank you very much, Your Honor.

23 THE COURT: We will take a brief recess.

24 (WHEREUPON, a break was taken.)

25 THE COURT: I want to state on the record that

1 the -- make sure that the record reflects the
2 sentences are consecutive on those life sentences.

3 MR. MEADORS: Thank you, Judge.

4 (WHEREUPON, the proceedings were concluded.)
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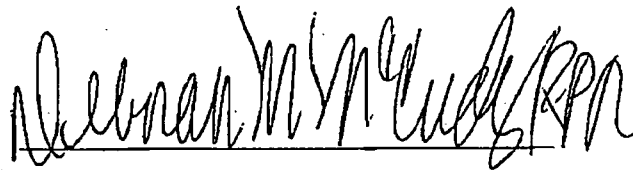
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA }
COUNTY OF RICHLAND }

I, Deborah M. McCurdy, 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 trial of the captioned case, relative to appeal, in the Court of General Sessions for Richland County, South Carolina, on the 19th day of January, 2011.

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

July 11, 2011



Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

2011CP4003169

STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

Charles Gamble 344426
Full name and prison number (if any) of Applicant,

vs.

State of South Carolina
Name of Respondent.

APPLICATION FOR
POST-CONVICTION RELIEF

RICHLAND COUNTY
FILED
2011 MAY 13 PM 2:54
JEANETTE W. MCBRIDE
C. & G.S.

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 Darlington North 1161 Lee Correctional Institution, 990 W. Sackville Hwy, Bishopville, S.C. 29810
2. Name and location of Court which imposed sentence Richland County Court House
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) Murder - 2006-65-40-10427 / 2006-65-40-10431 / 2006-65-40-10430
 - (b) Burglary 1st degree - 2006-GS-40 10429
 - (c) Use of a weapon during commission of a violent crime - 2006-GS-40-10428
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 1/19/11 Life with out parole
 - (b) _____
 - (c) _____

5. Check whether a finding of guilty was made

- (a) after a plea of guilty Plead OUT
- (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. N/A
- ii. N/A
- iii. N/A

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

- i. N/A
- ii. N/A
- iii. N/A

(c) the date of each such result:

- i. N/A
- ii. N/A
- iii. N/A

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

- i. N/A
- ii. N/A
- iii. N/A

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) Attorney did not file for one
- (b) _____
- (c) _____

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

- (a) Plead TO STATUTORY crime not a Lesser included offence
- (b) _____
- (c) _____

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

- (a) Black's Dictionary Defines grounds for Plea, Lesser offence
- (b) _____
- (c) _____

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. N/A
- ii. N/A
- iii. N/A
- iv. N/A

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

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(c) the disposition thereof:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

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

- i. N/A
- ii. N/A
- iii. N/A
- iv. N/A

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

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A

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

- i. N/A
- ii. N/A
- iii. N/A

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) NEW Found Evidence for Plea Requirement

(b) _____

(c) _____

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? N/A

(c) your sentencing? Yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? No

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? 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. N/A

ii. N/A

iii. N/A

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

i. N/A

ii. N/A

iii. N/A

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

Resentencing under Correct Statute

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

NO

STATE OF SOUTH CAROLINA

VERIFICATION

County of Richland

I, Charles Gamble 344426, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Charles E Gamble

RICHLAND COUNTY
FILED
2011 MAY 13 PM 2:55
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

SWORN to and subscribed before me this 12
day of May, 2011
Debra Sims (L.S.)
Notary Public

My Commission Expires: 11-4-2015

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

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

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

Charles E Gamble
Applicant

SWORN or affirmed to and subscribed before me this
12 day of May, 2011
Debra Sims
Notary Public

My Commission Expires 11-4-2015

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

GAMBLE Charles -
00344426,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS

2011CP4003169

RETURN

2011 MAY 23 AM 10:59
JEROME
C.C.P. & G.S.

RICHLAND COUNTY
FILED

The Respondent, making its Return to the application for post conviction relief (PCR) filed May 13, 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 was represented by , Esquire. On January 19, 2011, the Applicant pled guilty and was sentenced by The Honorable Clifton Newman. The Applicant had been indicted and/or pled guilty to the following: Murder, Use of a

<http://www4.sccourts.gov/publicindex/PCaseDetails.aspx?County=40+&Casenum=2011CP4003169&CourtType=G&CaseType=Civil&CourtAgency=40002>

State's Return - (2011CP4003169) - Applicant: GAMBLE Charles

Page 1 of 6

Weapon During Commission of A Violent Crime, Burglary (After 6/20/85) 1st Degree, Murder (2 counts) - (2006-GS-40-10427;28-31).

According to SCDC, he serving the following sentence:²

Offender Type Adult-straight Sentence Offense Murder Sentence Start Date 11/02/2006
Sentence Length LIFE SENTENCE Admission Date 01/20/2011 Committing County Richland
Location Lee Projected Release Date Not Eligible Projected Parole Date Not Eligible Supervised
Furlough Eligibility Not Eligible Sex Offender Registry No

Direct Appeal

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

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 guilty 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.

² <https://sword.doc.state.sc.us/scdc-public/inmateDetails.do?id=+00344426>

State's Return - (2011CP4003169) - Applicant: GAMBLE Charles

Page 2 of 6

III.

For the purposes of this Return, the Respondent interprets each of the Applicant's unspecified 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.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that 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, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's

performance was deficient. Under this prong, the court measures an attorney's performance 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. 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, 106 S.Ct. 366, 88 L.Ed. 2d 203 (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 the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

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

State's Return - (2011CP4003169) - Applicant: GAMBLE Charles
Page 4 of 6

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.

State's Return - (2011CP4003169) - Applicant: GAMBLE Charles
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V.

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 TBT regarding when the hearing should be set.³

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

BRIAN T. PETRANO
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

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

May 19, 2011

³ The current PCR Roster for the 5th Circuit is available at <http://www.scag.gov/criminal-litigation/postconvictionrelief>
State's Return - (2011CP4003169) - Applicant: GAMBLE Charles
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STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND) CASE NO. 2011-CP-40-3169

CHARLES E. GAMBLE, JR.,)

Plaintiff,)

-vs-)

TRANSCRIPT OF RECORD

STATE OF SOUTH CAROLINA,)

Defendant.)

August 13, 2012
Columbia, South Carolina

B E F O R E:

THE HONORABLE R. KNOX MCMAHON, Judge

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

DAVID E. BELDING, Esquire
Attorney for the Plaintiff

ROB CORNEY, Esquire
Office of the Attorney General
Attorney for the Defendant

KRYSTAL J. SMITH
Court Reporter

I N D E X

<u>WITNESS/DESCRIPTION</u>	<u>PAGE NUMBER</u>
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Charles E. Gamble, Jr.	
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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
P1	Statement of Jamel Robinson	25	
P2	Statement of Jamel Robinson	26	

1 AUGUST 13, 2012

2 (WHEREAS this matter was scheduled for a PCR hearing, the
3 plaintiff/applicant appeared along with his counsel of
4 record. The hearing begins at 12:16 p.m.)

5 MR. CORNEY: We're going to move forward with Charles
6 Gamble's PCR. May it please the Court, Your Honor.

7 THE COURT: Yes, sir.

8 MR. CORNEY: Your Honor, the State calls the PCR action
9 of Charles Gamble. It's Docket Number 2011-CP-40-3169. Mr.
10 Gamble was true bill indicted at the November 2006 term of
11 Richland County Grand Jury for three counts of murder, use of
12 a weapon during the commission of a violent crime, and
13 burglary in the first degree. Mr. Gamble pled guilty January
14 19th, 2011, before Judge Newman. He received -- received three
15 consecutive life without parole sentences for each murder
16 pursuant to a negotiated plea and then received life without
17 parole for the burglary first degree and five years on the
18 weapons charge on an open-ended plea deal.

19 So the three consecutive -- the three consecutive life
20 without paroles for the murder were part of the negotiated
21 plea; the rest were open-ended. At this point in time -- he
22 did not have a direct appeal, but he is represented by Mr.
23 David Belding today on the application that he filed in this
24 action.

25 THE COURT: All right. Tell me -- tell me a little bit

1 about this case, Mr. Belding.

2 MR. BELDING: Yes, Your Honor. Two things: one, this was
3 originally a death penalty case. He was notified by the State
4 of their intent to seek the death penalty. There were three
5 people killed in this case and, of course, Mr. Gamble was
6 represented by Mr. Strickler and Ms. Lafave of the Attorney
7 General's -- excuse me, of the Public Defender's Office. No,
8 I'm sorry. This is Fielding Pringle and Mr. -- yes, Mr.
9 Strickler of the Public Defender's Office.

10 Mr. Gamble, I met him a couple weeks ago and discussed
11 with him at length that, you know, there's an upside and a
12 downside to post-conviction relief under the statute, that in
13 fact if he were to be granted post-conviction relief, most
14 inmates think it results in a time cut and that you would be
15 able to decide how to cut his sentence down to something, but
16 that in fact you do not have that authority and wouldn't
17 exercise it in that fashion, that what you would do is if you
18 were convinced there was ineffective assistance of counsel
19 that what you would do would be vacate the sentence and remand
20 the case back to the Court of General Sessions here in
21 Richland County and essentially it would be back at square one
22 and informed him that what that would mean is the State would
23 again be entitled to serve notice that they intended to seek
24 the death penalty and my experience with Richland County and
25 the people that were involved is that they probably would. So

1 I discussed that at some length with Mr. Gamble and I think he
2 understands and I think that the Court may want to inquire of
3 him since this is a most serious case that in fact whether or
4 not he understands that that is a potential outcome and to
5 make sure that he wants to go forward.

6 As a preliminary matter, Judge, I also got a letter from
7 Mr. Gamble last week that indicated that he would like to have
8 me move for a continuance. It was not within the ten days so
9 I didn't do a formal motion, but I'd like to make a motion in
10 open court on the grounds that he didn't feel prepared to face
11 the cross examination of the attorney for the State and so on
12 Mr. Gamble's behalf I would like to move for a continuance in
13 this case.

14 THE COURT: How long have you been representing Mr.
15 Gamble?

16 MR. BELDING: We -- I got appointed last -- June 30th of
17 2011. I've only met Mr. Gamble one time, quite frankly, but I
18 have -- I'm very familiar with the documentation in this and
19 my initial -- I feel that I can represent him in this matter.
20 He feels uncomfortable about going forward.

21 THE COURT: I'm going to deny your motion for a
22 continuance.

23 MR. BELDING: I understand. Thank you, Your Honor.

24 THE COURT: If he is cross examined -- I don't even know
25 if he is going to testify or not, but if he's cross examined

DIRECT EXAMINATION OF CHARLES GAMBLE BY THE COURT

1 -- well, we'll just see I guess.

2 MR. BELDING: Okay.

3 THE COURT: All right.

4 MR. BELDING: Thank you, Your Honor. If it would please
5 the Court, then ---

6 DIRECT EXAMINATION OF THE PLAINTIFF BY THE COURT

7 THE COURT: Let me ask Mr. Gamble a couple questions.
8 Stand up for me, Mr. Gamble. I'm going to place you under
9 oath. Raise your right hand as best you can. Do you solemnly
10 swear the testimony you give today will be the truth, the
11 whole truth, and nothing but the truth, so help you God?

12 PLAINTIFF: Yes, sir.

13 THE COURT: All right. Thank you. You can put your hand
14 down. Speak up where I can hear you. Tell me your full name.

15 PLAINTIFF: Charles Edward Gamble, Jr.

16 THE COURT: All right. I don't think that microphone
17 works so you can speak up.

18 MR. BELDING: Okay.

19 THE COURT: I'm probably three or four times your age and
20 you can hear me. I'm sure if you speak up, I'll be able to
21 hear you. How old are you, Mr. Gamble?

22 PLAINTIFF: Twenty-nine.

23 THE COURT: And how much education do you have?

24 PLAINTIFF: Tenth.

25 THE COURT: About tenth grade?

DIRECT EXAMINATION OF CHARLES GAMBLE BY THE COURT

1 PLAINTIFF: (Nods.)

2 THE COURT: All right. As I understand, I'm going to
3 make sure I understand what both the Attorney General said and
4 Mr. Belding, your lawyer, said. You were charged with three
5 counts of murder; is that -- is that correct?

6 PLAINTIFF: Yes, sir.

7 THE COURT: Did you have other charges?

8 PLAINTIFF: I had burglary first and possession of -- of
9 a firearm. Yeah, that's it right there.

10 THE COURT: All right. Three counts of murder, burglary
11 in the first degree, and possession of a firearm during the
12 commission of a violent crime?

13 PLAINTIFF: Yes, sir.

14 THE COURT: Is that correct?

15 MR. BELDING: Yes, Your Honor.

16 THE COURT: And you -- during the course of that, the
17 State served notice on you to seek the death penalty; is that
18 -- is that correct?

19 PLAINTIFF: Yes, sir.

20 THE COURT: And at some point in time, a plea was worked
21 out?

22 PLAINTIFF: Yes, sir.

23 THE COURT: And that was a negotiated sentence?

24 PLAINTIFF: Yes, sir.

25 THE COURT: All right. So you -- did you enter pleas of

DIRECT EXAMINATION OF CHARLES GAMBLE BY THE COURT

1 guilty to certain of those charges?

2 PLAINTIFF: Yes, sir.

3 THE COURT: What did you -- what did you plead guilty to?

4 PLAINTIFF: The murder, three counts of murder.

5 THE COURT: Three counts of murder?

6 PLAINTIFF: And the pistol charge and the burglary
7 charge.

8 THE COURT: And what?

9 PLAINTIFF: The armed -- the weapons charge, the pistol
10 charge, and the burglary charge.

11 THE COURT: And what happened with those?

12 PLAINTIFF: Uh ---

13 MR. BELDING: He wants to know what the sentence was on
14 those. Do you remember?

15 PLAINTIFF: Oh, I got life.

16 THE COURT: You got three consecutive life without parole
17 for the murder charges; correct?

18 PLAINTIFF: Yes, sir.

19 THE COURT: Now, you understand if I were to grant your
20 post-conviction relief, the case would be a) probably
21 appealed, and then b) if -- if my granting a post-conviction
22 relief was upheld, it would go back to the trial court for
23 disposition. Do you understand that?

24 PLAINTIFF: Yes, sir.

25 THE COURT: And when it goes back to the trial court, it

DIRECT EXAMINATION OF CHARLES GAMBLE BY THE COURT

1 starts over. The State would then have the right to serve
2 notice of the death penalty against you again. Do you
3 understand that?

4 PLAINTIFF: Yes, sir.

5 THE COURT: So that just the granting of the PCR doesn't
6 result in a different or better sentence necessarily. Do you
7 understand that?

8 PLAINTIFF: Yes, sir.

9 THE COURT: That it could result in a different but worse
10 sentence; do you understand?

11 PLAINTIFF: Yes, sir.

12 THE COURT: Depending on -- depending on the person's
13 terminology of what's better or what's worse. Do you still
14 want to go forward with your PCR today? Do you want to go
15 forward with this hearing today?

16 (Whereupon, the plaintiff and his counsel briefly
17 confer.)

18 PLAINTIFF: I'm ready to go for it then.

19 MR. BELDING: Yeah.

20 THE COURT: All right. Thank you, thank you very much,
21 Mr. Gamble. All right, Mr. Belding, you may call your first
22 witness.

23 MR. BELDING: Thank you, Your Honor. I would call
24 Charles E. Gamble, Jr., to the stand.

25 THE COURT: You're still under oath, Mr. Gamble.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 MR. BELDING: May it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 CHARLES E. GAMBLE, JR., being

4 first duly sworn, testifies as follows:

5 DIRECT EXAMINATION

6 BY MR. BELDING:

7 Q: Please state your full name for the record?

8 A: Charles Edward Gamble, Jr.

9 MR. BELDING: Can you hear him all right, Your Honor?

10 THE COURT: You need to speak up a little bit for me,
11 please.

12 A: Charles Edward Gamble, Jr.

13 Q: Charles Edward?

14 A: Yeah.

15 Q: Okay and do you go by Gam?

16 A: Yes, sir.

17 Q: Do you mind if I call you that today?

18 A: You can call me that.

19 Q: Okay, Gam. Just speak up so we can all hear you because
20 the Attorney General needs to be able to hear what you say as
21 well. Mr. Gamble, you are in prison at this time; correct?

22 A: Yes, sir.

23 Q: Where are you incarcerated right now?

24 A: Lee County.

25 Q: Lee?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 A: Yeah.

2 Q: And what are you serving sentences for?

3 A: Three counts of murder and burglary first and possession
4 of a firearm in the commission of a crime.

5 Q: Okay. Now, these are all related to a -- an incident
6 back in the year 2006; is that correct?

7 A: Yes, sir.

8 Q: All right. Can you explain what happened in 2006 that
9 led to the incident in which three people were killed?

10 A: You mean ---

11 Q: Well, first of all, let me ask you: are you familiar with
12 someone named Shirleen Yarborough?

13 A: Yes, sir.

14 Q: All right. Tell me who is Shirleen Yarborough?

15 A: She -- she's the mother of one of my sons.

16 Q: Okay.

17 A: She's the mother of one of my sons.

18 Q: Okay, all right and what is your -- how old is your son
19 now?

20 A: He's about six.

21 Q: Six years old? Okay. Do you know a Marcus Wilson?

22 A: Yes, sir.

23 Q: Were you -- did you know him or do you just ---

24 A: Nah.

25 Q: --- know who he was?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

- 1 A: I mean I don't know him personally. I just know from
2 what people done describe of who he was.. You know what I'm
3 saying?
- 4 Q: Okay and he was someone who was killed; correct?
- 5 A: Yeah, yeah.
- 6 Q: Okay. Do you know a Marquis Mitchell?
- 7 A: Nah, I don't. I don't know him personally, but -- you
8 know.
- 9 Q: Is he also someone who was killed?
- 10 A: Yeah.
- 11 Q: Okay. Now, let's go back to Shirleen Yarborough. How
12 long did you have a relationship with Ms. Yarborough?
- 13 A: I mean it about -- well, we was together on the street
14 about together like when we was living together like three
15 years, but we was messing around maybe about five or six.
- 16 Q: Okay. You've known her five or six years; right?
- 17 A: Right.
- 18 Q: And in fact, as you stated, you have a child with her;
19 correct?
- 20 A: Yeah.
- 21 Q: Were you ever married to her?
- 22 A: No, sir.
- 23 Q: Okay. Did you all live together?
- 24 A: Yeah.
- 25 Q: How long did you live together?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 A: Three years.

2 Q: Okay and what -- what -- what years -- what period were
3 you living with her? Do you recall the years?

4 A: Not -- not off -- off of the head.

5 Q: Okay and I'm going to get back into that, but let me ask
6 you real quick, Mr. Gamble, you -- Judge McMahon asked you how
7 far you went in school and you replied tenth grade; correct?

8 A: Yes, sir.

9 Q: All right. Were you as part of these proceedings -- as
10 part of this murder charge ---

11 A: Mm-hmm.

12 Q: --- were you ever evaluated to see if you were competent
13 to stand trial?

14 A: I mean I had different people I was talking to, but I
15 don't know if they was, you know, evaluating me on whether I
16 was ready to come to trial or not.

17 Q: Okay. Do -- have you ever been found to not be competent
18 to stand trial?

19 A: I don't think so.

20 Q: Okay. Do you -- do you understand what's going on today?

21 A: Yes, sir.

22 Q: Did you -- did you understand what was going on the day
23 you pled guilty to these murder charges?

24 A: To a certain degree.

25 Q: Okay.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 A: You know.

2 Q: All right. Well, do you have -- do you have any trouble
3 understanding what's going on at any given time?

4 A: I mean you've got to refrain [sic.] that question. What
5 you mean?

6 Q: Okay. Well, you know what's going on today though;
7 correct?

8 A: Yeah, yeah.

9 Q: Okay. Let me go back to Shirleen Yarborough now. What
10 years were you all living together?

11 A: It was in '03, '03, '04, '05.

12 Q: Okay and at some point, did you stop living with Ms.
13 Yarborough?

14 A: I mean we was -- we had two cribs. I had my crib and she
15 had her crib so we was both going in and out of those two
16 cribs together.

17 Q: Okay. Did you all break up as a couple?

18 A: I mean we -- we still had -- we still had a relationship
19 because of that -- because of our child. Do you know what I'm
20 saying? My son, you know, we still communicated because of
21 that. Do you know what I'm saying? But as in me and her
22 messing around, we messed around because, you know, we was
23 still kind of together ---

24 Q: Okay.

25 A: --- every now and then, you know.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: Are you familiar with the term dating? Okay?

2 A: (Nods.)

3 Q: That was a yes?

4 A: (Nods.)

5 Q: Okay. Keep speaking up. Would you have -- would you
6 have considered Ms. Yarborough to be someone that you were
7 dating in 2006?

8 A: Yeah. I mean we was still talking I mean.

9 Q: Okay. Did you go do things together?

10 A: Yeah.

11 Q: Okay.

12 A: We still -- we still -- because I tell you I had -- we
13 had a child together so, you know, she the mother of my child
14 so yeah, of course, we were still doing things because I'm
15 still with my child. I was working out there providing for my
16 child. You feel me?

17 Q: Okay. Did you still consider her to be, you know, your
18 girl?

19 A: I mean we had our arguments. I mean everybody had their
20 arguments, you know.

21 THE COURT: Is that a yes or a no?

22 PLAINTIFF: I mean ---

23 THE COURT: I'm not -- I'm not ---

24 MR. BELDING: I'm not positive either. Let me -- let me
25 just see if I can flesh it out a little bit.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: At the time -- do you recall when Ms. Yarborough was
2 killed?

3 A: Mm-hmm.

4 Q: When -- when did that occur?

5 A: I mean it's supposed to had happened that night at two,
6 three o'clock in the morning. That's what they said.

7 Q: Okay and do you recall the -- the date that that would
8 have happened?

9 A: I mean the motions say November 2nd, the 3rd.

10 Q: November of 2006?

11 A: Yeah.

12 Q: Okay. At that time in November of 2006, in your mind was
13 she still your girlfriend?

14 A: I mean we -- we -- we still communicated. Yeah, you
15 could say we was -- we weren't like together together like ---
16 like, you know, every day because she -- she had her own crib,
17 I had my own crib, but I mean we still were together because I
18 was -- I could come to her house and she could come to my
19 house. You know what I'm saying? She ain't -- she had a key
20 to my house and I had a key to hers. You know what I'm
21 saying?

22 Q: Okay, all right. Now, when Ms. Shirleen Yarborough was
23 killed, did it take place at her crib -- her residence?

24 A: Say -- say -- say that again?

25 Q: Okay. Where was Ms. Yarborough killed?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

- 1 A: At her house.
- 2 Q: At her house?
- 3 A: Yeah.
- 4 Q: Okay. Did you have a key to that house at the time?
- 5 A: Yeah.
- 6 Q: Okay and this took place sometime two thirty in the
- 7 morning; is that correct?
- 8 A: I mean -- yeah, I think.
- 9 Q: Something like that?
- 10 A: Yeah.
- 11 Q: Okay. You were arrested and charged with murder and the
- 12 other crimes that you spoke of, the weapons charge and the
- 13 burglary charge; correct?
- 14 A: Yes, sir.
- 15 Q: The burglary charge, let me focus on that for a minute.
- 16 Did you have any ownership or were you a renter or anything at
- 17 the place where Ms. Yarborough was where she was killed?
- 18 A: No, sir.
- 19 Q: You just had a key; correct?
- 20 A: Yes, sir.
- 21 Q: Okay. Did you -- after you were arrested, how long did
- 22 you stay in jail before you entered the plea?
- 23 A: Four -- about four -- four years, four or five years,
- 24 something like that.
- 25 Q: Four or five years?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

- 1 A: (Nods.)
- 2 Q: During that time, did you have an attorney?
- 3 A: Yes, sir.
- 4 Q: Who was the attorney?
- 5 A: Doug Strickler, Pringle, I had Boyd Young.
- 6 Q: Okay.
- 7 A: I had a mitigating attorney, too.
- 8 Q: Okay. When ---
- 9 THE COURT: I didn't catch that last part.
- 10 MR. BELDING: He said he had a mitigating attorney and
- 11 I'll get him to explain that, Your Honor.
- 12 Q: At some point, who was the prosecutor? Do you recall who
- 13 the prosecutor was on your case?
- 14 A: I ain't -- I kind of -- I forgot his name, but Ms.
- 15 Pringle know.
- 16 Q: Okay. Male or female? Do you recall?
- 17 A: Male.
- 18 Q: Male?
- 19 A: (Nods.)
- 20 Q: After you were arrested, did you hire an attorney or was
- 21 one appointed for you?
- 22 A: One was appointed to me.
- 23 Q: Okay. Doug Strickler, at some point did he take over the
- 24 defense of your case?
- 25 A: I mean he was there when I took my plea, yeah.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: Okay. Did he come to see you while you were in jail?

2 A: Yeah.

3 Q: Did you have -- how many times do you think you talked to
4 Mr. Strickler about your case?

5 A: About what, three or four times, something like that.

6 Q: Three or four times?

7 A: (Nods.)

8 Q: Do you think that Mr. Strickler understood what your case
9 was about?

10 A: Yeah.

11 Q: Did you discuss any defenses you had for the charges?

12 A: Nah, we ain't discussed any defense like what we was
13 going to do. He was just telling me certain things I need to
14 look -- look at, something like the statements and stuff like
15 that.

16 Q: Okay.

17 A: He was just telling me to look at certain things in my
18 motion.

19 Q: Okay. Speak up a little bit. I'm even having a little
20 trouble hearing you. Did you have defenses to the charges of
21 murder against these -- of these three people?

22 A: Not that I know of.

23 Q: Okay. Now, when you -- when you pled guilty before Judge
24 Clifton Newman in January of last year, do you remember being
25 in the courtroom in front of him?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

- 1 A: Mm-hmm.
- 2 Q: Okay. You were asked if you -- if you had killed these
- 3 three people. Do you recall what you said?
- 4 A: Not all -- not all at one time right now.
- 5 Q: Okay. Let me ask you this then. Did -- were you
- 6 responsible for the killing of these three people?
- 7 A: I mean yeah, to -- I had -- I had came forward to take a
- 8 plea. You know what I'm saying? For that scenario right
- 9 there, did I -- did I do it? They said, you know, that I was
- 10 coming out here on a negotiated plea so that's what I was
- 11 doing.
- 12 Q: Well, let me ask you now. Were you there the night in
- 13 November 2006 that the three people got killed?
- 14 A: Was I there?
- 15 Q: Were you there?
- 16 A: I mean I -- when I got caught at the crime scene, they
- 17 caught me away -- I mean about down the street from my co-
- 18 defendant's house.
- 19 Q: Okay and what was the name of your co-defendant?
- 20 A: Jamel Robinson.
- 21 Q: Jamel Robinson; correct?
- 22 A: Yeah.
- 23 Q: Okay. Did Mr. Robinson get charged with any crimes?
- 24 A: He got charged with obstruction of justice and accessory
- 25 after the fact.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: Okay. Accessory; correct?

2 A: Yeah.

3 Q: All right. Do you know whether or not Mr. Robinson was
4 going to testify for you or against you at a potential trial?

5 A: No, sir.

6 Q: Okay. Did you talk to Mr. Strickler at any point about
7 what Mr. Robinson knew about this case?

8 A: Nah. I mean they just said that he might -- he might go
9 against me if -- if I were to go to trial, but that ---

10 Q: You don't know what he might have said at trial?

11 A: Yeah, yeah.

12 Q: Okay. How far away from the -- did you say you were
13 caught at the crime scene or near the crime scene?

14 A: I was -- I was caught like maybe two, three blocks from
15 my co-defendant's house.

16 Q: Okay. How long after this -- these killings took place
17 were you arrested?

18 A: I mean I got arrested that -- that -- that day I think.

19 Q: Okay.

20 A: That day.

21 Q: All right. Within a few hours?

22 A: Yeah, I think.

23 Q: Okay. Did you give any statements to the police about
24 your -- whether you did it or not?

25 A: A statement? The police, they got a statement, but they

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

- 1 -- the statement that they got from me was more of a time.
2 They asked me what time I got off work and then they wrote up
3 a statement and they wanted me to sign it, but I didn't.
4 Q: Okay and do you know whether or not if they got a
5 statement from Jamel Robinson?
6 A: They got two statements from Jamel Robinson.
7 Q: Did you get to see the copy of the written statement of
8 Jamel Robinson?
9 A: No, sir.
10 Q: Do you know whether or not the statement, the written
11 statement, of Mr. Robinson was ever provided to your
12 attorneys?
13 A: No, sir.
14 Q: Okay. Do you have a copy of those statements?
15 A: I got one of them.
16 Q: Okay. How did you get those statements?
17 A: I got them from Laura one time and Ms. Pringle and Boyd
18 brought me some, too.
19 Q: The lawyers gave them to you?
20 A: Yeah.
21 Q: Okay. Let me ask you, Mr. Robinson [sic.], if you
22 recognize this document?
23 A: Yeah.
24 Q: Yes? To the best of your knowledge, what is this
25 document?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 A: Jamel Robinson's statement.

2 Q: Okay. Do you know when this statement was written up?

3 A: It say 11/2/06.

4 Q: November 2nd, 2006, at approximately what time?

5 A: 5:35.

6 Q: Okay and was this a statement that was provided to you by
7 your attorneys as part of the State's discovery?

8 A: Yeah.

9 Q: Okay.

10 MR. BELDING: Your Honor, I'd like to move that this be
11 introduced as Applicant's Exhibit 1.

12 MR. JOHNSON: Your Honor, I've just got kind of a two-
13 fold I guess objection to this. One was I thought Mr. Gamble
14 just testified a minute ago he never saw any statements. I
15 thought that was his testimony a minute ago so I don't know
16 that he can identify this when he just said a minute ago he'd
17 never seen a statement from his attorneys, but in addition to
18 that, I would just -- I have no problem with it being marked
19 maybe for identification until, you know, Ms. Pringle or Mr.
20 Strickler can come up here and identify this as part of their
21 file as something they did have.

22 MR. BELDING: We'd stipulate to that, Your Honor. I
23 think that's appropriate if it's all right with the Court.

24 THE COURT: I'll just mark it for identification.

25 MR. BELDING: All right. Your Honor, I have a copy just

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 for you if you'd like to follow along.

2 THE COURT: All right.

3 MR. BELDING: All right.

4 (Whereupon, the statement of Jamel Robinson is marked for
5 identification only as Plaintiff's Exhibit Number 1.)

6 Q: Do you have -- you have it back, Mr. Gamble?

7 A: Yes, sir.

8 Q: What's been marked as Plaintiff's -- excuse me,
9 Applicant's Exhibit 1 is this statement from 5:35 p.m. of
10 Jamel Robinson and this was your co-defendant; correct?

11 A: Yes, sir.

12 Q: All right. Now, did you from your attorneys receive
13 another statement from Mr. Robinson?

14 A: Yeah.

15 Q: Okay, at some point? All right, let me ask if you
16 recognize this as potentially that statement?

17 A: Yeah, that's it.

18 Q: All right and again, you got both of these from your
19 attorneys; correct?

20 A: (Nods.)

21 Q: Was Ms. Pringle the one that you recall giving you these
22 written statements? Ms. Fielding Pringle?

23 A: I mean I -- I asked Pringle. I asked Boyd and I asked
24 Laura. I asked three -- I asked three different attorneys for
25 certain parts of my motion.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: Okay and when you say your motion, you're talking about a
2 motion to get everything the State had against you; correct?

3 A: Yeah.

4 Q: The discovery, all right. Now, you provided these two
5 statements -- oh, excuse me.

6 MR. BELDING: Your Honor, at this time, I'd like to move
7 the second one just be marked as Applicant's Exhibit 2 for
8 identification.

9 THE COURT: So marked. You need to mark that one.

10 MR. JOHNSON: And Your Honor, I just have the same
11 objection.

12 THE COURT: So noted.

13 MR. JOHNSON: I know the record will reflect it, but I
14 think his testimony was he never saw these.

15 (Whereupon, the second statement of Jamel Robinson is
16 marked for identification only as Plaintiff's Exhibit
17 Number 2.)

18 MR. BELDING: Thank you.

19 Q: Now, you have them both back in front of you, Mr. Gamble?

20 A: Yes, sir.

21 Q: All right, Gam, when you got these two written statements
22 from your co-defendant from your attorneys, did you notice
23 that there were discrepancies in the two statements?

24 A: Not at first.

25 Q: Okay. Do you know in reading them now that the two

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 statements don't coincide?

2 A: Somewhat.

3 Q: Okay. Would you identify for us the things that are
4 different in these two statements that apparently were written
5 about three hours apart?

6 A: I mean one is saying that he was at -- he was playing
7 basketball and the other one just saying he was with his
8 girlfriend.

9 Q: Okay. So in fact, Mr. Robinson gave two different
10 conflicting accounts of what happened that day; correct?

11 A: Yeah.

12 Q: Okay. Do you know whether or not Mr. Robinson was
13 potentially a witness against you at a trial?

14 A: I mean that's -- that's what I assume. That's what my
15 attorneys told me.

16 Q: Okay and did you think that this information might have
17 been used to impeach Mr. Robinson? Do you know what I mean by
18 that? In other words, to show that he was not telling the
19 truth.

20 A: I mean I thought the two statements showed that.

21 Q: Okay, all right. In the time that you spent in jail --
22 how long were you in jail, Gam?

23 A: Four or five years.

24 Q: Four or five years, okay, and during that time I think
25 you testified that you saw Doug Strickler three or four times.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Okay, is that correct?

2 A: Yes, sir.

3 Q: All right. How long were those visits? Did he spend an
4 hour with you or what do you recall?

5 A: About an hour.

6 Q: Okay and did you get a chance to talk with Mr. Strickler
7 about everything that you might have brought up as a defense
8 to these charges?

9 A: No.

10 Q: What was it that you didn't get to talk to him about?

11 A: I mean it's certain -- certain things I was trying to see
12 in my case, especially with my statements and the statements
13 right here and, you know, I was trying to figure out what kind
14 of defense they had if I was to go to trial.

15 Q: Well, let me ask you, all right? The defense attorney
16 can't create a defense for you.

17 A: I understand.

18 Q: They have to take what you tell them.

19 A: But they could have argued with these statements.

20 Q: Okay. Did they ask you whether or not you were actually
21 there the night that these killings took place?

22 A: I mean yeah.

23 Q: Okay. Did -- did you have a self-defense defense?

24 A: I mean not -- not really I mean.

25 THE COURT: I can't understand you, Mr. Gamble.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 A: A self-defense? You said self-defense?

2 Q: In other words, were these people killed by you defending
3 your own life?

4 A: Oh, okay, okay. I mean in a sense the way they got it
5 written in the motion versus how -- y'all asked me how I told
6 my -- my attorneys, Doug Strickler and Boyd, you know, I
7 explained to them in that same -- in that same way. You know
8 what I'm saying? And I thought they was going to help me out
9 building a defense on that, but, you know, they found -- Ms.
10 Pringle found -- got an attorney or talked to the solicitor to
11 get me a -- a plea so I went with the plea.

12 Q: Okay. Before that happened, before you agreed to this
13 plea, you then were given a piece of paper by the Solicitor's
14 Office saying they intended to seek the death penalty; is that
15 correct?

16 A: Yes, sir.

17 Q: They gave that to you in jail?

18 A: Yes, sir.

19 Q: All right. Do you recall talking with a lawyer named
20 Laura Young?

21 A: Yes, sir.

22 Q: Okay. What was Laura Young -- is she an attorney? Do
23 you know?

24 A: Yeah.

25 Q: Okay. Was Ms. Young -- what was she going to do to

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 assist you if there was a trial?

2 A: She was getting like -- she was just getting like photos
3 and stuff like that, basically like building my character
4 instead of tearing my character up. Do you feel me? So she
5 was just getting paperwork that was helping me build my
6 character, all the good things I did instead of all the
7 negative things.

8 Q: Okay. Did anyone ever say this to you do you recall that
9 she is a mitigation specialist?

10 A: Yeah, I heard.

11 Q: Okay. What does that mean?

12 A: That means she -- she was helping me. Basically, if they
13 was to seek the death penalty on me, she was going to assist
14 me with that.

15 Q: Okay. Now, after you were served notice that the State
16 intended to seek the death penalty, did your lawyers come and
17 talk to you about what all was involved with a death penalty
18 trial?

19 A: Did they come and -- say what -- you say what?

20 Q: Speak up. Let me repeat. Did your lawyers come to talk
21 to you about what was involved in a death penalty trial?

22 A: I mean they -- they explained it, but, you know, I was
23 trying to get information to help me, like caseloads on it.

24 So yeah, I mean they -- they did their part in getting me
25 information, but I still was kind of confused. You know what

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 I'm saying? I was trying to figure out -- I mean my
2 mitigation -- my -- Laura had told me something that that's
3 why we could not do so. I'm trying to fight with it now.
4 Q: All right. Let me ask and see if you recall this. In a
5 regular murder case, Gam, you go through the trial; the jury
6 finds you guilty or not guilty.

7 A: Yeah.

8 Q: If they find you guilty, the judge gives you a sentence
9 right there.

10 A: Yeah.

11 Q: Do you understand that?

12 A: Yeah.

13 Q: Okay. In a death penalty trial, you go and the jury
14 decides whether or not the defendant killed these people and
15 whether or not there were aggravating circumstances. I mean
16 something especially bad about this killing. Okay, do you
17 understand that?

18 A: Yeah.

19 Q: Okay and then by law, the judge cannot sentence you right
20 there, but we have to wait at least twenty-four hours and then
21 there is a second part of the trial that is what we call the
22 sentencing phase. In other words, the jury gets to decide
23 whether or not you should be -- or a defendant should get the
24 death penalty or a life sentence. Do you understand that?

25 A: Yeah.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: And in that sentencing phase, you were allowed -- or a
2 defendant facing the death penalty is allowed to present
3 mitigation. Do you know what mitigation means?

4 A: I mean give me a definition.

5 Q: Well, and I'm thinking that that's what you were talking
6 about when you said she was collecting things about your
7 character and pictures to show a jury.

8 A: Yes, sir.

9 Q: Is that what you're talking about?

10 A: Yeah.

11 Q: Is that what she was doing for you?

12 A: Yeah, that's what she was doing.

13 Q: Okay. So you were preparing with your lawyers for a
14 death penalty trial and this lady was preparing to show them
15 that you were a good guy and shouldn't get the death penalty;
16 is that right?

17 A: Yeah.

18 Q: Okay. What about the first part of the trial? We call
19 that the guilt phase.

20 A: Mm-hmm.

21 Q: In other words, that question for this jury would have
22 been did you -- did you in fact commit this crime at all.
23 What was going on with your attorneys as far as getting ready
24 for that part of the trial, the whether you did it or not
25 part?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 A: I mean I had my attorneys ask me that. You know what I'm
2 saying? But, you know, I was trying to fight with what the
3 investigators had like in these statements and what they said
4 that happened at the crime scene and stuff like that. So I
5 was concentrating mainly on that.

6 Q: Okay. Do you think your attorneys -- and I'm speaking
7 specifically about Mr. Strickler or Ms. Pringle. Do you
8 believe they effectively investigated what defenses you may
9 have had to the murder charges?

10 A: I don't -- I don't understand that question.

11 Q: Okay. As I understood your testimony a couple of minutes
12 ago, Ms. Young, Laura Young, the mitigation lady ---

13 A: Mm-hmm..

14 Q: --- was the one that seemed to be doing a lot of the
15 work. Is that right?

16 A: Yeah.

17 Q: Okay. Was anybody -- and I mean Mr. Strickler or Ms.
18 Pringle. Were they working on the defense to the actual
19 charges? Were they working on whether or not you did it or
20 not?

21 A: I don't think so.

22 Q: Okay. Did you talk to them much about what they were
23 doing as far as whether or not you committed these murders?

24 A: I mean we talked. We talked, but it was basically me
25 trying to get caseloads.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: Okay. What do you mean by caseloads?

2 A: I was trying to get different cases, trying to do a
3 comparison on what I was -- what I was facing with versus
4 another case.

5 Q: Okay. Like legal precedents?

6 A: No.

7 Q: Cases that had been decided?

8 A: Yeah.

9 Q: Okay. So you were -- were you -- you were doing research
10 on that?

11 A: Yes, sir.

12 Q: Okay. While you were in jail?

13 A: (Nods.)

14 Q: Okay. What about the whether you did it or not part?
15 Was anybody investigating the facts of the case to find out if
16 they could pin it on you or not?

17 A: I don't -- I don't -- I mean they asked me did I do it,
18 but actually doing anything about it, no.

19 Q: Okay.

20 A: As in doing any kind of forensic or DNA or stuff like
21 that, they ain't -- it ain't showed -- they ain't showed that
22 they was doing anything, testing anything.

23 Q: Well, since you brought it up, let me ask you. Did --
24 did your lawyers ask you whether or not you did it?

25 A: Yeah.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: What do you recall telling them?

2 A: I mean I just went by what the investigators had wrote
3 and said that happened. So basically I was enlightening them
4 on what the investigators said happened and that's what it
5 was.

6 Q: Okay. Do you ever recall whether or not you and either
7 Ms. Pringle or Mr. Strickler ever had a conversation about
8 whether or not you actually killed these people?

9 A: I mean we had a conversation about it.

10 Q: Okay. What do you recall telling them about it? Did
11 they ever directly ask you, look, we can do all this defense
12 work, but did you actually kill them?

13 A: I ain't -- I couldn't -- I couldn't really go word for
14 word. I can't remember word for word what I said to them, but
15 I mean we talked about it.

16 Q: Okay, all right. As a result of those conversations in
17 the four years that they talked to you a number of times, were
18 you prepared to go to trial to plead not guilty to these
19 killings?

20 A: Was I prepared?

21 Q: Yes.

22 A: No. I wasn't prepared to plead not guilty because I
23 didn't know what information I needed. I didn't know there
24 were certain steps that you had to go through in going to
25 trial. See, I didn't know -- know these things, you know, so

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 when I got to Lee County, I started going to the law library
2 and I started reading up on it, so.

3 Q: But that was after you had entered the plea; correct?

4 A: Yeah.

5 Q: Lee County is the Department of Corrections?

6 A: Yes, sir.

7 Q: Okay, all right. Do you think your attorneys were
8 prepared to go plead you not guilty and have a trial in front
9 of a jury?

10 A: They said they wasn't.

11 Q: They said they weren't?

12 A: Mm-hmm.

13 Q: Okay.

14 A: Yeah.

15 Q: Do you know why they weren't ready?

16 A: No, sir.

17 Q: Did they ever tell you anything about what was causing
18 the holdup?

19 A: I mean they made it seem like Jamel Robinson's statement
20 was the statement that was going to get a conviction.

21 Q: Okay. Ultimately, you're facing the death penalty. Did
22 you have a conversation with either Mr. Strickler or Ms.
23 Pringle or both about what you should do, whether you should
24 take a plea or not?

25 A: Yeah. That's why I -- I took the plea.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: Where did that conversation take place? Do you recall?

2 A: I mean they ---

3 Q: Was it at the jail?

4 A: Yeah. They took -- we was in the county jail. We was
5 talking ---

6 Q: Okay.

7 A: --- about it when they had found the solicitor and the
8 judge to take me up on the plea.

9 Q: Okay. Did you ask them any questions about what would be
10 involved in pleading guilty to these killings?

11 A: I mean deep down I really ain't really wanted to go
12 through with it, but I ain't -- I mean you think about it.

13 I'm looking at the death penalty and life so come on, that's
14 not -- you think about it. I mean if you was in my situation,
15 you got them two choices to choose, you tell me which one
16 you'll choose.

17 Q: I think that's a good question, but let me ask you one.
18 On a certain day last year in January, you appeared in front
19 of Judge Newman and you pled guilty to these murders and this
20 burglary and this use of a weapon; right?

21 A: Yeah.

22 Q: Okay and somewhere in the transcript there is a statement
23 made either by you or one of your attorneys that you didn't
24 want to face the death penalty.

25 A: Yeah.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: Right and that's what you were asking me. I mean
2 wouldn't I do the same thing. I mean you're not going to take
3 a chance on getting the death penalty so you plead guilty; is
4 that right?

5 A: Yes, sir.

6 Q: Okay. Earlier, Judge McMahon explained to you that if
7 you win this PCR and show that your attorneys were not
8 effective in representing you ---

9 A: Mm-hmm.

10 Q: --- that you might be facing the death penalty again.

11 A: Yes, sir.

12 Q: Okay and you and I talked about that at some length down
13 at Lee Correctional; correct?

14 A: Yeah.

15 Q: Do you remember what you told me because I'd like you to
16 tell the judge? Why do you want to go forward when you might
17 be facing the death penalty again?

18 A: I mean I don't know word for word, but what I said was,
19 you know, I would rather -- you know, because I got life now,
20 I would rather try to fight my case than, you know, not
21 knowing at all and I took a plea. You know what I'm saying?

22 Q: Okay. Did I explain to you -- do you recall whether I
23 told you the difference between being in an institution with a
24 murder sentence ---

25 A: Yeah.

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: --- and being on death row?

2 A: Yeah.

3 Q: Okay and do you understand, Gam, that being on death row
4 is ---

5 A: Not worth it.

6 Q: --- not that much fun?

7 A: Yeah.

8 Q: Okay. That you're locked up 23 hours a day minimum?

9 A: I think.

10 Q: That when you have exercise, you're not out in the yard
11 with the general population; you're in a little area and you
12 might have one other person, okay, and -- and you were not
13 thrilled about that possibility; were you?

14 A: No.

15 Q: Okay. I mean forgetting about the fact that when you're
16 on death row, you might get executed someday; correct?

17 A: Yes, sir.

18 Q: All right. You're willing to take the chance that you
19 might end up on death row through this process, okay, because
20 the State can charge you again and you might have to go to
21 trial?

22 A: Yeah.

23 Q: You're willing to take that chance because why?

24 A: I mean I'd rather know that I fought my case instead of
25 just, you know, I took a plea. You feel me? I don't know if

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 I could -- if I had a chance because there's certain things
2 with my case right now that -- that -- that were good
3 arguments, but nobody made an issue about it. You know what
4 I'm saying?

5 Q: Give us an example. I want you to tell the judge an
6 example of something that's a good argument for you that no
7 one was willing to bring up.

8 A: You got to -- you got to get my notebook. You got to get
9 my stuff.

10 MR. BELDING: Do you mind if he looks through his notes,
11 Your Honor?

12 THE COURT: I have no objection.

13 Q: I'm going to hand to you -- these are all yours; correct?

14 A: Yeah.

15 Q: And are these things you brought with you from the
16 Department of Corrections today?

17 A: Yes, sir.

18 Q: Okay. Is any of this stuff that I gave you or is it
19 stuff that you've come up with on your own?

20 A: Nah, this is stuff I come up with on my own.

21 Q: Okay, all right.

22 MR. JOHNSON: Your Honor, I just ask that he doesn't just
23 read right off of something. If he wants to look at it and
24 refresh his memory with it and then testify to whatever he
25 wants, I have no objection to him having that up there. I

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 just don't want ---

2 PLAINTIFF: Why -- why don't you read it?

3 MR. JOHNSON: --- him reading it ---

4 THE COURT: Why don't you be quiet when the attorney is
5 objecting?

6 PLAINTIFF: All right.

7 THE COURT: You answer the questions when you're asked
8 questions.

9 Q: If you find something, Gam, that you would -- you would
10 like me to question you about, will you just give it to me?

11 A: All right.

12 THE COURT: Your lawyer just asked you a question earlier
13 to give him an example of what you're referring to of an issue
14 you think might have been important if your lawyers had raised
15 it.

16 PLAINTIFF: Well, okay. Well ---

17 THE COURT: And you can -- you can ---

18 PLAINTIFF: My letter, my letter to you. That's --
19 that's the example.

20 THE COURT: And you can -- you can look through your
21 notes and you can find that example and tell your lawyer the
22 answer to that question.

23 A: Nah, I mean I'm just saying that's the example. When I
24 wrote that letter to you, you know what I'm saying, based on
25 -- you got my letter; right?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 Q: Right.

2 A: You remember the issues that I had at the bottom of the
3 letter, not the caseload, just the issues.

4 Q: Okay. Let me ask you this. Is this an example that
5 there was no chemistry analysis report of the evidence in your
6 case?

7 A: Yeah.

8 Q: Okay and what do you mean by that, Gam?

9 A: I mean all the stuff that they -- they -- like DNA. They
10 took my clothes and they said they tested for blood and all
11 that and they come up didn't detect anything and stuff like
12 that.

13 Q: Okay. So there wasn't -- is it -- is it your
14 recollection, Gam, that there wasn't any physical evidence
15 tying you to this crime?

16 A: I mean the only thing that they said tied me to the crime
17 was my co-defendant and witnesses said they seen me leaving
18 the crime scene.

19 Q: Okay and then you understand a jury could still convict
20 you based on that testimony?

21 A: Yeah.

22 Q: But you're saying there wasn't anything physical, blood,
23 DNA, anything like that?

24 A: Yeah.

25 Q: Is that right? Okay. Did your lawyers know that there

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 wasn't anything that would connect you to the crime in terms
2 of physical evidence?

3 A: I mean they said the statements, my -- my car. I mean
4 yeah. I mean that one of the victims was the mother of my
5 son.

6 Q: Okay. You also wrote to me and said there was an
7 ineffective indictment. Do you know what that -- what you
8 were referring to there?

9 A: The -- the indictments.

10 Q: Do you think they were -- I'm not sure ---

11 A: Because they didn't tell -- they didn't show the motive.

12 Q: Do you think the -- the indictments were no good?

13 A: Yes, sir.

14 Q: Why do you think the indictments were no good?

15 A: Because they didn't have the motive, the time, or the
16 dates.

17 Q: Wrong time and date?

18 A: Yeah.

19 Q: Okay. Did you talk to your lawyers about whether or not
20 they should try to get the indictments thrown out?

21 A: No, sir.

22 Q: And did you ever mention that to them?

23 A: No, sir.

24 Q: Are these things that you came up with since you've been
25 through your research since you've been incarcerated?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 A: Yes, sir.

2 Q: Okay. Did you ever recall talking to your lawyers about
3 subject matter jurisdiction?

4 A: No, sir.

5 Q: Do you know what that means now?

6 A: I'm still studying on it. That's why I was trying to ask
7 for a continuance so that way I can do more studying.

8 Q: Okay, all right and, in fact, I believe you asked me for
9 copies of the U.S. and South Carolina constitutions, too?

10 A: Yeah.

11 Q: And what -- what would be the reason for looking through
12 those? To see if you could find anything that could help your
13 case?

14 A: Yes, sir.

15 Q: Okay. Ultimately, Gam, we're back to somehow the
16 decision was made that you would plead guilty. Who made that
17 decision?

18 A: I mean I had to make the decision, but, you know,
19 somebody had to give me advice.

20 Q: Okay.

21 A: So I took advice thinking that was -- that was the best
22 thing for me at the time. You know what I'm saying? So I did
23 that.

24 Q: I understand what you're saying. Who gave you the advice
25 to plead guilty?

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 A: Ms. Pringle said she -- she had a deal because she -- she
2 knew the judge or the solicitor or something like that and
3 that's how it came about and they set a date and I just agreed
4 to it.

5 Q: Okay. Was it mostly at this point Ms. Pringle advising
6 you to plead guilty?

7 A: Yes, sir.

8 Q: Okay. Mr. Strickler was still one of your lawyers, but
9 he wasn't involved in that conversation as much?

10 A: Yeah.

11 Q: Okay. I want to make sure I understand. Ultimately, it
12 was your decision to plead guilty?

13 A: Yeah.

14 Q: And why did you -- was it to avoid the possibility of
15 going to trial for the death penalty? Is that why you pled
16 guilty?

17 A: Yes, sir.

18 Q: Okay and are you willing to seek post-conviction relief
19 from this Court knowing that you might be back in front of the
20 death penalty in order to present your best case in your
21 behalf?

22 A: Yeah. I -- I want to be honest. I don't really got a
23 answer for that. I mean you have to ask it in a different
24 way.

25 Q: Okay. We -- I think we understand that you would take a

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 chance on being on death row ---

2 A: Mm-hmm.

3 Q: --- to have a full trial of what happened in your -- in
4 this -- these cases; is that right?

5 A: Yes, sir.

6 Q: Okay, all right. Now, you wrote to me and you used the
7 exact right expression in your last letter. You said that you
8 understood that post-conviction relief and this hearing was
9 one bite out of the apple. Do you recall saying that?

10 A: Yes, sir.

11 Q: Do you know what that means?

12 A: Like I said, sir, I'm studying so I got a couple
13 different phrases and when I wrote you, I was trying to show
14 you my arguments.

15 Q: Okay.

16 A: Because if -- if you read the motion, you -- you
17 explained stuff to me when you came and seen me that I didn't
18 know, so.

19 Q: I understand.

20 A: You brought some things to my attention.

21 Q: I'm glad it was something you didn't know.

22 A: You brought some things to my attention so I had to go
23 back and write you that letter.

24 Q: Okay. Do you know that one bite of the apple in the
25 post-conviction relief sense means that you can't keep

DIRECT EXAMINATION OF CHARLES GAMBLE BY MR. BELDING

1 bringing successive petitions?

2 A: Mm-hmm.

3 Q: You can't keep applying for post-conviction relief; you

4 basically get one shot at it ---

5 A: Right.

6 Q: --- and whatever the resolution is, that's it?

7 A: Yeah.

8 Q: Okay. Well, we're here today and the judge has asked to

9 hear from you about what your complaints are about your

10 attorneys. What would you tell Judge McMahon about what your

11 attorneys -- how did they fail you that caused you to plead

12 guilty to these three murders?

13 A: Well, sir, that's why I was trying to get a continuance

14 so that way -- even though I know I've been denied, I was

15 trying to get that information so I could have my own list so

16 that way I could easily show y'all through the docket numbers

17 on these -- on the statements and different things in my

18 motion showing the ineffectiveness that my -- my other

19 attorneys, you know, they didn't do any -- they didn't do what

20 they was supposed to for me in my favor.

21 Q: Okay. As we sit here today, you don't really have that

22 information with you; is that right?

23 A: No, sir.

24 Q: Okay. You do have the opportunity to address the judge

25 directly. Is there anything you would like to tell this judge

CROSS EXAMINATION OF CHARLES GAMBLE BY MR. JOHNSON

1 about why you deserve post-conviction relief in these cases?

2 A: I mean at this moment I mean the only arguments I really
3 had was the ones that I had gave to you in your letter, you
4 know. I had some other arguments, but I needed to consult
5 with you first before coming here.

6 Q: Would you be willing to go back and face a death penalty
7 trial?

8 A: I mean if that's what it is, then yes, I guess so.

9 Q: Okay and then just let the chips fall where they may?

10 A: Yeah.

11 Q: Okay. Are you asking the judge to go ahead and grant
12 your motion for post-conviction relief in this case?

13 A: Yes, sir.

14 Q: Okay. Thank you, Gam.

15 MR. BELDING: No further questions at this time, Your
16 Honor.

17 THE COURT: Thank you. Yes, sir?

18 MR. JOHNSON: Thank you, Your Honor. I'll be very brief.

19 CROSS EXAMINATION

20 BY MR. JOHNSON:

21 Q: Mr. Gamble, at your plea hearing you told the judge that
22 you had gone through all of your discovery with Ms. Pringle
23 and Mr. Strickler; correct?

24 A: You said I told them I went through my whole discovery
25 with them or I got it?

CROSS EXAMINATION OF CHARLES GAMBLE BY MR. JOHNSON

1 Q: You said -- I'm sorry go ahead. The evidence, the
2 discovery material that the State turned over, the Court asked
3 -- or Ms. Pringle said that she had reviewed the discovery
4 with you and you had reviewed it on your own and you agreed
5 with that when the Court asked you; correct?

6 A: She did go over my motion of discovery with me, but there
7 was certain parts of my motion that wasn't there because she
8 was waiting for certain people to give it to her.
9 Investigators had certain parts of my motion, too.

10 Q: Okay and you told the Court also that based on that
11 evidence that you believed a jury would be able to find --
12 would most likely find you guilty of all the charges?

13 A: I mean that's what she led me to believe.

14 Q: Okay and I don't mean to beat a dead horse here, but you
15 don't want the death penalty; right?

16 A: No, sir.

17 Q: And you didn't want the death penalty back then when you
18 were facing these charges; right?

19 A: No, sir.

20 Q: And the only way to guarantee that you weren't going to
21 get the death penalty was to enter this plea and get the
22 negotiated life without parole sentences and that -- that was
23 the only way you were going to guarantee that you wouldn't get
24 the death penalty on the murders; right?

25 A: I mean that's how I felt. That's how -- that's how it

CROSS EXAMINATION OF CHARLES GAMBLE BY MR. JOHNSON

1 was let -- that's what I -- that's what my -- that's what my
2 attorneys led me to think.

3 Q: Okay and that was why you pled because you'd be
4 guaranteed you wouldn't get the death penalty if you ---

5 A: Yeah.

6 Q: --- pled guilty?

7 A: Yeah.

8 Q: Because a guaranteed life sentence in your opinion and
9 based on your testimony is much better than rolling the dice
10 and getting potentially a death penalty?

11 A: Yeah.

12 MR. JOHNSON: That's all the questions I have, Your
13 Honor.

14 MR. BELDING: No redirect, Your Honor.

15 THE COURT: Thank you, thank you very much, Mr. Gamble.
16 You may step down.

17 (Whereupon, the witness leaves the stand at 1:11 p.m.)

18 MR. BELDING: If it please the Court, Your Honor, while
19 she's here, I'd like to call Ms. Fielding Pringle to the
20 stand.

21 THE COURT: Do you know how long she's going to be?

22 MR. BELDING: Not long.

23 THE COURT: All right. Yes, come around, please.

24 BAILIFF: If you'd place your left hand on the Bible and
25 raise your right hand and face the judge for me.

DIRECT EXAMINATION OF FIELDING PRINGLE BY MR. BELDING

1 THE COURT: Do you solemnly swear the testimony you give
2 before the Court today will be the truth, the whole truth, and
3 nothing but the truth, so help you God?

4 WITNESS: I do, yes, sir.

5 THE COURT: Thank you. Once you're comfortably seated,
6 please state your full name for the record, spelling your last
7 name.

8 BAILIFF: Please speak into the microphone.

9 WITNESS: I'm Elizabeth Fielding Pringle, P-R-I-N-G-L-E.

10 MR. BELDING: Thank you, Your Honor, if it please the
11 Court.

DIRECT EXAMINATION

12
13 BY MR. BELDING:

14 Q: Ms. Pringle, are you an attorney that's licensed in this
15 state?

16 A: Yes, I am.

17 Q: How long have you been licensed to practice law?

18 A: Since 1996.

19 Q: And what is your primary area of practice?

20 A: Criminal defense.

21 Q: Where are you employed at this time?

22 A: Richland County Public Defender's Office.

23 Q: How long have you been with them?

24 A: Total? I came back in 2006, prior to that approximately
25 five years. So five years plus 2006 until now, most of my --

DIRECT EXAMINATION OF FIELDING PRINGLE BY MR. BELDING

1 most of my career.

2 Q: Something -- okay and you took a little break?

3 A: I went and had babies ---

4 Q: I understand.

5 A: --- and then came back after.

6 Q: Good for you, all right. Do you recall representing Mr.

7 Charles Gamble?

8 A: Yes, I do.

9 Q: Okay and did you have discussions with Mr. Gamble about
10 his case?

11 A: Extensive.

12 Q: And would you agree with him that you met with him three
13 or four times in the jail?

14 A: No.

15 Q: What would be your recollection?

16 A: I can -- I can read off to you the recorded visits if you
17 like by date ---

18 Q: Okay.

19 A: --- and then I would have an addition to that. Mr.

20 Gamble was actually initially represented by Mr. Strickler and
21 another attorney in our office by the name of Lauren Mobley.

22 When he was arrested was in November of 2006 I believe. I

23 actually became involved when the case became a death penalty

24 case, which was in January of 2009, but our notes reflect that

25 he was seen at least -- and this is not every visit he would

DIRECT EXAMINATION OF FIELDING PRINGLE BY MR. BELDING

1 have received -- 2/26/07, 8/15/07, 2/23/08, 5/14/08, 6/9/08,
2 6/19/08, 6/23/08, 6/30/08, 7/30/08, 11/3/08, 12/1/08, 1/14/09,
3 2/4/09, 7/14/09, 8/7/09, 8/11/09, 9/22/09, 10/9/09, 1/7/2010,
4 8/20/2010, 9/7/2010, 11/17/2010, 12/22/2010, then additional
5 visits that were out of order there, 3/17/08, 6/15 I believe
6 that's '08, 2/3/09, 2/7/09, and there would have been other
7 visits that I had with him leading up to the plea which would
8 have been in February of '09.

9 But I would also add that there were -- that those are
10 the combined notes of Mr. Strickler and me. We had an
11 additional attorney on the case by the name of Boyd Young with
12 the capital trial unit. He saw him as well. I do not have
13 notes reflecting the dates of his visits. We also had, as you
14 pointed out on the direct, Mr. Gamble, Laura Wood Young, who
15 saw him quite frequently. She is -- she was a mitigation
16 investigator on our case, but she is also an attorney barred
17 in Georgia and in South Carolina, although she was working as
18 a mitigation investigator in this case.

19 And finally, we had a psychologist who was working to
20 help assist in the development of mitigation and also to
21 assist us in coming to a -- what we believed to be a positive
22 conclusion in this matter and that psychologist was seeing him
23 regularly for about eighteen months I believe. So he was
24 being visited by some member of our team quite frequently.

25 Q: And just based on your notes, I think I counted twenty-

DIRECT EXAMINATION OF FIELDING PRINGLE BY MR. BELDING

1 eight times, not counting Mr. Young and the psychologist and
2 even the mitigation specialist?

3 A: And that would be what I managed and what Mr. Strickler
4 managed to get written down. I often will scribble
5 handwritten notes and I'm not as good as Mr. Strickler is in
6 the database always, but that would be at a bare minimum and
7 not including these other individuals.

8 Q: All right. Ms. Pringle, in the twenty-eight plus times
9 you talked to Mr. Gamble, did you think there was a tryable
10 defense to the murder charges for him?

11 A: I think there are a couple of different answers to that
12 question. I think you cannot look at this case except through
13 the prism of the fact that they had served him with notice of
14 intent to seek the death penalty. Had they not served that
15 notice, then we would have gone forward with a voluntary
16 defense, perhaps self-defense, but I -- self-defense would
17 have been an extreme stretch.

18 There were things to work with. There were terrible
19 difficulties. You had three homicide victims, one, arguably
20 two completely innocent. One of the individuals was by the
21 State's case asleep on the couch and had no connection to the
22 female victim or Mr. Gamble whatsoever.

23 So without going too greatly into the details, the
24 victims were removed from the home, they were drug into a
25 ditch, and they had -- they were all partially clothed and

DIRECT EXAMINATION OF FIELDING PRINGLE BY MR. BELDING

1 sort of heaped. The evidence was disturbing. It was very
2 difficult evidence to cope with. I think in order to ask a
3 jury to push those passions down and really look at it and
4 consider a voluntary outcome -- there's also an infant child
5 that was in the home during the killings who was left in the
6 home.

7 So had they -- had they not served notice of intent to
8 seek the death penalty, we would have pursued a defense along
9 those lines. They had the leverage of that notice over us.
10 In my experience in working with this Solicitor's Office for a
11 decade, they do not notice people with intent to seek the
12 death penalty in this office as leverage to plead. It's not
13 an office that will pull the notice if you -- you know, if you
14 play chicken with them and get to trial. They don't do that.

15 So if we were going to trial, we would have gone to trial
16 as a death penalty case and it was my belief that even best
17 case scenario if you win and you got convictions -- if the win
18 were convictions on voluntary, I think he still would have
19 gotten a tremendous amount of time, whether it was stacked
20 consecutively or they gave him life on the burglary. I did
21 not see an upside to going to trial. I did not.

22 I thought the best case scenario for him was life. He
23 was a client who wanted to live. He was never a client that
24 was a volunteer type of client and we were seeking to plead
25 him even before they served notice in anticipation and concern

DIRECT EXAMINATION OF FIELDING PRINGLE BY MR. BELDING

1 that they would serve notice.

2 So I'm sorry. That was a very long answer. There were
3 defenses we did and could have explored, but the bottom line
4 is that they had that notice served and once they did, I think
5 that those defenses became much more difficult to cope with
6 though we would have pursued that at trial. I mean that --
7 those were things that we investigated and issues that -- that
8 would have been part of our mitigation at trial.

9 Q: And I want to make sure I understand just for the record.
10 If it had just been a straight murder case, you might have --
11 might have gone ahead and just given it a shot at jury trial;
12 correct?

13 A: If they had not served him with notice and they had made
14 no offer, we would have I believe -- it is our practice -- Mr.
15 Strickler and myself and we've done many cases together and
16 individually, but both of us would have most likely tried that
17 case. You wouldn't have pled him straight up if there were no
18 notice.

19 Q: Okay.

20 A: There would be no reason to.

21 Q: All right.

22 A: We would have tried it.

23 Q: And -- and -- and now I'm going back to the testimony of
24 Mr. Gamble. Did you think from your experience that you had a
25 winnable guilt phase?

DIRECT EXAMINATION OF FIELDING PRINGLE BY MR. BELDING

1 A: No. I think ultimately those things, the personal
2 relationship that he had with Ms. Yarborough and, you know,
3 that this was a sort of a born out of passion kind of crime, I
4 do not think we would have won at trial. Even if we had, I
5 don't think it would have mattered, but ---

6 Q: Okay and even if you wanted to get into whether it was a
7 crime of passion or something like that, that wouldn't have
8 applied to the gentleman sleeping on the couch?

9 A: Absolutely, absolutely, and arguably -- which is very
10 tough because these two, Ms. Yarborough and her male
11 companion, were also in bed, asleep in their room or in bed in
12 their room, and there was entry into the home with the victim
13 asleep on the couch outside and so it was just a very
14 difficult set of facts based on where everyone was positioned
15 and the time of day that it was, the fact that that was not
16 his -- his residence where he was living. I mean he wouldn't
17 have been going home and surprised by this.

18 Q: Okay.

19 A: It would be difficult.

20 Q: And -- and let me see if I understand this. If it was
21 your -- and by the way, was that to the best of your knowledge
22 also Mr. Strickler's opinion of the tryability of the case?

23 A: We agreed on everything ---

24 Q: All right.

25 A: --- regarding this case.

DIRECT EXAMINATION OF FIELDING PRINGLE BY MR. BELDING

1 Q: Okay. So if you're going to try a death penalty case and
2 you're going to probably lose the guilt phase and that's why
3 you spent a lot of time on the mitigation specialist to try to
4 save his life on the, you know, sentencing phase, didn't you
5 accomplish that by pleading him guilty because ultimately
6 wouldn't he have gotten life without parole because it was a
7 death penalty case even if he had not gotten the death
8 recommendation of the jury?

9 A: And that's why that was our strenuous advice to him is
10 because best case scenario was in my opinion what he got. We
11 also did not have very good mitigation. It was a case in
12 which we really struggled and there was a huge risk there.
13 There's always a huge risk when you have a death qualified
14 jury and you just don't take that risk if you don't have to,
15 but we did not have very good mitigation to offer.

16 Q: Okay and just for purposes of judicial economy, do you
17 think there's anything that Mr. Strickler would disagree with
18 you about about what you've testified?

19 A: No, none whatsoever.

20 MR. BELDING: Thank you. No further questions, Your
21 Honor.

22 MR. JOHNSON: Briefly, Your Honor.

23 CROSS EXAMINATION

24 BY MR. JOHNSON:

25 Q: Earlier on, Mr. Gamble introduced two statements of Mr.

CROSS EXAMINATION OF FIELDING PRINGLE BY MR. JOHNSON

1 Robinson. Are those statements -- I don't know if you've had
2 a chance to look at them. I can approach and ---

3 A: I briefly -- I pulled them and I briefly glanced over
4 them. I recall initially Mr. Robinson -- if I may just
5 summarize, he initially basically said he had nothing to do
6 with anything and then he changed his statement when he
7 realized they kind of had him and implicated Mr. Gamble and
8 himself as accessory after the fact. There was nothing
9 unusual about those two statements being at odds with one
10 another. You often see that.

11 Q: Okay and those -- it's fair to say those are -- those
12 conflicting statements would have been something you could
13 have used for impeachment at trial?

14 A: Absolutely, we would have.

15 Q: Do you think you gave Mr. Gamble all the advice and
16 information necessary to make a voluntary and intelligent
17 decision to enter a plea?

18 A: I do. We spent a lot of time together. I was very fond
19 of Mr. Gamble. He was a wonderful client to work with and we
20 -- we spoke at great length. We reviewed his discovery many
21 times. He had many, many questions and we all endeavored to
22 answer those questions as best we could. Really all of us,
23 Mr. Young and Ms. Young and I spent quite a good bit of time
24 with him.

25 Q: Okay. Ultimately, it was Mr. Gamble's decision to enter

CROSS EXAMINATION OF FIELDING PRINGLE BY MR. JOHNSON

1 the plea?

2 A: Yes and in fact there really was no struggle. I mean it
3 was -- once -- we had -- we had sought a plea offer for a long
4 time and -- and sought it. We worked very hard when Mr. Goze'
5 [phonetic] left in the fall to get it done before he left, but
6 we were unsuccessful with that. Mr. Meadors left.. He was the
7 solicitor handling the case. Left for a bit of time in there
8 and then came back very briefly after Mr. Johnson took over.
9 It was only like six weeks and during that six weeks he
10 approached us and it was something we had been working for and
11 hoping for and we were able to get it at that point.

12 Q: Okay and Mr. Gamble had given a statement to police,
13 essentially a confession statement?

14 A: Yes.

15 Q: Okay, just one last question. If he had wanted to go to
16 trial, is that something that you would have been prepared and
17 gone with him and obviously represented him at trial?

18 A: Absolutely.

19 MR. JOHNSON: That's all the questions I have, Your
20 Honor.

21 MR. BELDING: No redirect, Your Honor. Thank you.

22 DIRECT EXAMINATION BY THE COURT

23 THE COURT: Ms. Pringle, how long have you been a lawyer?

24 WITNESS: Since 1996.

25 THE COURT: And how many -- how many -- if you could give

DIRECT EXAMINATION OF FIELDING PRINGLE BY THE COURT

1 me an estimate, how many murder cases do you think you've
2 handled?

3 WITNESS: Oh, goodness. At different levels, at
4 different stages because I've also worked as a post-conviction
5 attorney in capital cases, I've done death penalty work my
6 entire career in some fashion or another so I've done habeus,
7 post-conviction, and trial work, over two dozen.

8 THE COURT: And how many -- how many death penalty cases
9 do you think you've handled?

10 WITNESS: Probably half of those have been capital cases
11 and those are guesses, but I -- but at least a dozen at some
12 stage.

13 THE COURT: And based on your experience and all, this
14 was the appropriate resolution of this case?

15 WITNESS: I'm certain of that. I was very concerned.

16 THE COURT: And Mr. Strickler, of course, has a -- I'm
17 not minimizing your experience, I don't mean it like that, but
18 he has a great deal more experience in the number of cases and
19 the number of capital cases; is that correct?

20 WITNESS: He's got a couple of decades on me and ---

21 THE COURT: Well, I can tell that. I wanted to put that
22 on the record that I can tell that.

23 WITNESS: Many of -- in experience in many, many more
24 cases than I.

25 THE COURT: Y'all agreed with this resolution?

DIRECT EXAMINATION OF FIELDING PRINGLE BY THE COURT

1 WITNESS: Yes, sir. We -- we were aiming for this for
2 years.

3 THE COURT: And as I look through the transcript of the
4 plea and some of the statements I believe you made to the
5 Court and perhaps even Mr. -- Mr. Gamble, he didn't -- he
6 didn't want to put the families of these victims through a --
7 through a trial; is that -- is that correct?

8 WITNESS: That is correct and he wrote a very nice letter
9 of apology and -- and expressed those concerns and I believed
10 was comfortable with it, with that outcome at that time.

11 THE COURT: All right. Thank you, thank you very much.
12 You may step down.

13 (Whereupon, the witness leaves the stand at 1:26 p.m.)

14 THE COURT: All right, Mr. Belding?

15 MR. BELDING: Your Honor, that would be the applicant's
16 case.

17 THE COURT: All right. Mr. Attorney General?

18 MR. JOHNSON: No witnesses on behalf of the State, Your
19 Honor.

20 THE COURT: All right. Anything further?

21 MR. BELDING: No, but would you like to have us submit
22 proposed orders, Your Honor?

23 THE COURT: Yes, sir, fifteen days?

24 MR. BELDING: Yes, that would be fine.

25 THE COURT: Does that suit you all right?

26

1 MR. JOHNSON: Yes, sir.

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

3 Court will be in recess until 2:45.

4 (Whereupon, the proceedings end at 1:26 p.m.)

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6 --- END REQUESTED TRANSCRIPT ---

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1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE
3 COUNTY OF FLORENCE)
4

5 I, the undersigned, Krystal J. Smith, Official Court
6 Reporter for the Twelfth Judicial Circuit of the State of
7 South Carolina, do hereby certify that the foregoing is a
8 true, accurate, and complete Transcript of Record of all the
9 proceedings had and evidence introduced in the hearing of the
10 above captioned case, relative to appeal, in the Court of
11 Common Pleas for Richland County, South Carolina, on the 13th
12 day of August, 2012.

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

15
16 Krystal J. Smith

17 Court Reporter

18
19 Florence, South Carolina
20 December 31, 2012
21
22
23
24
25

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
Charles E. Gamble, Jr., #344426,	)	C/A No.: 2011-CP-40-3169
	)	
Applicant,	)	
	)	
vs.	)	
	)	
State of South Carolina,	)	
	)	
Defendant.	)	

APPLICANT'S TRIAL BRIEF

The Applicant hereby submits this *Trial Brief* for the Court's consideration in this matter.

I. Statement of Facts of the Case.

A. This case was filed on May 13, 2011, by the Applicant, acting *pro se*. Undersigned counsel was appointed to represent the Applicant by the Honorable Alison Renee Lee on June 30, 2011.

B. Applicant's application states that he is seeking relief from the sentence of Life Without Possibility of Parole imposed by the Honorable Clifton Newman on January 19, 2011. Applicant had been charged with:

- *Murder of Shirlene Yarborough (2006-GS-40-10427);
- *Murder of Marcus Wilson (2006-GS-40-10430);
- *Murder of Marquis Mitchell (2006-GS-40-10431);
- *Use of Weapon during Commission of Violent Crime (2006-GS-40-10428);
- *Burglary 1st Degree (2006-GS-40-10429)

The State notified the Applicant that it would seek the Death Penalty on the Murder charges and advised Applicant of the aggravating circumstances.

C. The Applicant was represented by Douglas Strickler, Esquire, and Fielding

Pringle, Esquire, of the Richland County Public Defender's Office.

D. Applicant's attorneys only prepared for a "mitigation" phase of the death penalty trial. Applicant's attorneys did not effectively investigate Applicant's possible defenses, including inconsistent statements by witnesses, and failed to effectively press the Applicant's position that these were "Crimes of Passion".

E. On January 19, 2011, the Applicant was awakened at the detention center and informed that he was being transported to court. At the courthouse, Applicant met with his attorneys and was pressured into pleading guilty to avoid the Death Penalty.

F. Mr. Strickler informed Applicant that this was the best deal he could get with the Solicitor and that Applicant should plead guilty and then file a PCR. Based upon these revelations, the Applicant felt he had no choice but to plead guilty, although he insisted on maintaining his innocence of Murder.

II. Legal Issue

Plea counsel was deficient in representing Applicant because he did nothing to prepare a defense, forcing Applicant to enter a guilty plea.

III. Legal Authority

For Applicant to be granted relief as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective assistance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); Brown v. State, 340 S.C. 590, 533 S.E.2d 308 (2000). This does not only apply to trials - this same standard applies to a guilty plea. Alexander v. State, 303 S.C. 539, 542, 402 S.E.2d 484, 485 (1991).

When a guilty plea has been entered, the applicant must prove counsel's representation was below the standard of reasonableness and but for counsel's unprofessional errors, there is a reasonable probability the applicant would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59 (1985); Alexander v. State, 303 S.C. 539, 543, 402 S.E.2d 484, 485 (1991). The

advice Applicant received from his plea counsel failed to meet the standards for attorneys. Tollett v. Henderson, 411 U.S. 258, 98 S.Ct. 1602, 36 L.Ed 2d 235 (1973). t

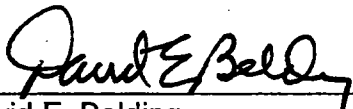
Applicant did not appeal the plea. Now, the Applicant is challenging the voluntariness of his guilty pleas and this PCR evidentiary hearing is the only forum to raise this issue. State v. Barton, 325 S.C. 522, 530 n. 6, 481 S.E.2d 439, 443 n. 6 (Ct. App. 1997) (any challenge to the knowing and voluntary nature of appellant's plea could be raised only in a petition for post-conviction relief); In the Interest of Antonio H., 324 S.C. 120, 122, 477 S.E.2d 713, 714 (1996) (where sole issue before appellate court was competency to enter plea and issue was not raised at the time of the plea, issue was procedurally barred; proper avenue to challenge a guilty plea which was not objected to at the time of its entry was through post-conviction relief); State v. McKinney, 278 S.C. 107, 108, 292 S.E.2d 598, 599 (1982) (absent timely objection at a plea proceeding, the unknowing and involuntary nature of a guilty plea can only be attacked through the more appropriate channel of post-conviction relief).

Applicant asserts that he did not validly waive his constitutional right to a trial by jury. When a PCR applicant alleges that he was denied the right to exercise one of his constitutional rights, the sole inquiry is whether he was informed of that right, and if so, whether he validly waived it. If there is no knowing and intelligent waiver, then the remedy is a new trial. See, e.g., Wroten v. State, 301 S.C. 293, 391 S.E.2d 575 (1990) (no valid waiver of right to counsel, new trial ordered); Prince v. State, 301 S.C. 422, 392 S.E.2d 462 (1990) (same).

The second step in the analysis—whether Applicant was prejudiced by the deficient representation. Strickland v. Washington, 466 U.S. at 687. As this was a guilty plea, Applicant “must show that there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” Here, the evidence shows that Applicant only agreed to plead guilty upon ineffective recommendations of his attorney. Therefore, Applicant’s attorney did not demonstrate “reasonableness under professional norms” that satisfies the requirements of the Sixth Amendment. Cherry v. State, 300 S.C. 115, 386 S.E. 2d 624 (1989).

PRAYER FOR RELIEF

Based on the foregoing, Applicant prays that the Court vacate his sentence as violative of the Sixth Amendment and remand this case to the Richland County Court of General Sessions.



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ATTORNEY FOR APPLICANT

August 13, 2012

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Charles Gamble, #344426,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

2011-CP-40-03169

ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2012 OCT 30 AM 11:32
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed May 13, 2011. The Respondent made its Return on May 19, 2011. An evidentiary hearing into the matter was convened on Monday, August 12, 2012, at the Richland County Courthouse. The Applicant was present at the hearing and was represented by David E. Belding, Esquire. The Respondent was represented by Robert D. Corney of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf. Also testifying was Applicant's plea counsel, Fielding Pringle, Esquire ("Pringle"). 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, and the Applicant's records from the South Carolina Department of Corrections.

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 November 2006 term of the Richland County Grand Jury for Burglary – First Degree, Use of a Weapon During the Commission of a Violent Crime, and three (3) counts of Murder (2006-GS-40-10427 through

10431). Douglas Strickler, Esquire, and Fielding Pringle, Esquire, represented Applicant on the charges (hereafter collectively referred to as "counsel"). On January 19, 2011, Applicant appeared before The Honorable Clifton B. Newman where he pled guilty to the charges as indicted and was sentenced to three consecutive life without parole sentences for the Murder charges as part of a negotiated plea with the State, as well as a life without parole sentence for the Burglary charge and five (5) years imprisonment for the Weapon charge entered without negotiations or recommendations. Applicant did not appeal his plea or sentences.

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) Pled to Statutory Crime not a Lesser included Off.
 - (b) _____
 - (c) _____
10. State concisely and in the same order the facts which support each of the grounds set out in (9):
 - (a) Black's Dictionary Defines grounds for Plea, Lesser Offence
 - (b) _____
 - (c) _____
18. State clearly the relief you seek in filing this application.
 Resentencing under Correct Statute

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), SCRCP; 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. 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, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).



Advisement of Consequences and Continuance Request

As a preliminary matter, this Court would note Applicant was fully advised by counsel and this Court under oath, on the record, as to the potential consequences and ramifications of having his pleas vacated upon a grant of post-conviction relief, including the potential of incurring the death penalty if convicted of the indicted charges. Applicant stated he understood the possible outcomes of being granted relief and wanted to pursue his application. Further, Applicant began the hearing by motioning this Court for a continuance to allow additional time to prepare the case. Having heard Applicant's motion, this Court denied the motion, finding sufficient good cause had not been shown to justify the request.

Failure to Prepare and/or Present a Defense

Applicant first alleged counsel was ineffective for failing to prepare and properly advise him of potential defenses to the charges. Applicant alleged that had counsel prepared and advised him of potential defenses to be used at trial, he would not have pled guilty, but rather would have proceeded to trial.

Applicant testified this incident occurred as a result of his relationship with Charlene Yarborough ("Yarborough"), the mother of his son. Applicant stated he and Yarborough had been together for about three years, but had been "messaging around" for closer to five or six years at the time of the incident. He went on to say they were never married, but did live together and had an on-going relationship because of their son together. He also noted he and Yarborough were "still messaging around" in 2006 at the time of her murder, and he considered Yarborough to be "his girl". Applicant testified the three victims were killed on November 2, 2006, at two or three o'clock in the morning at Yarborough's apartment. He stated he was arrested by law enforcement two or three doors down from Yarborough's apartment shortly after the murders, at

which time police "got a statement" from him. He also noted his co-defendant gave two statements to law enforcement, but that he had never seen them prior to trial.

Applicant said after Doug Strickler ("Strickler") was appointed to represent him on the charges, they met roughly three or four times at the county jail, but never discussed potential defenses to be used at trial. Strickler told Applicant his co-defendant may testify against him at trial if he decided to go forward, but he wasn't sure at that point. Applicant said Strickler and Pringle told him they were not prepared to go to trial, and that his conversations with them only were related to him pleading guilty. Applicant noted he believed there were several defenses his attorneys could have prepared on his behalf, including an argument for voluntary manslaughter based on the killings being "crimes of passion", using his co-defendant's inconsistent statements to police against the State, challenging the Burglary charge where Applicant alleged he entered the house using his key, and by having him mentally evaluated. Applicant finished by saying he only pled guilty as a result of his attorneys' advise and that he didn't really want to plead guilty.

On cross-examination, Applicant agreed he did not want to receive the death penalty and the only way to ensure he did not receive the death penalty for certain was to enter the negotiated pleas like he did. He also agreed he entered the pleas as he believed the guaranteed life without parole sentences he would receive as a result of the pleas were "a better option" than "rolling the dice" at trial with a potential death penalty sentence. Applicant also conceded he told the plea judge he believed the State could convince a jury of his guilt beyond a reasonable doubt at trial based on the evidence, and that he had reviewed the discovery materials in depth with Pringle.

Pringle testified she became involved in the case as co-counsel to Strickler when he was appointed to represent Applicant. She noted she was privy to all conversations between Strickler and Applicant, as well as the entirety of the defense file including the discovery materials.



Pringle said she had "extensive" discussions with Applicant during her pre-trial preparation of the case, meeting with him at least twenty-six (26) times personally, not counting separate meetings between Applicant and the attorney helping prepare mitigation for Applicant's guilt phase. Pringle noted she investigated several potential defenses to be used at trial, but said it was important to view their potential strengths in the context of a potential death penalty trial. Pringle stated that had the State not served Notice of Intent to Seek the Death Penalty, she would have felt much more comfortable pursuing a voluntary manslaughter or self-defense theory at trial. She also noted in her roughly twelve years as a public defender in Richland County and experience in trying about twelve death penalty cases prior to Applicant's, she had come to realize the Richland County Solicitor's office does not serve notice of death unless they feel very confident they can prove it.

Pringle stated she did not think a lesser-included voluntary manslaughter strategy or self-defense theory would be a strong defense at trial as Applicant shot one of the victims to death, whom Applicant did not even know, as he slept on the couch in Yarborough's apartment. She also noted that there was a young infant in the house at the time of the murders and that several eye witnesses were prepared to testify that they saw Applicant and his co-defendant drag the three bodies out of the apartment and throw them into a nearby ditch. Further, Applicant had given a full confession to police. She stated a psychologist met with Applicant regularly for roughly eighteen (18) months during her representation, but Applicant was never found incompetent and she did not have any question as to his ability to comprehend their conversations. She noted she was prepared to use the inconsistencies in co-defendant's statements to police for impeachment purposes at trial. She stated she had reviewed all of the



potential defenses with Applicant during their numerous pre-trial meetings, but stated she did not think any of them were "winnable" guilt phase arguments based on the evidence and facts.

Pringle testified there was extensive investigation and preparation done to present mitigation on Applicant's behalf against the death penalty, but she did not believe they had any strong arguments for the sentencing phase either; therefore, she stated she believed Applicant likely would have received the death penalty upon conviction. Pringle plainly stated that she would have gone to trial and been fully prepared to present any or all of the defenses on Applicant's behalf had he insisted on doing so, but it was his sole decision to enter the plea as he did. She also said she believed she had given Applicant all the information and advice necessary for him to make a voluntary and intelligent decision on whether to plead or go to trial.

Based on the testimony presented at the hearing in conjunction with a thorough review of the plea transcript, this Court finds Applicant failed to carry his burden in proving counsel was ineffective in this regard. Further, this Court finds Pringle's testimony to be credible while finding Applicant's testimony to be wholly incredible. Counsel performed extensive investigation into potential defenses to be presented on Applicant's behalf at trial, ultimately concluding that the facts and evidence did not support any defense theory sufficient to adequately refute the charges. Counsel met with Applicant *at least* twenty-six (26) times, during which the discovery materials were reviewed with Applicant and several different defense theories were discussed in depth. Applicant plainly admitted at his plea hearing that he had reviewed the discovery materials with counsel, had in fact committed the crimes with which he was charged, believed the State had the ability to prove his guilt beyond a reasonable doubt at trial, and was fully satisfied with his attorneys' representation of him. Applicant made a voluntary decision to plead guilty under the terms of an advantageous offer from the State in an



effort to avoid receiving the death penalty at trial. Applicant's decision to plead guilty to avoid a possibly greater sentence, without more, does not render his plea involuntary. See Brady v. United States, 397 U.S. 742, 90 S.Ct. 1463, 25 L.Ed. 747 (1970); Wicker v. State, 310 S.C. 8, 425 S.E.2d 25 (1992). Applicant has failed to prove counsel was deficient in any way in this regard.

Additionally, this Court finds Applicant entered his plea freely and voluntarily after being fully and adequately advised of all relevant issues by competent counsel acting within the range of reasonableness based on professional norms. Boykin v. Alabama, 395 U.S. 238 (1969). "The general rule is that guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including the claims of a violation of a constitutional right prior to the plea." Whetsell v. State, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981); citing Rivers v. Strickland, 264 S.C. 121, 213 S.E.2d 97 (1975). "This rule applies to the claim that counsel was ineffective." Whetsell, Id. Accordingly, this Court finds no deficiency in this regard.

Further, this Court finds Applicant has failed to prove resulting prejudice based on this alleged deficiency. Applicant failed to establish sufficient facts and evidence to support any defense(s) that would have been meritorious at trial or would have swayed his decision to waive his right to jury trial. Applicant simply set forth bare assertions of defenses he thought counsel did not adequately investigate, but at no point presented evidence or witnesses to support those alleged defenses. See Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) ("Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when allegation is supported only by mere speculation as to the result."). Further, Applicant has failed to convince this court that, but for counsel's alleged deficiencies, he would not have pled but rather would have proceeded to trial to face the death penalty knowing the



State likely had the ability to prove his guilty beyond a reasonable doubt. Accordingly, the current allegation is denied and dismissed.

Defective Indictment/Lack of Subject Matter Jurisdiction

At the end of his testimony, Applicant set forth generalized claims that the indictment was defective and the plea court lacked subject matter jurisdiction to accept his guilty plea. He mentioned no specifics to support these allegations other than to say the indictment failed to set forth "motive". This Court finds the allegations to be without merit.

First, Applicant cannot prove resulting prejudice from counsel's alleged failure to move to quash the indictment. Even if counsel made such a motion, it would have made no difference in the outcome of Applicant's charges as the motion would not have stopped the state from re-indicting or directly indicting Applicant on the charges again. Under S.C. Code Ann. § 17-19-90 (2003), "every objection to any indictment for any defect apparent on the fact thereof shall be taken...on motion to quash such indictment before the jury shall be sworn and not afterwards." Since the Double Jeopardy Clause of the Fifth Amendment attaches in a jury trial only once the jury is sworn, a successful motion to quash, by its very definition, will not work to bar subsequent prosecution on the same allegation on that grounds. See State v. Prince, 279 S.C. 30, 301 S.E.2d 471 (1983). Therefore, Applicant cannot prove resulting prejudice.

Further, defects in the indictment do not affect subject matter jurisdiction. See State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005); See also U.S. v. Cotton, 535 U.S. 625, 122 S.Ct. 1781 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). See also S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the indictment document. See Gentry, 363 S.C. 93, 610 S.E.2d 494;

Dove v. Gold Kist, Inc., 314 S.C. 235, 442 S.E.2d 598 (1994). Further, "[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters." Gentry, 363 S.C. at 101, 610 S.E.2d at 499; See also S.C. Const. Art. V, § 7. Applicant's conviction was based on a criminal charge brought in General Sessions Court and, therefore, the circuit court had jurisdiction to accept his plea.

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 issues 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

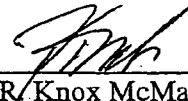


Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

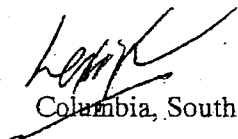
IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 18 day of Oct, 2012.



R. Knox McMahon
Presiding Judge
Fifth Judicial Circuit


Columbia, South Carolina.

WITNESSES

(S) AL. Thomas - K. Reese - CPD

DOCKET NO. 2006-GS-40-10427

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

November TERM 2006

102/52

ARREST WARRANT NUMBER

K192218

THE STATE

VS.

Charles E. Gamble Jr.

ACTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury

e:

NOV 16 2006

VERDICT

Foreperson of Petit Jury
Date:

After being fully advised of my legal rights, I hereby plead guilty to the Grand Jury.

Defendant

CERTIFIED TRUE COPY
OF ORIGINAL FILED
C.C.C.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

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

Charles Gamble Jr.
Defendant

Witness:

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

Indictment for

MURDER

SC Code: 16-3-10
CDR Code: 0116
Class FEL/EXM(V)

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on November 15, 2006, the Grand Jurors of Richland County present upon their oath:

MURDER

That Charles E. Gamble Jr. did in Richland County on or about November 2, 2006, feloniously, willfully and with malice aforethought, kill one Marquis Mitchell by means of gunshot wounds and/or stab wounds and that the said victim died as a proximate result thereof. All in violation of SC Code of Laws § 16-3-10

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

141

COUNTY OF Richland
 STATE VS.
CHARLES E JR GAMBLE

AKA: _____
 Race: _____ Sex: M Age: 28
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: COLUMBIA, SC 29201
 DL#: _____ SID#: _____

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

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

INDICTMENT/CASE#: 2006GS4010427A/W#: K192218Date of Offense: 10/12/2009S.C. Code § : 16-03-0010CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

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

ATTORNEYS: John Meadors Charles Gamble Jr
Meadors, John SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of life 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: 2006GS 401030
☐ 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 _____

Recipient: _____

*Fine: _____

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 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		\$

Clerk of Court/ Deputy Clerk
 Court Reporter

Jeanette W. McBridge
P. M. Cusky

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: _____

☐ 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.

CERTIFIED TRUE COPY
OF ORIGINAL FILED
Jeanette W. McBridge
C.C.C.P.&G.S.

RICHLAND COUNTY
SOUTH CAROLINA

Presiding Judge
 Judge Code: 2127

Sentence Date: 11/11/2011

WITNESSES

(S) AL Thomas - K. Reese - CPD

ARREST WARRANT NUMBER

K192220

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

NOV 16 2006

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2006-GS-40-10428

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

November TERM 2006
102/52

THE STATE
vs.

Charles E. Gamble Jr.

Indictment for

USE OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME

SC Code: 16-23-0490

CDR Code: 0549

Class FEL/F

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

Defendant

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

Charles Gamble Jr.
Defendant

Witness:

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

CERTIFIED TRUE COPY
ORIGINAL FILED
J. K. Reese
C.C.C. PLS. AND G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on November 15, 2006, the Grand Jurors of Richland County present upon their oath:

USE OF A WEAPON DURING COMMISSION OF A VIOLENT CRIME

That Charles E. Gamble Jr. did in Richland County on or about November 2, 2006, possess and/or visibly display a firearm and/or visibly display a knife during the commission or attempted commission of a violent crime, to wit: Murder, in violation of Code Section 16-23-490, *Code of Laws of South Carolina*, (1976), as amended.

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

Warren B. Giese
WARREN B. GIESE, SOLICITOR

STATE OF SOUTH CAROLINA

144
COUNTY OF Richland
STATE VS.
CHARLES E JR GAMBLE
AKA: _____
Race: _____ Sex: M Age: 28
DOB: _____ SS#: _____
Address: ST
City, State, Zip: COLUMBIA, SC 29201
DL#: _____ SID#: _____

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

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

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

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

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

ATTES: John Meadors SC Bar# _____ Defendant Charles Gamble Jr Attorney for Defendant [Signature] SC Bar# _____

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

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

Recipient: _____

*Fine: _____

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 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		\$

Clerk of Court/ Deputy Clerk
Court Reporter

Jeannette W. M. Brider
W. M. Brider

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS4010428

A/W#: K192220

Date of Offense: 10/28/2008

S.C. Code § : 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

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: _____

☐ 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.

Presiding Judge

Judge Code: 2127

Sentence Date: 11/19/2011

CELESTINE TRUE COPY
OF ORIGINAL FILED
Jeannette W. M. Brider
S.C. P&G.S.
RICHLAND COUNTY
SOUTH CAROLINA
11/19/2011

WITNESSES

(S) AL Thomas - K. Reese - CPD

ARREST WARRANT NUMBER

K192219

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

NOV 16 2006

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2006-GS-40-10429

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2006

102/52

THE STATE

vs.

Charles E. Gamble Jr.

Indictment for

BURGLARY/(AFTER 6/20/85)

1ST DEGREE

SC Code: 16-11-311

CDR Code: 079

Class FEL-EXM(V)

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

Defendant

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

Defendant

Witness:

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

FILED TRUE COPY
 ORIGINAL FILED
 C.C.C. P&G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on November 15, 2006, the Grand Jurors of Richland County present upon their oath:

BURGLARY/(AFTER 6/20/85) - 1ST DEG

That Charles E. Gamble Jr. did in Richland County on or about November 2, 2006, willfully and unlawfully enter the dwelling of Shirlene Yarborough, without consent and with the intent to commit a crime therein and the defendant entered during the hours of darkness and/or was armed with a deadly weapon while therein and/or caused physical injury to the victim, Shirlene Yarborough and/or used or threatened to use a dangerous instrument, all in violation of Code Section §16-11-311, Code of Laws of South Carolina (1976, as amended).

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

Warren B. Giese
Warren B. Giese, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

147

COUNTY OF Richland
 STATE VS.
CHARLES E JR GAMBLE

AKA:
 Race: Sex: M Age: 28
 DOB: SS#:
 Address:
 City, State, Zip: COLUMBIA, SC 29201
 DL#: SID#:

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

In disposition of the said indictment comes now the Defendant who was
 TO: Burglary / Burglary (After June 20, 1985) - First degree

INDICTMENT/CASE#: 2006GS4010429A/W#: K192219Date of Offense: 7/8/2009S.C. Code § : 16-11-0311CDR Code #: 0079

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

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

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

ATTEST John Meadors SC Bar# Defendant Charles Gamble Jr Attorney for Defendant SC Bar#

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

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

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 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	\$	\$

Clerk of Court/ Deputy Clerk
 Court Reporter

 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:

☐ 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.

Presiding Judge
 Judge Code:

Sentence Date: 11/19/2011

C.C.C.P. & G.S.
 RICHLAND COUNTY
 SOUTH CAROLINA

WITNESSES

(S) AL Thomas - K. Reese - CPD

ARREST WARRANT NUMBER

K192216

ACTION OF GRAND JURY
TRUE BILL

Foreperson of Grand Jury
Date:

NOV 16 2006

VERDICT

DOCKET NO. 2006-GS-40-10430

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

November TERM 2006
102/52

THE STATE
vs.

Charles E. Gamble Jr.

Indictment for

MURDER

SC Code: 16-3-10
CDR Code: 0116
Class FEL/EXM(V)

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

Defendant

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

Charles Gamble Jr.
Defendant

Witness:

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

NOTIFIED TRUE COPY
FILED
C.C.C. PLS. AND G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on November 15, 2006, the Grand Jurors of Richland County present upon their oath:

MURDER

That Charles E. Gamble Jr. did in Richland County on or about November 2, 2006, feloniously, willfully and with malice aforethought, kill one Shirlene Yarborough by means of gunshot wounds and/or stab wounds and that the said victim died as a proximate result thereof. All in violation of SC Code of Laws § 16-3-10

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

Warren B. Giese
Warren B. Giese, SOLICITOR

STATE OF SOUTH CAROLINA

150
COUNTY OF Richland
STATE VS.
CHARLES E JR GAMBLE
AKA: _____
Race: _____ Sex: M Age: 28
DOB: 2 SS#: _____
Address: I
City, State, Zip: COLUMBIA, SC 29201
DL#: _____ SID#: _____

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

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

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2006GS4010430
A/W#: K192216
Date of Offense: 9/9/2009
S.C. Code § : 16-03-0010
CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

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

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

ATTEST: John Meadors SC Bar# _____ Charles Gamble Jr Defendant Fielding Pringle Attorney for Defendant SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of life 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: 2006 GS 4010427
☐ 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 _____

Recipient: _____

*Fine: _____

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 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		\$

Clerk of Court/ Deputy Clerk

Court Reporter

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: _____

☐ Condition Discharge, § 44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition

☐ Appointed PD or appointed other person
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: _____

Sentence Date: _____

TRUE COPY
OF ORIGINAL FILED,
JANUARY 19, 2011
SOUTH CAROLINA

WITNESSES

(S) AL Thomas - K. Reese - GPD

ARREST WARRANT NUMBER

K192217

ACTION OF GRAND JURY
TRUE BILL

person of Grand Jury

Date:

NOV 16 2006

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2006-GS-40-10431

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

November TERM 2006

102/52

THE STATE

VS.

Charles E. Gamble Jr.

Indictment for

MURDER

SC Code: 16-3-10

CDR Code: 0116

Class FEL/EXM(V)

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

Defendant

Charles Gamble Jr.
hereby appear in my own proper person and plead guilty to the within indictment of toX Charles Gamble Jr.
Defendant

Witness:

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

RECEIVED TRUE COPY
ORIGINAL FILED
CLERK OF COURT
RICHLAND COUNTY
SOUTH CAROLINA
NOV 16 2006

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on November 15, 2006, the Grand Jurors of Richland County present upon their oath:

MURDER

That Charles E. Gamble Jr. did in Richland County on or about November 2, 2006, feloniously, willfully and with malice aforethought, kill one Marcus Wilson by means of gunshot wounds and/or stab wounds and that the said victim died as a proximate result thereof. All in violation of SC Code of Laws § 16-3-10

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

Warren B. Giese
Warren B. Giese, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

153

COUNTY OF Richland
STATE VS.

CHARLES E JR GAMBLE

AKA: _____

Race: _____ Sex: M Age: 28

DOB: _____ SS#: _____

Address: _____

City, State, Zip: COLUMBIA, SC 29201

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / MurderINDICTMENT/CASE#: 2006GS4010431A/W#: K192217Date of Offense: 11/18/2009 11/2/06S.C. Code §: 16-03-0010CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.ATTORNEY: John Meadors SC Bar# _____ Defendant: Charles Gamble Jr Attorney for Defendant: EJ SC Bar# _____WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of life 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: 2006-GS4010427
☐ 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 _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI-Breath Test)	\$25	\$
Proviso 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 (SCCA Surcharge)	\$5	\$
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Clerk of Court/ Deputy Clerk
Court Reporter

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: _____

☐ Condition Discharge, § 44-53-450(C) requires
\$350 be paid to the clerk of court to take disposition☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to clerk
during probation

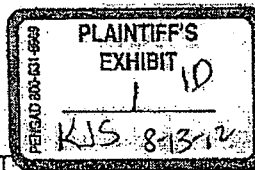
Presiding Judge

Judge Code: _____

Sentencing Date: _____

CERTIFIED TRUE COPY
ORIGINAL FILED
JAN 11 2011
C.C.C.P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA
2127

11/19/2011



COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORM

Page 1 of 1

Date: 11-02-06 Time: 5:35pm Place: Police Department

I am Jeremal D Robinson

My birthday is _____

My address and phone number are: _____

Columbia S.C.

I am giving this statement concerning Me being question concerning the case

to Police Department

who has identified himself as

Investigator Monty

I, Jeremal, and Charles, friends about a year the last time I saw him was about two o'clock yesterday and talked about the status of relationship I told me girl was separating and she was moving back to her grandma and him Octavia was separated for good I left play basketball, afterwards took my ^{mom} to the store to get some groceries and went to the gas station to play her lottery tickets we went back and was with my girl for the rest of night.

my girl friend name is Crystal Thompson

Q - Do you know anything about the Murder's from last night / Early this Morning?

A - Nothing but what I got from the news

Sworn and subscribed to me this
2 day of November, 2006
S. Robinson
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES Aug 31, 2010

ISI

ISI

Jeremal Robinson

received a copy of this statement consisting of 3 pages

from

K.H. Monty

ISI

000020

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORMPage 1 of 4Date: 11-02-06 Time: 8:39pm Place: #1 Justice Sq.I am Terral Doreal Robinson My birthday is _____

My address and phone number are: _____

I am giving this statement concerning Charles Gambleto K.E. Reese who has identified himself as INV.

Q: Have you been advised of your rights?

A: Yes Sir - Two times. Earlier and then by the Polygraph man.

Q: Do you understand these rights?

A: Yes Sir.

Q: Tell me what you know about this incident?

A: About 2 or 3 in the morning Charles came knocking on my window. My sister BeShonda Robinson let him inside. Charles was shaking and nervous. He came in my room saying "Maw I love you" please come with me. Some dudes try to "body" me for some cash. "Body" means trying to beat him up. He kept asking me to come go with him. He kept asking so I went with him. I drove my car and followed him in his car. He never said what he'd do. I followed him down the back roads leading to the Colony Apts. We parked our cars and I followed him thru the sewage and thru the gate. We went the back way to Octavian's house.

Sworn and subscribed to me this
2nd day of Nov. 2006
BeShonda Robinson
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 2016

ISI X/ for D. Rob

ISI _____

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Form 34-91

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

When we got to the back door Charles went in and I followed. When we got inside I stepped in the kitchen. I could smell the bad smell. Charles walked over to a couch and hit the dude in his chest about 2 times. The dude didn't move. He was wrapped up in a cover. It was dark in the house. Charles asked me to help him get the dude out the door. I helped him drag the dude to the gate. We put the body right there at the gate. I left and went walking back toward Antonio's house. Charles passed me and went back into her house. By the time I got back there Charles was already dragging the body to the back door. I started helping him with the body. We was dragging this one toward the gate. I spotted this dude standing up there smoking cigarette. I got scared. I stopped what ever I was doing and I ran toward the main entry to the Colony Apts. I left the Colony on fast running. I circled all the way back around and got in my car. And drove home. Charles' car was still there. I went crying to my girlfriend last night. I told my brother ~~that~~ this morning after I saw him on the news.

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2nd day of Nov. 2006
[Signature]
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MY COMMISSION EXPIRES: 2016

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COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: What kind of car you drive?

A: Maxima - Chevy - Malibu 4 dr.

Q: What kind of car did Charles Dr?

A: Ford Station Wagon Silver.

Q: When Charles came to your house did he have blood on himself?

A: Yes - he had blood on his gray hoodie.

Q: Did Charles ever tell you that he shot or stabbed anybody?

A: No sir.

Q: Has everything you told me the entire truth as you know it?

A: Yes sir. I help me God - this time.

Q: Is there anything else you want to say?

A: I still don't know when to go to work my manager told me that Charles had been on the phone arguing with Catherine all day she said he was Catherine's wife's boyfriend. She said he asked Catherine what should he do about it. Catherine told him he should just leave it alone.

Sworn and subscribed to me this

2nd day of Nov.

NOTARY PUBLIC OF SOUTH CAROLINA

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