

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Sumter County

Honorable L. Casey Manning, Circuit Court Judge

JAELOON JACKSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT.

APPELLATE CASE NO. 2022-000542

APPENDIX

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State of South Carolina	)	
	)	In the Circuit Court
County of Sumter	)	
	)	
State of South Carolina,	)	
	)	2018-CP-43-1215
Plaintiff,	)	
	)	
versus	)	
	)	
Jaelon Jackson,	)	
	)	
Defendant.	)	
	)	

Sumter County Courthouse
February 25, 2021

TRANSCRIPT OF HEARING

BEFORE:

The Honorable Kristi Curtis

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

Jack Furse, Esquire
Shaun Kent, Esquire
Attorneys for Plaintiff, Jaelon Jackson

John Meadors, Esquire
Attorney for Defendant, State of South Carolina

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I N D E XWITNESS (ES)PAGE

Certificate of Service

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E X H I B I T S

(There were no exhibits marked during this hearing)

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1 THE COURT: We are recording on our Web-Ex
2 application. Let me start just by addressing Mr. Jackson
3 briefly. Sir, I'm Judge Curtis, can you hear me okay?

4 MR. JACKSON: Yes, Your Honor.

5 THE COURT: I want to make sure that you can hear
6 everything that is being said this morning. On your screen
7 right now, of course, you'll see me. I'm wearing the black
8 robe. You will also be able to see and hear anybody who is
9 talking to me, you'll be able to hear and see them as well.

10 If at any time you cannot hear what anybody is
11 saying, if you can't understand what anybody is saying just
12 wave your hand to get my attention so that I can make sure
13 that we repeat it, clarify it for you. We want to make
14 sure that you are able to hear and understand everything
15 that is being said.

16 I have in front of me a consent sheet that says
17 that you understand that you've got the right to have this
18 done in person. And you understand that?

19 MR. JACKSON: Yes, Your Honor.

20 THE COURT: That means that we can all be here
21 together in the courtroom. I'm at the courthouse right
22 now. I'm up in the courtroom. I'm sitting here with the
23 court reporter, with my law clerk, and with Ms. Britt from
24 our clerk's office. We are the only people in the
25 courtroom. Your attorney is in his office. The solicitor

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1 is in his office. We are all participating from different
2 locations. You've got the right to have us all together in
3 the courtroom. We're not doing in-person hearings right
4 now because of the COVID pandemic but at some point we will
5 be back to having face to face hearings. So I want to make
6 sure, first of all, you understand you have got the right
7 to have this done face to face. And you understand that?

8 MR. JACKSON: (No response)

9 THE COURT: You understand that, Mr. Jackson?

10 MR. JACKSON: Yes, Your Honor.

11 THE COURT: And do you want to waive your right to
12 have it done face to face for us to go forward today by
13 video conference?

14 MR. JACKSON: No ma'am, I'm fine.

15 THE COURT: Okay. When you say, "No ma'am", you do
16 want it to go forward this morning or you do not want to go
17 forward this morning?

18 MR. JACKSON: I want to go forward, Your Honor.

19 THE COURT: Okay. I'm going to go ahead and swear
20 you, sir. If you'll raise your right hand for me, please.

21 MR. JACKSON: Okay.

22 (Mr. Jackson complies)

23 THE COURT: Do you swear or affirm that the
24 testimony that you are about to give the court is the
25 truth, the whole truth and nothing but the truth so help

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1 you God?

2 MR. JACKSON: Yes, ma'am.

3 THE COURT: Okay. I'm going to let Mr. Meadors
4 start us off by calling your case. I'm going to have a
5 number of questions for you. I may have to mute your
6 microphone at times when I am hearing from other people
7 because sometimes we get feedback from the jail. There's a
8 lot of background noise. You're in a concrete sort of room
9 and it tends to echo but I will unmute at the appropriate
10 time so that I can ask you questions so I can hear from
11 you, okay?

12 MR. JACKSON: Yes, ma'am.

13 THE COURT: Mr. Meadors, if you will start us off,
14 please, sir.

15 MR. MEADORS: May it please the court. This is
16 the State of South Carolina vs. Jaelon Jackson. A Sumter
17 County true billed indictment 2018-GS-43-01215. This is an
18 indictment for murder. After extensive negotiations with
19 Mr. Kent and Mr. Furse, with Mr. Melton at the Sumter
20 Police Department as well as the victims family, we have
21 offered and it has been accepted by the defense a plea to
22 voluntary manslaughter with a negotiated sentence of
23 twenty-five (25) years. We would ask, Your Honor, to
24 respectfully accept.

25 THE COURT: Okay. Let me make sure I understand.

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1 I am looking at the original indictment for, it looks like
2 there was a count one for criminal conspiracy, count two
3 for murder, count three was possession of a weapon during
4 the commission of a violent crime, count four was armed
5 robbery.

6 MR. MEADORS: Those charges are being dismissed in
7 exchange for a plea of manslaughter, Judge.

8 THE COURT: Okay. Mr. Furse, you have gone over
9 this plea agreement with your client?

10 MR. FURSE: I have, Your Honor.

11 THE COURT: Have you explained to him all his
12 rights in this matter?

13 MR. FURSE: I have, Your Honor.

14 THE COURT: Have you explained to him all of the
15 potential sentences for each of these four counts on the
16 indictment?

17 MR. KURSE: Yes, Your Honor. And, most
18 importantly, he was facing a murder charge which carries up
19 to life in prison.

20 THE COURT: And any issues that you've had
21 regarding Mr. Jackson's competency?

22 MR. FURSE: None, Your Honor.

23 THE COURT: You've been able to communicate with
24 him?

25 MR. FURSE: I have, extensively.

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1 THE COURT: And you feel he understands his rights
2 in this matter.

3 MR. FURSE: I do, Your Honor.

4 THE COURT: Have you been satisfied with the
5 production of discovery from the State?

6 MR. FURSE: I have, Your Honor.

7 THE COURT: And have you had the chance to go over
8 the discovery with Mr. Jackson as well?

9 MR. FURSE: We have, Your Honor.

10 THE COURT: He's aware of what evidence the state
11 would use against him for this case to go forward to trial?

12 MR. FURSE: Yes.

13 THE COURT: Do you believe that this plea is in his
14 best interest?

15 MR. FURSE: I do.

16 THE COURT: Thank you. Mr. Jackson, I've got some
17 questions for you, sir.

18 First of all, are you under the influence of any
19 drugs or alcohol this morning?

20 MR. JACKSON: No, ma'am.

21 THE COURT: Has anyone promised you anything to
22 try to get you to enter this plea today?

23 MR. JACKSON: No, ma'am.

24 THE COURT: Has anybody forced you or threatened
25 you or coerced you to try to get you to plead guilty?

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1 MR. JACKSON: No, ma'am.

2 THE COURT: Has anybody intimidated you to try to
3 get you to plead guilty?

4 MR. JACKSON: No, Your Honor.

5 THE COURT: You've discussed this plea, I feel
6 certain, in detail with your attorney, Mr. Furse, is that
7 correct?

8 MR. JACKSON: Yes, ma'am.

9 THE COURT: And are you satisfied with what your
10 attorney has done for you?

11 MR. JACKSON: Yes, ma'am, I am.

12 THE COURT: Has he answered all of your questions?

13 MR. JACKSON: Yes, ma'am.

14 THE COURT: Do you feel like you need anymore time
15 to discuss this with him before you go forward today?

16 MR. JACKSON: No, ma'am.

17 THE COURT: Has he done everything you've asked
18 him to do with regard to your case?

19 MR. JACKSON: Yes, ma'am.

20 THE COURT: Is there anything you feel that he
21 should have done that he didn't do in your case?

22 MR. JACKSON: (No response).

23 THE COURT: Mr. Jackson, is there anything that
24 you think your attorney should have done that he did not do
25 for you?

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1 MR. JACKSON: No.

2 THE COURT: Have you ever been treated for any
3 mental illnesses?

4 MR. JACKSON: No, ma'am.

5 THE COURT: Have you ever been treated for any
6 substance abuse issues?

7 MR. JACKSON: No, ma'am.

8 THE COURT: Are you taking any medications today?

9 MR. JACKSON: No, ma'am.

10 THE COURT: Is there anything that would keep you
11 from making a good decision today?

12 MR. JACKSON: No, ma'am.

13 THE COURT: Have you been able to hear everything
14 that I'm saying to you this morning clearly?

15 MR. JACKSON: Yes, ma'am.

16 THE COURT: The video seems to be working well?

17 MR. JACKSON: Yes.

18 THE COURT: Okay. I understand that the original
19 charge against you included a charge for murder. And, of
20 course, that would have carried a mandatory minimum
21 sentence of thirty (30) years, of course, that goes all the
22 way up to a life sentence. And the mandatory minimum
23 thirty (30) years would have been a day for day sentence
24 and you understand that?

25 MR. JACKSON: Yes, ma'am.

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1 THE COURT: I understand that the charges for
2 criminal conspiracy, possession of a weapon during a
3 violent crime and attempted arm robbery that those will be
4 dismissed as a result of your plea and that's your
5 understanding as well?

6 MR. JACKSON: Yes, ma'am.

7 THE COURT: And that today you are going to enter
8 a plea which carries up to thirty (30) years. And I
9 understand that the state is --- is this a negotiated
10 sentence or is this a recommendation?

11 MR. MEADORS: It's negotiated, Your Honor.

12 THE COURT: Okay. Thank you. Mr. Jackson, you
13 understand that under our laws the crime of manslaughter is
14 considered a violent crime?

15 MR. JACKSON: Yes, ma'am. I understand.

16 THE COURT: And what that means for purposes of
17 the Department of Corrections it means you are going to
18 have to serve somewhere in the vicinity of eighty-five
19 (85%) percent of your sentence before you are eligible for
20 any type of community supervision, any release on community
21 supervision and you understand that?

22 MR. JACKSON: Yes, Your Honor.

23 THE COURT: And also voluntary manslaughter is
24 categorized under our code of laws as a most serious
25 offense. Under our three strikes law, a most serious

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1 offense carries two strikes. If after today's date you
2 were convicted of either a serious offense or another most
3 serious offense you would face the possibility of sentence
4 of life without parole. Are you aware of that?

5 MR. JACKSON: Yes, ma'am.

6 THE COURT: When you enter this plea today you are
7 waiving some important constitutional rights so I'm going
8 to go over those rights with you and make sure that you
9 understand those rights.

10 First of all, you have the fundamental right to
11 remain silent. That means if your case went to trial no
12 one can force you to testify. If you chose not to testify
13 nobody can hold that against you. In fact, the judge would
14 instruct the jury they cannot even discuss your decision
15 not to testify in the jury room during their deliberations.
16 They cannot hold it against you in any way, shape or form
17 because it is a constitutional right.

18 When you enter this plea today; however, you're
19 waiving that constitutional right to remain silent and do
20 you know that?

21 MR. JACKSON: Yes, ma'am.

22 THE COURT: You also have a constitutional right
23 to a trial by jury, it's one of the most important rights
24 in our constitution. That means that you get to have
25 twelve citizens come into the courtroom and those twelve

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1 citizens would hear the evidence that the court presents
2 and they would decide whether you are guilty or not guilty.
3 Of course, when you enter this plea today you are waiving
4 that right to a trial by jury and are you aware of that?

5 MR. JACKSON: Yes, ma'am.

6 THE COURT: And do you want to waive the jury
7 trial today?

8 MR. JACKSON: Yes, ma'am.

9 THE COURT: You understand that if you went
10 forward with a trial instead of doing this plea today the
11 state would have the burden of proving you guilty beyond a
12 reasonable doubt. Beyond a reasonable doubt is the highest
13 standard that we have in the law and all twelve of those
14 jurors would have to be convinced of your guilt unanimously
15 before you can be convicted. And do you understand that?

16 MR. JACKSON: Yes, ma'am.

17 THE COURT: In addition, if you went to trial you
18 would get the chance to confront witnesses for the state.
19 That means that ever witness who testifies, both the
20 state's witnesses and your own witnesses they testify in
21 open court. That means you get to hear their testimony,
22 you get to look them in the eye while they are testifying.
23 Your attorney gets to ask them questions on cross
24 examination.

25 When you enter this guilty plea you are waiving

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1 that right to confront the witnesses for the state. And
2 you understand that?

3 MR. JACKSON: Yes, ma'am.

4 THE COURT: In addition, when you plead guilty you
5 are waiving any defenses that you might have. If you went
6 to trial, of course, your attorney would get a chance to
7 present a defense on your behalf. He could subpoena
8 witnesses and compel those witnesses to come to court in
9 this case. You are waiving your right when you enter this
10 plea. And you understand that?

11 MR. JACKSON: Yes, ma'am.

12 THE COURT: You are basically giving up any
13 defenses that you might have to the charge when you enter
14 this plea today. And you know that?

15 MR. JACKSON: Yes, ma'am.

16 THE COURT: You are also giving up your right to
17 challenge the admissibility of any evidence that the state
18 could use against you. And you understand that?

19 MR. JACKSON: Yes, ma'am.

20 THE COURT: Have you had a chance to go over the
21 evidence with your attorney? What we call the discovery in
22 your case.

23 MR. JACKSON: Yes, ma'am, I did.

24 THE COURT: So you are aware of what evidence the
25 state would have used against you if you had chose to go

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1 forward with the trial?

2 MR. JACKSON: I am; yes, ma'am.

3 THE COURT: And you are 24 years old, is that
4 correct?

5 MR. JACKSON: Yes, ma'am. Twenty-four.

6 THE COURT: How far did you go in school, Mr.
7 Jackson?

8 MR. JACKSON: Eleventh grade.

9 THE COURT: Eleventh grade?

10 MR. JACKSON: Eleventh grade; yes, ma'am.

11 THE COURT: And were you in regular classes?

12 MR. JACKSON: Yes, ma'am.

13 THE COURT: Where did you attend high school?

14 MR. JACKSON: Spring Valley High School.

15 THE COURT: In Columbia?

16 MR. JACKSON: Yes, ma'am.

17 THE COURT: And have you worked since high school?

18 MR. JACKSON: Yes, ma'am before I got locked up.

19 THE COURT: What was your most recent job?

20 MR. JACKSON: Little Caesars.

21 THE COURT: Okay. What did you do for Little
22 Caesars?

23 MR. JACKSON: Cutting pizzas and cook.

24 THE COURT: Okay. Knowing all of your rights Mr.
25 Jackson, sir, are you pleading guilty or not guilty to this

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1 charge?

2 MR. JACKSON: Pleading guilty, Your Honor.

3 THE COURT: Okay. I'm going to hear the facts now
4 from Mr. Meadors and then I will have a few more questions
5 for you and I will hear from your attorney as well.

6 MR. JACKSON: Yes, ma'am.

7 THE COURT: Okay. Mr. Meadors if you'll tell me
8 about the facts, sir.

9 MR. MEADORS: May it please the court. Judge, the
10 victim in this case was Joshua Goodwin(sp). At the time of
11 his death he was seventeen years of age. He was an
12 eleventh grader at Crestwood High School. Looking at his
13 obituary and talking with his family and other folks he was
14 a three star athlete and talking to my friend Mr. Jack
15 Barnes he had a promising future as a baseball player at
16 Clemson University.

17 Your Honor, this happened on April 15th of 2018
18 at #10 Peach Street, in the city of Sumter, county of
19 Sumter. Judge, this is a five co-defendant case.
20 Initially, the victim, Mr. Goodwin, got in touch with an
21 acquaintance, if you will, that he had known a few months
22 from his school inquiring about purchasing 128 grams of
23 marijuana for \$400. Mr. Smith got in touch with two of his
24 friends, Mr. Dequan Washington and Ms. Shanice Bradley.
25 They in turn got in touch --- Ms. Bradley had some sort of

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1 relationship with Deandre Brown, the co-defendant in this
2 case who also had some sort of relationship with Mr. Jaelon
3 Jackson. Those were the five players, if you will, for
4 this initial purchase of marijuana.

5 The victim did have a girlfriend who was with
6 child and after his death said child was born. Judge, at
7 some point, the plan became to rob Mr. Joshua Goodwin and
8 not actually sell him marijuana. On April 15th, Ms.
9 Shanice Bradley, Mr. Dequan Washington, Mr. Deandre Brown
10 and the defendant, Jaelon Jackson left together and went to
11 a meeting place where they were supposed to meet Mr.
12 Goodwin. They were in Ms. Shanice Bradley's black Malibu.
13 There's actually a witness who saw the Malibu parked near
14 the incident location. Saw it move, saw it come back. Saw
15 two males get out, go a short distance away. Heard several
16 gun shots and then saw these two males come back and get in
17 the car. Also, she heard an unusual sound from the car,
18 which will become significant later.

19 Judge, it was near a vacant house, I think near
20 Riley Park, Peach Street, near #10 Peach Street. Mr.
21 Jaelon Jackson and Mr. Deandre Brown go to meet Mr. Goodwin
22 and he's with a friend of his named Richard Scurry. Mr.
23 Scurry gave a statement that when he and the victim, Mr.
24 Goodwin, approached Mr. Jackson and Mr. Brown, initially
25 Mr. Goodwin shook their hands. He did not know them before

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1 this. Shortly after that Mr. Scurry kind of backed up a
2 little bit. Goodwin, Brown and Jackson kind of walked off
3 a little bit. At that point, Mr. Jackson and Mr. Brown
4 drew weapons, if you will, they both had weapons. The
5 victim was not armed and he was there to purchase some
6 marijuana for \$400. It had become a robbery. There was an
7 intent for these four to delivery marijuana, they decided
8 they were going to rob Mr. Goodwin.

9 At that point, Mr. Goodwin started struggling
10 with Mr. Brown, wrestling with him with the gun, shots were
11 then fired and Mr. Jaelon Jackson did shoot Mr. Goodwin in
12 the back. At that point, Mr. Goodwin and Mr. Brown leave.
13 Mr. Scurry gets in his car but I think he brakes it but
14 stays right there. Law Enforcement arrives, talks to Mr.
15 Scurry gets his information. At that point Mr. Brown and
16 Mr. Jackson head back to Ms. Shanice Bradley's car,
17 Washington was actually driving it. The witness again,
18 neutral witness, doesn't know anybody sees these two folks,
19 Mr. Brown and Mr. Jackson coming back getting in the car
20 and they take off.

21 Ms. Bradley and Mr. Washington provided
22 statements which I will get to a little bit later that said
23 --- what they said, actually, Mr. Brown got back in the
24 vehicle with Mr. Jackson and Mr. Jackson or one of them
25 said go, go, go. And Mr. Jackson said, I shot him, I shot

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1 him.

2 John Milton is on, Your Honor, in virtual world.
3 The lead investigator. He did an outstanding job in this
4 case. The first thing that law enforcement finds is the
5 victim's cell phone. They begin checking the text messages
6 which quickly leads to discussions about this meeting and
7 about this transaction. They get in touch with the
8 victim's girlfriend she kind of cooperates some of these
9 messages. It leads back to the messages with an individual
10 Joshua Smith, who initially had arranged for this drug
11 deal.

12 Mr. Smith had been taking himself out of this.
13 There's some references by some of the co-defendants that
14 when he realized that they were going to really do this,
15 the robbery he didn't want to do it but he was not in the
16 car and didn't go to the location. Although he did the
17 arrangement putting all these parties together.

18 They talked with Mr. Smith on the same day,
19 Judge, April 15th, he cooperates completely. He tells the
20 incident probably a little more eloquently than I just did.
21 That leads to Ms. Shanice Bradley and he names all the
22 players, Mr. Smith does, as best he can. Law Enforcement
23 then goes and talks with Ms. Bradley and finds out that she
24 does drive a black vehicle consistent with the description
25 the witness had given. And they talked with Dequan

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1 Washington. Dequan Washington and Shanice Bradley
2 cooperate completely. Identify all the parties involved.
3 Specified they went to the scene, they were in the car and
4 relayed the comments that Mr. Jackson said regarding
5 shooting Mr. Goodwin. And actually Mr. Dequan Washington
6 after Mr. Smith had been talked to came down to the City
7 Police Department and turned himself in.

8 Judge, when law enforcement found Ms. Bradley she
9 was with Mr. Deandre Brown in another jurisdiction, another
10 county. Mr. Brown initially said, well, I know something
11 about this but really don't know the details. They were
12 both arrested and the next day Mr. Brown contacted law
13 enforcement and then he also cooperated. Implicated
14 himself. Put himself at the scene and then also did say
15 that Mr. Jackson was the shooter.

16 **Joshua Goodman** is the victim. If I said Goodwin,
17 I didn't mean to and I apologize to everybody. It's Joshua
18 Goodman.

19 Judge, Mr. Brown gave a statement and Ms. Bradley
20 gave a statement. When they found Ms. Bradley's car there
21 was also a fan belt missing so that would be consistent in
22 corroborating the witness that she had heard a sound from
23 this car that didn't sound right and that was corroborating
24 evidence. Corroborating the co-defendant's statement as to
25 what happened.

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1 Judge, a couple of days later, specifically, I
2 think, on the eighteenth, Mr. Jackson turned himself in.
3 Decided he wanted to talk to an attorney. He has not
4 commented on this until he took responsibility for this
5 today.

6 Judge, it was a co-defendant case. I've tried
7 many of them over my career and I know co-defendant cases.
8 It was corroborated by some text messages and then the
9 witness, the neutral witness which kind of corroborated the
10 life before and after the gun shots. So we do feel
11 although it was a co-defendant case it was a strong case.

12 The parents are on here, Judge, Theresa Goodman
13 and Robert Goodman. At some point I know they want to talk
14 to, Your Honor, for a second. I've been over this
15 completely with them and they understand what is going on.
16 This kind of case where maybe nobody is happy. Maybe they
17 want more. Maybe Mr. Kurse and Mr. Kent want less I don't
18 know, but we all agree and think that this is the
19 appropriate thing to do. Not risk going to a trial. Even
20 though we do think it was a strong case for the state.

21 Judge, for the record, Mr. Goodman was --- an
22 autopsy was performed on him and probable cause for his
23 death was Hypovolemic shock due to a laceration of his
24 spleen in the aortic and a gun shot wound to the back and
25 the pathologist would have testified that to a reasonable

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1 degree of medical certainty that that was the probable
2 cause of death.

3 Your Honor, at this point I think that is all I
4 have. We are going to ask, Your Honor, to respectfully
5 accept the negotiated sentence and I would like, Your
6 Honor, to give the victims an opportunity to speak at the
7 appropriate time.

8 Judge, his prior record whenever you want it, I
9 have it.

10 THE COURT: Mr. Meadors, how old was Mr. Goodman?

11 MR. MEADORS: Your Honor, 17.

12 THE COURT: Thank you.

13 MR. MEADORS: I'm sorry.

14 THE COURT: You said it, I just didn't write it
15 down quickly enough.

16 MR. MEADORS: Thank you.

17 THE COURT: Mr. Jackson, sir, you've heard the
18 facts stated by the state, by Mr. Meadors, are those facts
19 true?

20 MR. JACKSON: Yes, Your Honor.

21 THE COURT: Okay. I do find that there is a
22 sufficient factual basis for me to accept your plea on this
23 charge. Mr. Meadors, Mr. Furse anything else that you
24 think I need to go over with the defendant before I accept
25 his plea?

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1 MR. MEADORS: I don't think so, Your Honor.

2 MR. FURSE: I think you've covered it, Judge.

3 THE COURT: Again, I do find that there is a
4 sufficient factual basis for the plea and Mr. Jackson I
5 find that you're entering the plea today and with the
6 counsel Mr. Furse and his law firm certainly competent
7 attorneys so I am going to accept the plea.

8 You've got ten (10) days from today if you want
9 to appeal the conviction. That right to appeal is on a
10 very strict deadline. If you try to appeal it on day 11
11 you've lost the right to appeal forever. It's got to be in
12 writing to this court if you wanted to appeal.

13 Mr. Meadors if you would go ahead and tell me
14 about Mr. Jackson's criminal record.

15 MR. MEADORS: A 2016 possession of marijuana. A
16 2016 possession of stolen vehicle. A 2016 possession of
17 stolen vehicle. Both of those are different dates. And
18 then a, it looks like a armed robbery which lead to a
19 strong armed robbery in October of 2016. Then obtaining
20 property under false pretense in 2017.

21 Judge, one thing I forgot, just very briefly. The
22 initial plan was a robbery that got escalated and actually
23 took it to the next step. The plan was the four of them in
24 the car were going to split the \$400 if they had gotten the
25 money.

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1 That's all we have at this point. Thank you.

2 THE COURT: All right. Thank you. Mr. Furse, I'm
3 glad to hear from you.

4 MR. FURSE: Thank you, Your Honor. May it please
5 the court. I will be very brief as it is a negotiated
6 sentence and I just would ask if you would accept the
7 negotiation.

8 But I would like to take a brief second to thank
9 the state, thank Mr. Meadors for working with us on this
10 case and also to express remorse to this family who lost
11 their child in this incident. I'm sorry this has happened
12 and this is just a sad situation.

13 My client ask that I express remorse directly
14 from him to this family as well. And I will just say since
15 the first day that I met Mr. Jackson, which was about a
16 year ago, his demeanor and outlook on life has changed. I
17 believe that he, with this sentence he is going to have to
18 do quite a bit of time, Your Honor, but he is going to
19 still have time left when he gets out, Judge, and he's
20 going to have a chance, a second bite of the apple. A
21 chance to change his life and to better himself and to make
22 something of his life, Judge.

23 I would like to make sure that it's indicated on
24 the sentencing sheet that he has served 1045 days at the
25 Sumter County Detention Center and I want to make sure he

State of South Carolina vs. Jaelon Jackson

24

1 gets credit for that time. His mother at least was --- I
2 believe is still on the line. She does not wish to address
3 the court but she is here in support of her son and again I
4 just want to thank everyone that has been involved in this
5 case and we would just ask that you accept these
6 negotiations, Judge.

7 THE COURT: Thank you. I will certainly accept
8 the negotiated sentence of twenty-five (25) years. I know
9 there is no winners in this whatsoever but I do hope that
10 this will at least give some closure to the family and at
11 least let them put this part of it behind them.

12 And I'm glad to hear from Mr. and Mrs. Goodman if
13 they would like to address the court. I have Theresa
14 Goodman and Robert Goodman. I have unmuted your
15 microphones. I'm glad to hear from y'all. Anything y'all
16 want to let me know.

17 MR. GOODMAN: Not at the time, Your Honor.

18 THE COURT: Thank you. Mrs. Goodman, anything
19 you'd like to say, ma'am?

20 MRS. GOODMAN: No, ma'am.

21 THE COURT: Okay. I appreciated so much y'all
22 being here by web-ex. I don't know if it makes it better
23 or worse having to do it by video and we know it's a little
24 awkward so thank y'all very much for coming today, for
25 participating by video this morning. Mr. Meadors something

State of South Carolina vs. Jaelon Jackson

25

1 else you wanted to add, sir?

2 MR. MEADORS: Very briefly, Judge, if you will
3 allow me.

4 THE COURT: Sure.

5 MR. MEADORS: I want to say a few thank yous, too.
6 First, I want to thank Mr. and Mrs. Goodman for patience
7 and trust in this case. Often in these case you just get
8 close to them. It's such a sad and tragic loss and a waste
9 of a future but they have been the most caring with us and
10 I want to thank them for trusting us. I want to thank Ms.
11 Harrison for her help and support as well as Daniel
12 Collfield(sic) and Robert Burnish who helped me as we
13 prepared for this. And Judge, Melton is on there, I don't
14 know if he wants to say anything but he worked hard on this
15 case and I want to thank him, too. I really do.

16 And, finally, Mr. Kent and Mr. Furse for their
17 work on this. This was a tough case. I do believe this is
18 the right thing to do for all parties. I want to thank
19 them all. I don't know if Mr. Melton has anything if
20 you'll allow him to talk, please. Thank you.

21 THE COURT: Sure. Detective Melton is there
22 anything you want to add, sir?

23 MR. MELTON: Your Honor, I don't have anything to
24 add at this time. I'd just like to say to the Goodmans
25 today that I'm very sorry for their loss.

State of South Carolina vs. Jaelon Jackson

26

1 THE COURT: Thank you, sir.

2 MR. MELTON: Thank you.

3 THE COURT: Okay. Just again, for the record, I'm
4 accepting the negotiated sentence of twenty-five (25)
5 years. I have checked the box to give the defendant credit
6 for time served and I have also hand written on the sheet
7 that he is to get 1045 days credit for the time that he has
8 served thus far. Okay.

9 Mr. Jackson, I just want to make sure that you
10 were able to hear everything on this video. Is there
11 anything that you need me to clarify for you before we end
12 the video?

13 MR. JACKSON: No, Your Honor. I heard fine.

14 THE COURT: Okay. All right. Thank you all so
15 much.

16 MR. MEADORS: Thank you, Your Honor.

17 MR. FURSE: Thank you.

18 THE COURT: Good luck Mr. Jackson.

19 MR. JACKSON: Thank you, Your Honor.

20

21

22

23

24

25

State of South Carolina vs. Jaelon Jackson

27

1 STATE OF SOUTH CAROLINA)

2) CERTIFICATE

3 COUNTY OF SUMTER)

4
5
6 Be it known that I, the undersigned Melissa R.
7 Singletary, Certified Verbatim Reporter, for the State of
8 South Carolina, do hereby certify that the foregoing
9 transcript represents a true, accurate and complete
10 transcript of record of the testimony and evidence
11 introduced in during this testimony of the captioned case,
12 before the General Session Court for Sumter County, South
13 Carolina, so given on February 25, 2021, to the best of my
14 skill and ability;

15 That I am not related to nor an employee of any of the
16 parties hereto, nor a relative or employee of any attorney
17 or counsel employed by the parties hereto, nor interested
18 in the outcome of this action.

19 IN WITNESS WHEREOF I have here unto set my hand this
20 15th day of September, 2021.

21 *Melissa R. Singletary*22 _____
23 Melissa R. Singletary, CVR

24 Certified Verbatim Reporter

25

STATE OF SOUTH CAROLINA

County of SUMTER COUNTYJAELOM M JACKSON 384937
Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS
RECORDED

2021 JUL 19 PM 4:25

J.C. CAMPBELL
CLERK OF COURT
SUMTER COUNTY, S.C.

APPLICATION FOR

POST-CONVICTION RELIEF

CERTIFIED TRUE COPY

DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

2021 CP-43-1221

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention LEE CORRECTION INSTITUTION
2. Name and location of Court which imposed sentence SUMTER COUNTY GENERAL SESSIONS
3. Name(s) of co-defendant(s) (if any) JOSHUA SMITH, DIANE BROWN, SHAVICE BRADLEY, DEQUAN WASHINGTON
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) MURDER: 2018A4320100286
 - (b) ROBBERY: 2018A4320100306

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) FEB. 2021
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____ N/A
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____ N/A
- iii. _____
- (c) the date of each such result:
- i. _____ N/A
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____ N/A
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) COUNCIL FAILED TO ADVISE ME ABOUT A APPEAL.
- (b) _____

(c) _____

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

(a) COUNCIL failed TO INVESTIGATE.(b) INVOLUNTARY GUILTY PLEA(c) COUNCIL failure TO OBJECT

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

(a) COUNCIL failed TO INVESTIGATE facts AN Law of Case.(b) GUILTY PLEA WAS INVOLUNTARY OBTAINED(c) COUNCIL failed TO OBJECT TO EVIDENCE OF THE STATE

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

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

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

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

(a) which grounds have been presented:

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

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

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

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

(a) _____
 (b) _____
 (c) _____

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

(a) your arraignment and plea? YES
 (b) your trial, if any? No
 (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

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

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

i. SHAWN KEAT & DEON ONEIL
SHAWN KEAT address: PO Box 117 Manning, SC 29102

ii. _____

iii. _____

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

i. Guilty Plea and Sentencing

ii. _____

iii. _____

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

vacate guilty plea

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

No

STATE OF SOUTH CAROLINA)

County of SUMTER)

VERIFICATION

I, JAELOU JACKSON, 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.

Jaelou Jackson

SWORN to and subscribed before me this 6 day of July, 2021.

Debra Eastman (L.S.)
Notary Public

My Commission Expires: 3/3/2024

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

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

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

Jaeon Jackson
Applicant

SWORN or affirmed to and subscribed before me this

16 day of July, 2021.

Debra Eastudge
Notary Public

My Commission Expires: 3/3/2021

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE THIRD JUDICIAL CIRCUIT
COUNTY OF SUMTER	)	
Jaelon Jackson, #384937,	)	Case No.: 2021-CP-43-1221
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

Respondent, making its Return to the Application for Post-Conviction Relief (PCR) filed by Jaelon Jackson (Applicant) on July 19, 2021, and received by Respondent on July 26, 2021, would respectfully show this Court:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. In May 2019, the Sumter County Grand Jury indicted Applicant for criminal conspiracy, murder, attempted armed robbery, and possession of weapon during the commission of a violent crime (2019-GS-43-1215). The charges arose from an incident on April 15, 2018, in which Applicant, along with several codefendants, arranged to meet the victim, Joshua Goodman, ostensibly in order to sell Goodman \$400 worth of marijuana. Unbeknownst to Goodman, however, Jackson and his codefendants actually intended to rob Goodman instead. Applicant and another codefendant met Goodman, drew weapons, and in a struggle over Applicant's gun, Applicant shot Goodman in the back. Applicant and his codefendant fled in a car driven by a third codefendant. When Applicant jumped in the car, he said "I shot him, I shot him." Police were able to identify Applicant and his codefendants through text messages on Goodman's phone, and Applicant's codefendants cooperated with police and gave

statements implicating themselves and Applicant. Tr. pp. 15-20.

Shaun Kent and Jack Furse, Esquires, represented Applicant. Assistant Solicitors John P. Meadords prosecuted the case on behalf of the State. On February 25, 2021, Applicant pleaded guilty to the lesser-included charge of voluntary manslaughter before the Honorable Kristi F. Curtis. Pursuant to negotiations between Applicant and the State, Judge Curtis sentenced Applicant to twenty-five years' imprisonment. In exchange for the plea, the State dismissed the remaining charges. Applicant did not appeal his conviction or sentence.

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

II. ALLEGATIONS

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

1. Failure to investigate
 - a. Counsel "failed to investigate facts and law of case"
2. Involuntary guilty plea
 - a. "Guilty plea was involuntary (sic) obtained"
3. Failure to object
 - a. Counsel "failed to object to evidence of the State"

III. RESPONSE TO ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF PLEA COUNSEL AND INVOLUNTARY GUILTY PLEA AND MOTION FOR A MORE DEFINITE STATEMENT

In a PCR action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove "counsel's conduct so undermined

the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland. First, Applicant must prove counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show there is a reasonable probability that, but for counsel’s alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

Applicant also asserts his plea was involuntary. In PCR cases, an applicant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 363-64, 527 S.E.2d 742, 747 (2000) (citations omitted). An applicant who pleads guilty with the advice of counsel may collaterally attack the plea only by showing (1) counsel

was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pleaded guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56. Further, "[t]hat a guilty plea must be intelligently made is not a requirement that all advice offered by the defendant's lawyer withstand retrospective examination in a post-conviction hearing." McMann v. Richardson, 397 U.S. 759, 770 (1970). Rather, "whether a plea of guilty is unintelligent . . . depends as an initial matter, not on whether a court would retrospectively consider counsel's advice to be right or wrong, but on whether that advice was within the range of competence demanded of attorneys in criminal cases." Id. at 771.

The record must establish the defendant had a full understanding of the consequences of his plea and the charges against him. Dalton v. State, 376 S.C. 130, 138, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing Boykin v. Alabama, 395 U.S. 238, 242 (1969)). A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." Roddy v. State, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000) (citing State v. Ray, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). Further, "[a] guilty plea is a solemn, judicial admission of the truth of the charges" against the applicant; thus, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Dalton, at 137-38, 654 S.E.2d at 874 (citing Blackledge v. Allison, 431 U.S. 63 (1977)). Therefore, admissions "made during a guilty plea should be considered conclusive unless [an applicant] presents valid reasons why he should be allowed to depart from the truth of his statements." Id. (citing Crawford v. United States, 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976)). "In considering an allegation

on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing.” *Id.* at 138-39, 654 S.E.2d at 874 (citing Wolfe v. State, 326 S.C. 158, 165, 485 S.E.2d 367, 370 (1997)).

Regarding Applicant’s allegations of ineffective assistance of counsel and involuntary guilty plea, Respondent hereby moves for a more definite statement. Applicant has failed to set forth any facts to “support each ground” or to explain with any specificity whatsoever the facts upon which his claims are based sufficient to allow Respondent to fully respond to these claims. The Uniform Post-Conviction Procedure Act requires Applicant to “*specifically set forth the grounds upon which the application is based.*” S.C. Code Ann. § 17-27-50 (emphasis added).

Therefore, Respondent requests Applicant be required to amend his application to set forth specifically the grounds on which his claims are based before an evidentiary hearing is held on these issues.

IV. AMENDMENTS AND DISCOVERY PROCESS

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. Rule 11(a), SCRCP. *Pro se* filings will not be considered at the PCR hearing. State v. Devore, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing a nullity where person was represented by counsel); Miller v. State, 388 S.C. 347, 697 S.E.2d 527 (2010) (“Since there is no right to ‘hybrid representation’ that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.”).

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent, or in the alternative, to continue the matter to permit adequate time to investigate and address the claims. See Mangal v. State, 421 S.C. 85, 805 S.E.2d 568 (2017) (“In most PCR cases... we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases.”); Love v. State, 428 S.C. 231, 834 S.E.2d 196 (2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); see also Rules 15(a)-(b), SCRCP (explaining how to amend a pleading).

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

V. DENIAL OF ALL OTHER ALLEGATIONS

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

VI. REQUEST FOR RELIEF

WHEREFORE, Respondent requests this Court require Applicant to amend his application or respond to Respondent's motion for a more definite statement to state with the required specificity the grounds upon which his claims of ineffective assistance of counsel and involuntary guilty plea are based. Respondent further requests no evidentiary hearing be held in this matter until Applicant has amended his application or otherwise answered to Respondent's request for a more definite statement.

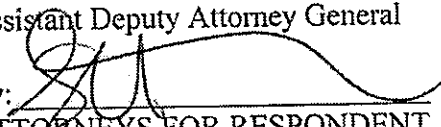
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

LINDSEY A. MCCALLISTER
Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

9/24, 2021

STATE OF SOUTH CAROLINA	) COURT OF COMMON PLEAS
COUNTY OF SUMTER	) 2021-CP-43-1221
	)
	)
	)
	)
Jaelon M. Jackson	) TRANSCRIPT OF RECORD
vs.	)
State of South Carolina	)
	) VIA WebEx
DEFENDANT	) February 16, 2022

B E F O R E:

THE HONORABLE L. CASEY MANNING.

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

TIMOTHY L. GRIFFITH, ESQ.
Attorney for the Applicant

MEGAN H. JAMESON, ASSISTANT ATTORNEY GENERAL
Attorney for the Respondent

KESHIA REED
Official Court Reporter

I N D E XWITNESSDIRECTCROSSREDIRECTRECROSS

Jaelon Jackson

Mr. Griffith

12

23

Ms. Jameson

17

24

John Furse

Ms. Jameson

28

Mr. Griffith

38

Certificate of Reporter 51

1 THE COURT: Is it Jaelon Jackson? You're Jaelon
2 Jackson?

3 MR. JACKSON: Yes, sir, that's correct.

4 THE COURT: All right. Mr. Griffin, again, from
5 West Virginia.

6 MR. GRIFFITH: Griffith with T-H, your Honor.

7 THE COURT: I said -- look look. I know people
8 from West Virginia have difficulty understanding English
9 sometime, Mr. Griffith F-I-T-H. John Furse. Where's Mr.
10 Furse? What IS the L stand for, Mr. Furse?

11 MR. FURSE: Your Honor, I'm right here.

12 THE COURT: I know. What does the L stand for
13 in your name?

14 MR. FURSE: Louden.

15 THE COURT: Where you from?

16 MR. FURSE: I'm from Manning, South Carolina.

17 THE COURT: You from Alcolu? You from
18 Greeleyville? Where you really from?

19 MR. FURSE: I'm actually from Manning, it's hard
20 to believe.

21 THE COURT: I want to thank the good people from
22 Clarendon County from naming the county seat after me.
23 The requirements are we been over this before, and I think
24 this is his mother. And her name is? Jacquelyne Shivers.
25 Ms. Shivers, how you doing to day. Can you hear me? I

1 can't hear you.

2 MS. SHIVERS: I'm doing well. Thank you for
3 having me.

4 THE COURT: I think the rules require that -- I
5 went over this before, Ms. Jameson. Everybody needs to
6 tell me their full name and spell your full name. What
7 else do I need to ask them?

8 LAW CLERK: I believe that's it.

9 THE COURT: Sir, we'll start with you,
10 Mr. Jackson, Jaelon Jackson.

11 MR. GRIFFITH: You need to answer.

12 MR. JACKSON: Yes, sir.

13 THE COURT: Race your right hand please, sir,
14 right hand. Thank you. Do you swear to tell the truth,
15 the whole truth, and nothing but the truth so help you
16 God?

17 MR. JACKSON: Yes, sir.

18 THE COURT: All right. Initially, Mr. Jackson,
19 you can consent to this remote technology for the purpose
20 of this PCR hearing, is that correct?

21 MR. JACKSON: Yes, sir.

22 THE COURT: And you waive your physical presence
23 to appear in front of me, is that also correct?

24 MR. JACKSON: Right.

25 THE COURT: And you represented by Mr. Timothy

1 Lee Griffith F-I-T-H, is that correct?

2 MR. JACKSON: Correct, yes, sir.

3 THE COURT: And this is your mother who is on
4 the screen, is that correct?

5 MR. JACKSON: Yes, sir.

6 THE COURT: So put your hand down please, sir.
7 Will you please spell your full name and what's your
8 middle name, Mr. Jackson?

9 MR. JACKSON: Markell and it's J-A-E-L-O-N
10 Markell M-A-R-K-E-L-L Jackson J-A-C-K-S-O-N.

11 THE COURT: Okay. Thank you, sir. And then
12 we'll have Mr. Timothy -- you don't mind if I call you
13 Lee, do you, Mr. Griffith?

14 MR. GRIFFITH: I don't mind at all.

15 THE COURT: Tell us your full name and spell of
16 your name for the record, sir.

17 MR. GRIFFITH: My name is Timothy T-I-M-O-T-H-Y
18 Lee L-E-E Griffith G-R-I-F-F-I-T-H.

19 THE COURT: And you represent, Mr. Jackson, is
20 that correct?

21 MR. GRIFFITH: I do, your Honor.

22 THE COURT: And now we have Ms. Megan Harrigan
23 Jameson.

24 MS. JAMESON: Yes, sir.

25 THE COURT: The respondent, is that correct?

1 MS. JAMESON: Yes, appearing on behalf of the
2 State Megan Harrigan Jameson M-E-G-A-N Harrigan
3 H-A-R-R-I-G-A-N Jameson J-A-M-E-S-O-N.

4 THE COURT: And, Mr. Furse, since you look --
5 since your name is Furse. We'll -- I'll let you go first.
6 Tell us your full name and spell all of your name for the
7 record, sir?

8 MR. FURSE: Your Honor, my full name is John
9 Louden Furse.

10 THE COURT: Furse F-U-R-S-E.

11 MR. FURSE: Yes, that's correct.

12 THE COURT: Like animal furs?

13 MR. FURSE: That's correct, your Honor, like
14 multiple fur coats, I guess.

15 THE COURT: Yes, sir, go ahead.

16 MR. FURSE: It's John Louden is spelled
17 L-O-U-D-E-N and Furse F-U-R-S-E.

18 THE COURT: I have trouble pronouncing both
19 names. Mr. Kent, can you hear me? Mr. Kent, can you hear
20 me. I guess me. Can you tell us your full name, Mr.
21 Kent?

22 MR. KENT: I don't know if that's me or everyone
23 else.

24 THE COURT: Everyone is fine except for you, Mr.
25 Kent.

1 MR. KENT: I'm having trouble ---

2 THE COURT: Are you in Charleston or Manning?

3 MR. KENT: I guess, I cannot afford the internet
4 bill.

5 MR. FURSE: Your Honor, he is in Manning.

6 MR. KENT: I am in Manning, your Honor. I'm in
7 my office.

8 THE COURT: Don't you live in Charleston?

9 MR. KENT: Can I be heard now? I do live in
10 Charleston, yes, sir, Judge.

11 THE COURT: And my first question to you --
12 let's get it on the record first. Tell us your full name,
13 Mr. Kent.

14 MR. KENT: Is that better? Can you hear me now?

15 THE COURT: Keep talking.

16 MR. KENT: My name is Shaun Kent S-H-A-U-N last
17 name K-E-N-T.

18 THE COURT: You don't have a middle name?

19 MR. KENT: I do. I'm embarrassed about it
20 Courtney. My mom wanted a girl.

21 THE COURT: Give us your full name, Mr. Kent?

22 MR. KENT: C-O-U-R-T-N-E-Y.

23 THE COURT: What is it?

24 MR. KENT: Shaun Courtney Kent.

25 THE COURT: Spell of it for us, Mr. Kent,

1 please? Go ahead.

2 MR. KENT: Shaun S-H-A-U-N middle name Courtney
3 C-O-U-R-T-N-E-Y last name Kent K-E-N-T.

4 THE COURT: I see why you wouldn't want anybody
5 to know your middle name is Courtney.

6 MR. KENT: That is why I did not want to mention
7 it. Yes, sir.

8 THE COURT: The first question I ask you on a
9 personal level were you still married?

10 MR. KENT: I am still married, so is she. And
11 we are to each other.

12 THE COURT: That's good. Because the last time
13 I saw you was in Sumter. You tried this case with
14 Solicitor Finney. I think it was, that's about four years
15 ago. Is that about four years ago?

16 MR. KENT: Yes, sir, about four years ago. Yes,
17 sir, Judge.

18 THE COURT: Okay. Well, it's good to see you
19 again. I think you were engaged at the time.

20 MR. KENT: I was. Yes, sir, you're correct. I
21 was once engaged and happily married for a while and now
22 I'm engaged again. At any rate having said all that, Ms.
23 Shivers, since you're going to appear, I'm going to ask
24 you to tell us your full name and spell it for the record
25 also whether you're going to testify or not I don't know,

1 but I'll ask you to do the same if you don't mind. Are
2 you from Manning, Ms. Shivers? I can't hear you.

3 MS. SHIVERS: Yes, sir. Thank you for having
4 me.

5 THE COURT: You from Manning?

6 MS. SHIVERS: I'm from Georgia. Our family is
7 from Georgia. I'm a military family.

8 THE COURT: You're from Savannah or Macon, Ms.
9 Shivers?

10 MS. SHIVERS: Well, my uncle lived in Macon. He
11 was a police officer in Macon. And my first cousin is a
12 detective in Atlanta currently. My husband did 22 years
13 in the Army. I did eight years in the Army. And I am now
14 a manager for a pharmaceutical company here locally in
15 Columbia.

16 THE COURT: Is Fort Gordon is that in Savannah
17 or August, which was it?

18 MS. SHIVERS: Fort Gordon is in Augusta.

19 THE COURT: What's the one in Savannah?

20 MS. SHIVERS: Savannah is Fort Stewart.

21 THE COURT: Fort Stewart, okay.

22 MS. SHIVERS: Yes, sir.

23 THE COURT: I remember that from high school
24 years ago. So many of my friends went to Vietnam and a
25 lot of them had to come back and had to rehabilitate.

1 MS. SHIVERS: Thank you for your service. My
2 father has a Bronze Star. He went to Vietnam two tours.

3 THE COURT: Okay. It had to be Vietnam?

4 THE WITNESS: Vietnam my father. My father
5 Vietnam and I was in Desert Storm.

6 THE COURT: Okay. Okay. Thank you for your
7 service to your country.

8 MS. SHIVERS: You're welcome.

9 THE COURT: Mr. Griffith, you want to make an
10 opening statement are you ready to proceed?

11 MR. GRIFFITH: We're ready, your Honor. The
12 attorney general is prepared to open the case.

13 MS. JAMESON: Thank you, your Honor. May it
14 please the Court.

15 THE COURT: Yes, ma'am.

16 MS. JAMESON: This is the PCR matter of Jaelon
17 Jackson vs. The State docket number 2021-CP-12-21. On
18 April 15th 2018, Mr. Jackson and several co-defendants
19 planned an armed robbery guise as a drug deal. In the
20 course of this robbery, shot and killed the intended
21 target of the robbery. Thereafter, the Sumter County
22 grand jury indicted Mr. Jackson for criminal conspiracy,
23 murder, attempted arm robbery and possession of a weapon
24 during the commission of a violent crime. He retained the
25 services of Shaun Kent and Jack Furse to represent him.

1 And Deputy Solicitor John Meadors prosecuted the case.
2 Following plea negotiations, Mr. Jackson accepted a plea
3 offer to the lesser-included offense of voluntary
4 manslaughter for a determinate 25 year sentence and the
5 dismissal of all other charges.

6 And on February 25th of last year, Mr. Jackson
7 appeared before Judge Curtis who accepted his plea and
8 imposed the negotiated 25 year sentence after a full plea
9 colloquy. He did not pursue a direct appeal at that time.
10 He did however file an instant PCR action on July 19th of
11 last year asserting that counsel was ineffective for
12 failing to investigate, failing to object to the State's
13 evidence and that his plea was involuntary.

14 In response, the State requested that
15 Mr. Jackson through his appointed counsel, Timothy
16 Griffith, file an amended application with specific
17 grounds in supporting facts as required under the PCR act.
18 And on February 3rd of this year, Mr. Jackson through
19 Counsel Griffith filed an amended application with the
20 following claims. First that counsels were ineffective
21 for failing to investigate and inform the Solicitor's
22 office of statements by co-defendants that exonerated
23 Mr. Jackson, that counsel was ineffective for failing to
24 file an appeal from his guilty plea, and newly discovered
25 evidence based on exonerating statements from his

1 co-defendants. And it's the State's understanding that
2 these three claims are what Mr. Jackson will be proceeding
3 forward on today.

4 THE COURT: And this was before the Honorable
5 Kristi Curtis, is that correct?

6 MS. JAMESON: Yes, your Honor.

7 THE COURT: Isn't she from Marion County,
8 Indiana? Indianapolis. Isn't she from Indianapolis?

9 MS. JAMESON: I am not sure, your Honor. I
10 would probably defer to those who practice in Sumter.

11 THE COURT: I'm positive that she's from
12 Indianapolis. All right. We are ready to proceed,
13 Mr. Griffith, go ahead.

14 MR. GRIFFITH: Thank you, your Honor. If it
15 please the Court, I would call Mr. Jaelon Jackson.

16 THE COURT: Mr. Jackson, you already sworn. And
17 you may proceed, Mr. Griffith.

18 WHEREUPON,

19 Jaelon Jackson,
20 after first having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. GRIFFITH:

23 Q Mr. Jackson, how long have you been incarcerated
24 now?

25 A All together it'll be four years on April 15th will

1 make four years all together.

2 Q Okay. Where are you incarcerated now?

3 A Lee County Correctional.

4 Q And you and I have talked about the PCR and the
5 process. And you understand that if we were to win your
6 PCR, that the charges of murder, robbery, attempted armed
7 robbery, and the other charges would just go back to where
8 you were. And those would happen -- if you were found
9 innocent, of course, you would be free, but if you were
10 found guilty, you could face life in prison and among
11 other things. You understand that, don't you?

12 A Yes, sir, I understand.

13 Q Okay. We discussed it. All right. And now, Mr.
14 Jackson, we also discussed your allegations of ineffective
15 assistance of counsel. So while you were represented on
16 this case, who was your attorney?

17 A My first lawyer I had was Deon O'Neil and then I had
18 hired Mr. Shaun Kent.

19 Q Okay. And so are you -- did you discuss with
20 Mr. Kent the fact that some of your co-defendants ---

21 THE COURT: Let me stop you, Mr. Griffith. Are
22 there any allegations of ineffective assistance of counsel
23 against Deon O'Neil? It doesn't appear to be. I just
24 want to make sure.

25 MR. GRIFFITH: No, your Honor.

1 THE COURT: Okay. Go ahead proceed.

2 DIRECT EXAMINATION

3 BY MR. GRIFFITH:

4 Q Mr. Jackson, did you discuss with your attorney that
5 there were statements made by your co-defendants
6 exonerating you saying that you weren't there? Are you
7 aware -- you were aware and did you discuss that with your
8 attorney?

9 A Yes, sir.

10 Q Okay. And did your attorney check into that and do
11 an investigation as far as you know?

12 A No, no. No, sir.

13 Q So he fail to investigate that?

14 A Yes, sir.

15 Q All right. As far as you know did your attorney talk
16 to the Solicitor to the prosecuting office that
17 communicated this information with them? Do you know
18 whether he did or not?

19 A Regarding the statement, no, sir.

20 Q Okay. And then -- but what you're also claiming is
21 that there does exist some statements from your
22 co-defendants that Mr. Jackson was present -- was not
23 present, but you were not present during the commission of
24 the law. You're saying that those exist, is that correct?

25 A It does exist, sir.

1 Q Did you ever get copies of those statements or do you
2 have them?

3 A Me myself, no, but Shaun Kent or Mr. Jack Furse did
4 send it to my mother.

5 Q Okay. So sent them to your mother?

6 A After I found ---

7 Q And so another claim that you had, Mr. Jackson, is
8 that your attorney failed to file an appeal. Do you
9 remember asking your attorney to file an appeal?

10 A No, sir.

11 Q Do you remember the judge telling you that you had
12 ten days to file your appeal?

13 A I do remember that, sir, yes, sir.

14 Q And so why is it that you said that your attorney
15 failed to file an appeal if you didn't ask him?

16 A Because I didn't like -- I didn't have my appeal was
17 against them and they can't do that. They can't do the
18 appeal against them for ineffective counsel. And I was in
19 lock up, so I didn't have the proper way to do it myself
20 until I can do it myself. When I got to prison, I
21 couldn't do it at Kirkland or anything like that.

22 Q So basically because you were incarcerated and not
23 able to communicate with your attorney, is that what
24 you're saying?

25 A Yes, sir.

1 Q And so you would have appealed if you had had the
2 opportunity to do that?

3 A Yes, sir.

4 Q Okay. If anything else you want to share with us
5 about these allegations or you want to talk more about
6 them, tell us about them?

7 A In the plea that was taken like, I do want to go back
8 to the county jail to do my PCR through my trial, but
9 the -- also the plea that was given to me when I was doing
10 research law at the law library, it had said that the max
11 for manslaughter would be 15 any way. And I had spoke
12 with you about that one time, and the max -- and I had 25,
13 but the main issue is I do want to go back to court to
14 prove my innocence, sir, that's the main thing, but that
15 was all I just wanted to add.

16 Q Okay. And you know actually that the max on
17 manslaughter is 25, but that was a negotiated plea wasn't
18 it that is state -- you talk to your attorney and your
19 attorney made the deal about the five years, is that
20 correct?

21 A I hired them. I hired them the first thing I tell
22 them y'all I want to go to trial. I want go to trial and
23 that's why -- you know, and I felt like what they was
24 telling me I had no choice but to take the plea because I
25 was telling them I'm innocent. I would get life, but I

1 hired them to go to trial. I hired them to go to trial.

2 I didn't want to take the plea. I felt like I had to.

3 Q So you wanted to go to trial. Did you tell your
4 attorney that you wanted to go to trial?

5 A When I hired them, yes, sir, yes, I did. Many
6 occasions, I said I want to go to trial. I want to go to
7 trial.

8 Q Okay. And so how is it that the plea came about
9 where -- do you feel like -- were you kind of pushed into
10 the plea or what happened there?

11 A I didn't ask for the plea. I didn't ask for a
12 negotiated plea.

13 Q Okay.

14 MR. GRIFFITH: I have no further questions.
15 Please answer the questions that the attorney general's
16 office has.

17 THE COURT: Ms. Jameson.

18 MS. JAMESON: Thank you, your Honor.

19 CROSS-EXAMINATION

20 BY MS. JAMESON:

21 Q Mr. Jackson, I want to start with one of the last few
22 things you testified about. You said that you didn't ask
23 your attorneys Mr. Furse or Mr. Kent for an appeal,
24 correct?

25 A That is correct.

1 Q Okay. And you testified you do remember Judge Curtis
2 telling you you had ten days to file an appeal, correct?

3 A I do remember that.

4 Q And then I believe you said the appeal you wanted to
5 file was against them and their representation, correct?

6 A Correct.

7 Q So what you really wanted was PCR challenging the
8 representation of Mr. Furse and Mr. Kent, correct?

9 A What I really want to do is get a retrial if that's
10 what it means.

11 Q Okay. And so you never asked Mr. Furse or Mr. Kent
12 to file an appeal on your behalf, correct?

13 A Correct. And I was pretty sure that I couldn't
14 because my PCR was for ineffective counsel, so therefore I
15 would have to do it on my own.

16 Q And you retained Mr. Kent and Mr. Furse to represent
17 you, correct?

18 A Correct, yes, ma'am.

19 Q How far before your plea did you retain them?

20 A I would say about a year. I could be wrong close to
21 a year, a year if not close.

22 Q You were originally represented by Mr. O'Neil,
23 correct?

24 A Yes, ma'am.

25 Q How often did you meet with Mr. Kent and Mr. Furse?

1 A They came often. They came to see me often. If I
2 need to see them, they come.

3 Q They came whenever you needed to see them?

4 A And more, yes, ma'am.

5 Q Okay. Did they review discovery with you?

6 A Yes, ma'am.

7 Q In that discovery, did you review the statements that
8 your co-defendants had given law enforcement?

9 A I did.

10 Q And that included statements from some of your
11 co-defendants that implicated you as the shooter, correct?

12 A Yes, ma'am.

13 Q Do you recall whether those statements also said
14 anything about you admitting to your co-defendants that
15 you had shot the victim in the back?

16 A I saw that it said that they said I said this or I
17 said that. Yes, ma'am, I saw that.

18 Q And there were also statements from some neutral
19 witnesses who weren't your co-defendants, correct?

20 A Correct, yes, ma'am.

21 Q Including Richard Scurry who was there with the
22 victim at this drug deal armed robbery, correct?

23 A Correct, yes, ma'am.

24 Q And he gave a statement implicating you to law
25 enforcement, correct?

1 A Incorrect.

2 Q He didn't?

3 A Incorrect, no, ma'am.

4 Q Okay. What was his statement to law enforcement?

5 A His statement to law enforcement was that he
6 indicated Deontre Brown and because they was saying I was
7 the shooter, I guess, they tried to add on his statement
8 with theirs. His statement didn't implicate me or
9 describe me. A guy that had dreads with tattoos on his
10 face that was not implicated, ma'am. No, ma'am.

11 Q So Richard Scurry's statement was a guy with tattoos
12 on his face?

13 A No, ma'am. No, ma'am. I have tattoos on my face,
14 ma'am. And during that time, I had dreads and that was
15 not written in the statement, ma'am.

16 Q Okay. There were also some text messages that were
17 in discovery from your co-defendants and victims setting
18 up this armed robbery, correct?

19 A Correct.

20 Q And you reviewed those --

21 MR. GRIFFITH: Your Honor, I would object to
22 this line of questioning. We're not here for a trial to
23 find out what the evidence was in the trial. We're here
24 talking about ineffective assistance of counsel. We're
25 not going to redo the trial your Honor. I would object.

1 THE COURT: I will decide what we do, but I
2 think this line of questions examination is proper
3 considering the allegations that have been made. Your
4 objection denied or I don't remember any more denied --
5 overrule. Go ahead, Ms. Jameson. I been away from the
6 shooting match from live PCRs over two years like I said
7 the other day. This is cross-examination. You may
8 proceed, Ms. Jameson.

9 MS. JAMESON: Thank you, your Honor.

10 BY MS. JAMESON:

11 Q When you reviewed this discovery with your attorneys,
12 did they ever advise you whether your co-defendants were
13 likely to testify against you at trial?

14 A Yes, ma'am.

15 Q What did they tell you?

16 A They would testify.

17 Q And you were originally charged with murder, correct?

18 A Correct.

19 Q And criminal conspiracy, right?

20 A Correct.

21 Q And attempted armed robbery?

22 A Correct, yes, ma'am.

23 Q And possession of a weapon during the commission of a
24 violent crime, correct?

25 A Correct.

1 Q And those three charges were all dismissed pursuant
2 to your plea negotiations, correct?

3 A Yes, ma'am.

4 Q And you pled guilty to the lesser-included offense of
5 voluntary manslaughter rather than murder, correct?

6 A Correct.

7 Q Did you discuss with your attorneys that murder
8 carried 30 years up to life imprisonment?

9 A Correct, yes, ma'am.

10 Q Did you understand the terms of the negotiation was
11 for a determinate 25 year sentence?

12 A Not 25, no, ma'am. I knew I will be taking 25, but I
13 have to do 18. And right now it's more than 18 years also
14 that's on up. I have left to do so...

15 Q You don't recall telling Judge Curtis that you
16 understood this plea was for a 25 year sentence?

17 A I did, yes, ma'am, but what's in the system is not
18 that.

19 Q Well, what sentence are you serving if not 25 years?

20 A It said I was suppose to have 18 left to do minus the
21 25 years 85 percent plus my time serve equals 18 years. I
22 have 21 in the computer, ma'am.

23 Q And you got credit for the time that you served
24 pretrial, correct?

25 A I have 21 left to do, that's what it says in the

1 computer.

2 MS. JAMESON: Beg the Court's indulgence, your
3 Honor.

4 (WHEREUPON, a pause in the proceedings.)

5 BY MS. JAMESON:

6 Q You testified that there were statements from your
7 co-defendants exonerating you. Do you have them today?

8 A No, ma'am.

9 MS. JAMESON: No further question.

10 THE COURT: Anything on redirect, Mr. Griffith?

11 MR. GRIFFITH: Yes, your Honor, just to
12 reiterate.

13 REDIRECT-EXAMINATION

14 BY MR. GRIFFITH:

15 Q Mr. Jackson, you wanted to file your appeal, is that
16 correct?

17 A Yes, sir.

18 Q But you were prevented from filing your appeal
19 because you were -- did not have access to your attorney
20 or phone calls or anything like that, isn't that correct?

21 A Correct.

22 MR. GRIFFITH: Okay. No further questions, your
23 Honor.

24 THE COURT: Anything on recross, Ms. Jameson?

25 MS. JAMESON: Yes, briefly.

RECROSS-EXAMINATION

BY MS. JAMESON:

Q You just testified that you were -- you had no access to phones. Did you have any way to communicate with anyone after your plea?

A I was in lock up, ma'am. No, ma'am.

Q Okay. Did you ever ask to use a phone?

A I couldn't come out of lock up, ma'am.

Q Did you ever write your attorneys and say you wanted a plea?

A No, ma'am.

Q How long -- how long -- I'm sorry. Go ahead.

A The time frame wouldn't add up because right after I took it, they told me I would be leaving in two days. And it was ineffective counsel also and also they can't file that for me.

Q So the claims you wanted to raise on your appeal were against Mr. Furse and Mr. Kent, correct?

A Ma'am, say that one more time please you had broke up?

Q The claims you wanted to raise on an appeal were against your attorneys and their performance, correct?

A Yes, ma'am, and also during the time, during the time I was on letter restriction. Like when you lock up, like my letters are restricted, and I couldn't come out for the

1 phone or anything.

2 Q You said after two days you were transported. Where
3 were you brought after two days?

4 A Kirkland, ma'am.

5 Q Okay. And at Kirkland they -- you didn't have access
6 to a phone?

7 A No, ma'am. No, ma'am. We weren't coming out, ma'am,
8 no, ma'am. No, we weren't. The tablets -- the tablets
9 were just now coming, and I didn't have one. I had to
10 wait until I get to prison and do it. And then in
11 Kirkland you can't really do anything any way because you
12 can't do no law work or anything like that. You can't
13 order your PCR form or anything like that at Kirkland.
14 You have to have access to do all that, ma'am. And I had
15 that when I got to Lee County. As soon as I got here and
16 you can check the date, I didn't play any games. I got to
17 it when I could and got the chance.

18 Q Okay. And you filed that PCR application, correct?

19 A That's why I'm here right now, ma'am, five and a half
20 months later.

21 MS. JAMESON: Thank you. No further questions.

22 MR. GRIFFITH: One reiteration redirect, your
23 Honor.

24 THE COURT: Yes, sir, go ahead.

25 FURTHER EXAMINATION

1 BY MR. GRIFFITH:

2 Q Mr. Jackson, you're not an attorney, are you?

3 A No, sir.

4 Q And so you don't really know all about appeals and
5 that kind of thing, do you?

6 A No, sir.

7 Q And so you wanted to appeal your case because you
8 just felt like something was wrong, you were done wrong,
9 isn't that correct?

10 A Correct.

11 Q So you didn't know because you're not an attorney
12 what will be in that appeal, but you just knew that you
13 wanted an appeal, isn't that correct?

14 A Yes, sir.

15 Q And so you were denied the opportunity to make an
16 appeal, is that correct?

17 A That's correct.

18 MR. GRIFFITH: No further questions, your Honor.

19 THE COURT: Anything further, Ms. Jameson?

20 MS. JAMESON: No, your Honor.

21 THE COURT: Let me ask you one question, Mr.
22 Jackson, when did you decide to appeal, was it immediately
23 after you were sentenced in court? I'm just curious. You
24 decided to appeal after you got the negotiated 25 years?
25 How long did it take you to decide?

1 MR. JACKSON: When I was Kirkland, I been ---

2 THE COURT: That's fine. That's fine. Thank
3 you, sir.

4 Anything further, Mr. Griffith?

5 MR. GRIFFITH: No further witnesses, your Honor.

6 THE COURT: All right, Ms. Jameson.

7 MS. JAMESON: Thank you, your Honor. The State
8 would call John Furse.

9 THE COURT: Now, Mr. Furse, raise your right
10 hand. You swear to tell the truth, the whole truth, and
11 nothing but the truth so help you God? In addition for
12 your sake purpose of taking your testimony here today and
13 also although you're not a defendant or anything, do you
14 waive your right appearing in front of me personally? I
15 cover all the basis, is that correct?

16 MR. FURSE: Yes, sir.

17 THE COURT: Thank you, Mr. Furse. Ms. Jameson,
18 you may proceed.

19 MS. JAMESON: Thank you, your Honor.

20 THE COURT: I got 313 days to go. I'm getting
21 tired. I just can't think. I just got back from
22 Lafayette County, Mississippi last night. None of you
23 watched the game, did you? Never mine. Go ahead, Ms.
24 Jameson. Last second shot from half court won the game.
25 Go ahead.

1 MR. GRIFFITH: Well, your Honor, I was wondering
2 though if you're in Mississippi and you move to Alabama
3 and you get a divorce is she still your sinister?

4 THE COURT: That would only apply if you lived
5 in West Virginia. Ms. Jameson, you may proceed.

6 MS. JAMESON: Thank you, your Honor.

7 WHEREUPON,

8 John L. Furse,
9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. JAMESON:

12 Q Mr. Furse, you were retained in this case?

13 THE COURT: We can't hear you, Mr. Furse. Let's
14 see what's wrong. Try it again. Mr. Furse.

15 MR. FURSE: Yes, I'm here, your Honor.

16 THE COURT: You were retained the question was
17 from Ms. Jameson, were you not?

18 A Our firm was your Honor. Mr. Kent who is the partner
19 in our firm was retained to represent Mr. Jackson on this
20 case.

21 THE COURT: Mr. Kent, I thought you were a solo
22 practitioner?

23 MR. KENT: I have -- at the best of Judge
24 Ferrell Cothran, I hired Mr. Jack Furse as my associate a
25 few years ago.

1 THE COURT: I understand. Nothing further need
2 to be said. I'm sorry, Ms. Jameson. Go ahead.

3 MS. JAMESON: Thank you, your Honor. May it
4 please the Court.

5 THE COURT: Yes, ma'am.

6 BY MS. JAMESON:

7 Q When was your firm retained?

8 A We -- I met with Mr. Jackson on March 9th, Sunday,
9 March 9th of 2020, and that's when he signed our fee
10 agreement and we were engaged.

11 Q How often did you meet with Mr. Jackson?

12 A We typically would have met with him once a week. I
13 have documented notes of at least 24 visits with
14 Mr. Jackson, and I believe we have a few more that would
15 have been probably brief encounters. But typically we
16 would meet with him weekly.

17 Q Can you summarize -- did you receive discovery in
18 this case?

19 A I did.

20 Q And did you review that discovery with Mr. Jackson?

21 A I did on multiple occasions. I personally reviewed
22 it at least twice. Our full-time investigator, Mr. Pete
23 Surett, also reviewed the discovery with Mr. Jackson. And
24 I believe Mr. Kent also reviewed at least certain aspects
25 of discovery with Mr. Jackson.

1 Q Did that discovery include statements from
2 co-defendants?

3 A It did.

4 Q Can you elaborate on that what statements and from
5 which co-defendants?

6 A Court's indulgence for one moment, your Honor.

7 THE COURT: Certainly.

8 A The co-defendants in the case were Shameka Rhodes,
9 Deontre Brown, Shanise Bradley, Dequan Washington and
10 Joshua Smith. Shameka Rhodes I'm sorry was not a
11 co-defendant. She was an independent witness, but Deontre
12 Brown was a co-defendant who gave multiple statements.
13 One of such statement completely denied his involvement.
14 The second statement that he provided basically stated
15 that basically gave the story of sort of the drug deal
16 gone bad, and that Jackson shot the victim Goodman your
17 Honor. And then Shanise Bradley also gave two statements.
18 The first was basically a very minimal statement to
19 minimize her role. The second one was a detailed account
20 that sort of specified how the entire fake drug deal came
21 about and that essentially Joshua Smith found the victim
22 and help set the whole thing up, but he didn't participate
23 in the robbery. That Bradley, Dequan Washington, Deontre
24 Brown, and Jaelon Jackson were the ones who participated.
25 She stated that Jackson downloaded the Spear (sic) app on

1 her phone detects the victim with an arranged -- for the
2 victim Goodman to meet up with them. That Jackson and
3 Brown got out of the car to meet with Goodman and that
4 Bradley and Washington stayed in the car. She stated that
5 she heard six gunshots and then Jackson and Brown ran back
6 into the car. She saw a revolver in Jackson's hand and
7 that it was -- her statement said that it was smoking and
8 that Jackson said I know I just shot him. And later she
9 stated that Jackson told her that Goodman was about to
10 kill my brother, that was a summary of her statement. And
11 then Dequan Washington also gave two statements. And his
12 second -- his first statement was basically that he had no
13 involvement. His statement was very similar to Shanise
14 Bradley statement. I can go into full detail on that if
15 you prefer.

16 Q If it's close to the other statement, I think that's
17 good for the record.

18 A And then Dequan Washington also gave a statement that
19 implicated Jackson in that he basically sorry -- Joshua
20 Smith was not on the scene, but he talked to Jackson and
21 Brown after the incident. And Jackson told him that
22 everything went good. I guess the only thing his
23 statement would do is would implicate that Jackson was
24 part of the incident. It didn't go into specifics about
25 what occurred because he wasn't there.

1 Q So numerous co-defendants gave statements to law
2 enforcement implicating your client, Mr. Jackson, in the
3 attempted armed robbery and murder, correct?

4 A That's correct.

5 Q Was there any other -- was there any digital evidence
6 in this case cell phone records, phone records anything
7 else?

8 A There were some -- I believe there were some cell
9 phone records that weren't exhaustive, but they did show
10 the text messages that were part of, I guess, setting up
11 this drug deal.

12 Q Did those implicate your client, Mr. Jackson?

13 A I guess, that would be a difficult question. Maybe
14 not directly, but that was going to be the State's theory.

15 Q Did they implicate his co-conspirators,
16 co-defendants?

17 A I believe so, yes.

18 Q Did Mr. Jackson ever give a statement to law
19 enforcement?

20 A Court's indulgence. I don't believe that he did. I
21 don't want to mislead the Court.

22 THE COURT: I been misled a lot of times, but
23 usually on purpose, but that's okay take your time. We
24 can come back to it later. And Mr. Kent is here and might
25 be able to help out a little bit at some point in time.

1 I'm sorry. Go ahead.

2 A I'm looking through a synopsis that I made of the
3 discovery and I am not ---

4 THE COURT: You don't find anything that
5 indicates that he gave statement in your records at this
6 time?

7 MR. FURSE: At this time, but I don't ---

8 THE COURT: Okay. Well, relax, relax we can
9 look at it later. Anything further, Ms. Jameson?

10 MS. JAMESON: Yes, your Honor.

11 BY MS. JAMESON:

12 Q You mentioned briefly when you talked about your firm
13 being retained you used a private investigator, is that
14 correct?

15 A That's correct.

16 Q And that's an investigator ---

17 THE COURT: It's a full-time investigator for
18 them, is that correct, Ms. Furse?

19 MR. FURSE: That's correct.

20 THE COURT: Go ahead.

21 BY MS. JAMESON:

22 Q What sort of work did he do on this case on behalf of
23 the defense team?

24 A He attempted early on in our representation there was
25 potential alibi defense that we investigated, and

1 Mr. Surett investigated that fully. And it ended up not
2 being fruitful. He did everything he could to track down
3 the witnesses in this case to see if we could get
4 statements from them. Unfortunately, the co-defendants
5 were all represented at the time by other lawyers. We
6 sought permission via letter and phone call to contact
7 them to discuss their plans and potential testimony. We
8 were denied those requests to speak to them, so that
9 limited our ability to find out what they would testify
10 to.

11 Q Did you ever have any information or any reason to
12 believe that any of the co-defendants wanted to assist
13 Mr. Jackson in his defense?

14 A There were, I guess, kite that was sent from I
15 believe Mr. Deontre Brown and it was -- basically, a
16 statement that would have been seen as recanting his prior
17 statements. I guess, that could have been a third
18 statement and we discuss that with Mr. Jackson.

19 Q Can you summarize the discussions regarding this
20 possible kite were there recantation of Mr. Brown?

21 A Sure. I told him that, you know, if it would
22 certainly be very we helpful at trial if that was -- if
23 Mr. Brown did not testify, but that even without
24 Mr. Brown's testimony, there would still certainly be some
25 risk at trial. But I also said, you know, this is the

1 third statement that Mr. Brown gave. And we just use it
2 as part of our case evaluation. And if we were going
3 to -- we ended up going to trial certainly we would be
4 using that statement, but we just evaluated that with --
5 we look at the case in the aggregate. And I just put that
6 letter in context with the rest of the case explain it to
7 Mr. Jackson.

8 Q When you say in context with the rest of the case
9 even without Mr. Brown's testimony implicating
10 Mr. Jackson, there were still numerous other co-defendants
11 and witnesses who implicated Mr. Jackson, correct?

12 A That's correct.

13 Q Did Mr. Jackson ask you to -- attempt to negotiate a
14 plea offer with a Deputy Solicitor Meadors on his behalf?

15 A He did.

16 Q Did he want to proceed to trial?

17 A Certainly, initially he did want to proceed to trial
18 and we expressed -- I express. I know Mr. Kent express
19 our willingness to go to trial if we went that route.
20 And, you know, that we would prepare for trial and give
21 him a good trial. He certainly did express that. And,
22 you know, as we reviewed the discovery, we discussed it
23 further and he also sought -- negotiated a plea on his
24 behalf.

25 Q And you entered into plea negotiations at his

1 request?

2 A We did.

3 Q The 25 year offer that he ultimately accepted that
4 was negotiated, correct?

5 A That's correct.

6 Q Was that the best offer you received from the State?

7 A It was.

8 Q And that was to the lesser-included of voluntary
9 manslaughter, correct?

10 A That's correct.

11 Q And the dismissal of the three ancillary charges,
12 correct?

13 A Correct.

14 Q Had you discussed with Mr. Jackson sentencing range
15 for murder had he been convicted at trial?

16 A I did on multiple occasions discuss the risk of
17 exposure that he was facing.

18 Q Was that a motivating factor in seeking a negotiated
19 plea from the State?

20 A Certainly.

21 Q Did you think this plea offer was in your client's
22 best interest?

23 A I did. But at the same time it was always his
24 decision to enter into it.

25 Q Did you ever discuss appellate rights with

1 Mr. Jackson?

2 MR. JACKSON: Would you say that again please?

3 BY MS. JAMESON:

4 Q Did you ever discuss appellate rights -- his right to
5 appeal with Mr. Jackson?

6 MR. JACKSON: I don't know what that is, ma'am.

7 MS. JAMESON: Sorry, I'm talking to your
8 attorney Mr. Furse, Mr. Jackson.

9 MR. JACKSON: Yes, ma'am.

10 A I did. We received -- I received correspondence I
11 believe a phone call from his -- we discussed appellate
12 rights prior to the plea. And then, of course, they were
13 his rights were explain to him during the hearing by Judge
14 Curtis. After the hearing a few days after the hearing, I
15 did receive a phone call I believe from his mother
16 discussing potentially that he may want to appeal the
17 plea. I went and visited him -- visited Jaelon on March
18 the 2nd during which I discuss that. I'm reading my
19 notes. I did not try to convince him not to appeal. I
20 answered some questions that he had regarding an appeal
21 and told him he had ten days from the date of the hearing
22 to file his intent to appeal. He understood. He is not
23 mad at us. He does not think anything improper was done
24 at the hearing. He just wants to keep his options open,
25 period.

1 Q So your records reflect that you visited him after
2 the plea and discussed appellate rights with him?

3 A I did.

4 Q And he did not ask you to file an appeal at that
5 time?

6 A He did not.

7 MS. JAMESON: Moments of indulgence, your Honor.

8 THE COURT: Yes, ma'am.

9 MR. GRIFFITH: Please the Court, your Honor.

10 CROSS-EXAMINATION

11 BY MR. GRIFFITH:

12 Q So, Mr. Furse, did you have in your possession
13 documents statements from his co-defendants exonerating
14 Mr. Jackson? You talked about Mr. Brown had made that
15 third statement. Did that exonerate Mr. Jackson?

16 A It was -- I guess, you could say it would exonerate
17 him. It was certainly exculpatory.

18 Q And did you provide that information to the Solicitor
19 or did the Solicitor give that information to you?

20 A Again, I don't want to mislead the Court. I am not
21 sure the answer to that question.

22 Q And so -- so did your investigator follow up on that
23 and determine what was the -- were it true or not?

24 A As I previously testified, Mr. Griffith, the other
25 co-defendants in the case were represented by counsel. We

1 sent their attorneys letters and also spoke with each of
2 the attorneys on the phone requesting permission to have
3 our investigator that meet with them and I was denied that
4 permission.

5 Q I understand. Do you recall at all what the
6 statements from?

7 A I do not.

8 Q So you did say that the third statement by Mr. Brown,
9 is that correct?

10 A Yes.

11 Q So the appeal did you talk to Mr. Jackson after that
12 initial visit? Did you contact him on the ninth day or
13 the tenth day from the appeal for instance? Were you able
14 to contact them?

15 A I did not contact them, again, and he did not contact
16 me.

17 MR. GRIFFITH: I have nothing further.

18 THE COURT: Anything further, Ms. Jameson?

19 MS. JAMESON: No, your Honor.

20 THE COURT: All right. Call your next witness.

21 MS. JAMESON: The State does not have any
22 additional witnesses to call, but we would ask for the
23 opportunity to do a brief closing argument.

24 THE COURT: All right. Who wants to go first?
25 I'm sure Mr. Griffith would like to do an argument, would

1 you not, sir?

2 MR. GRIFFITH: I would love to.

3 THE COURT: I'm sorry, Ms. Shiver, yes, ma'am.
4 You unmute her. Ms. Shivers, I can hear you now. Yes,
5 ma'am.

6 MS. SHIVERS: Yes, sir, I just wanted to express
7 that I agree with my son. He is not upset nor am I.

8 MS. JAMESON: Your Honor, I object to this
9 statement.

10 THE COURT: It's overruled. Let her talk. Go
11 ahead. This is very -- please let her say whatever she's
12 incline. Ms. Shiver, I be happy to hear anything you like
13 to tell me. Go ahead.

14 MS. SHIVERS: Thank you, sir. Again, we are not
15 upset with Mr. Kent or Furse at all. It's just that with
16 Mr. O'Neil I don't know if it was mentioned, but there was
17 when my son was in Sumter county there was some -- a kite
18 that was sent and someone gave it to him.

19 THE COURT: Ms. Shivers, let me stop you. Will
20 you raise your right hand please? Will you raise your
21 right hand please?

22 MS. SHIVERS: My right hand, yes, sir.

23 THE COURT: The testimony you offer to give you
24 swear that to be the truth, the whole truth, and nothing
25 but the truth so help you God?

1 MS. SHIVERS: Yes, sir, I have a Bible in the
2 car. Would you like me to get it?

3 THE COURT: No, no. Your hand is good enough.
4 And I consider you a patriotic American citizen, Ms.
5 Shivers.

6 MS. SHIVERS: Thank you.

7 THE COURT: And I understand your situation. I
8 have children of my own.

9 MS. SHIVERS: Yes.

10 THE COURT: And you be less of a mother if you
11 didn't want to tell me something on behalf of your son,
12 okay. So you may proceed, ma'am. I can't hear you. Back
13 up, you said something about when Mr. O'Neil originally
14 represented your son that there was some kite. I didn't
15 quite understand.

16 MS. SHIVERS: Yes. There was a kite that was --
17 that someone found. I don't know how I can't remember
18 because it's been some years ago, but I gave it to
19 Mr. O'Neil. And the kite was an attempt on the witness'
20 life from Mr. Brown, and I gave that to Mr. O'Neil. My
21 son made sure -- he mailed it to me. He was concerned
22 that Mr. Brown and Mr. O'Neil should have that in that in
23 the packet are all his notes that should have been sent to
24 Mr. Kent. I don't know if -- if he sent everything that
25 was included, that there was kite where Mr. Brown was

1 talking about causing harm to the witnesses and my son was
2 concerned about that. And he sent it to me and I sent
3 Mr. O'Neil, but nothing was ever brought up about that.
4 And also I was going to say that, you know, with taking
5 the plea deal's when you're hearing your child is going to
6 get life or 60 years, you know, I'm, you know -- it just
7 makes me very nervous and afraid because you don't know
8 what a jury is going to do because, you know, there are a
9 lot of people that, you know, have been wrongfully accused
10 or it's just things -- you don't know how things are going
11 to go. I don't want to say too much. You don't never
12 know how things are going to go.

13 THE COURT: Ms. Shivers, I'm from Dillon, South
14 Carolina, we have an old saying in Dillon you never know
15 what a jury will do or who -- that goes for widows also.

16 MS. SHIVERS: Yes, sir.

17 THE COURT: You never know what's going to
18 happen and that's just the way it is. I practice law for
19 a long time and I grew up in Dillon very similar to
20 Manning. And I worked in the big city and that's why I'm
21 giving you an opportunity to say whatever it is you like
22 to because I understand these situations, okay. So you
23 may proceed, Ms. Shivers.

24 MS. SHIVERS: Yes, sir. And I just think that
25 there are, you know, just -- I think a lot of things the

1 way things appear is not the way they always are.
2 Sometimes if a child has done something in the past and
3 hang with the wrong crowd, then they're labeled a monster
4 or they're labeled and that's not really the case and
5 that's my son. My son at the time one month later he was
6 going to be going to the Four. He's still under contract
7 with a producer, a record label. He writes. Now, he's
8 writing books. He's -- a lot of books he's written. He
9 wrote something that sounds like a Bible scripture, a
10 Bible scripture. So I'm not going to totally say that,
11 you know, things that have happened so you can get good.
12 Sometimes God takes your life to give you life, you know,
13 but he has done a lot of good and he's not a monster. And
14 he's not guilty either. And I'm just all over the place
15 I'm sorry.

16 THE COURT: Ms. Shiver, I understand.

17 MS. SHIVERS: One month, Judge, before this
18 happened, he was -- my son was getting ready to go to the
19 Four with P. Diddy and all of them. They chose him. He
20 had one contest down in Atlanta with the Coast to Coast
21 and representing South Carolina and he won that. And, you
22 know, it's all on social media. And Jarvay Brown was in
23 the group with him, but they didn't want him. They only
24 wanted my son. So I think a lot was jealousy. And also
25 my son only knew Jarvay. The other co-defendants they all

1 relatives and Jarvay's girlfriend, so my son was the odd
2 man out. He was the odd man out. And there are no
3 winners here. I feel really bad for the mother that lost
4 a son, but my son didn't take her son's life. And I pray
5 for her because I am a mother, but my son didn't take her
6 son's life.

7 THE COURT: Ms. Shivers, I thank you for an
8 eloquent presentation on behalf of your son.

9 MS. SHIVERS: You're welcome.

10 THE COURT: Anything further from anyone?

11 MS. JAMESON: Your Honor, since she was sworn in
12 is the State allowed to have some cross-examination?

13 THE COURT: At this point in time I don't think
14 it's going to amount to a hill of beans. I mean, I'm
15 giving a mother an opportunity to express how she feels
16 about her son and although I think technically I might
17 should allow you to do so, but I decline to do so, okay.
18 Let's proceed. Now, y'all ready to make closing
19 arguments?

20 MR. GRIFFITH: Yes, your Honor.

21 THE COURT: All right, Mr. Griffith, you may
22 proceed, sir.

23 MR. GRIFFITH: Thank you, your Honor. Mr.
24 Jackson although Mr. Furse met with him a day or say after
25 this plea, he didn't really have -- he may have changed

1 his mind evidently about getting an appeal, and, I mean,
2 Mr. Furse testified that he talk to him just after the
3 plea, but then Mr. Jackson was not given the opportunity
4 to communicate with anyone once he decided he did want an
5 appeal and had given it sufficient time to think about it.
6 And, of course, he's not an attorney. He didn't know what
7 an appeal may have produce whether it would be just said
8 anything else in the trial one of the appeals attorneys
9 could have found. But, your Honor, as well as that --
10 evidently, there was another statement by Mr. Brown and
11 that statement was -- I don't know if it went to the
12 Solicitor or not. Mr. Furse said that he wasn't sure
13 where it came from. And so if it came off of a kite that
14 was found in the yard, I mean, it seems to me it would
15 have been something that should have been shared with the
16 Solicitor's office and investigated your Honor to begin
17 with. And so your Honor I think that Mr. Jackson may have
18 some opportunity here to be considered for his PCR.

19 THE COURT: All right. Thank you, Mr. Griffith.
20 Ms. Jameson.

21 MS. JAMESON: Thank you, Your Honor. May it
22 please the Court. There are three issues in dispute today
23 two for ineffective assistance of counsel and one for
24 newly discovered evidence. As to the first issue that
25 counsels were ineffective failing to investigate and

1 inform the State of information from a co-defendant that
2 would exonerate him. The State's position he has not met
3 his burden of proof. He has not presented any witnesses.
4 He has not presented any statements. And so he has not
5 provided this court with any credible evidence in
6 accordance with the rules of evidence as to what this
7 statement is. And so as a matter of law, it's speculative
8 and must be denied.

9 As to the statement from his mother regarding a
10 kite from Mr. Brown, I believe she testified that it was
11 Brown threatening a witness not that it exonerated
12 Mr. Jackson in any way whatsoever. And so the State's
13 position is that he is not provided any evidence of a
14 statement that would exonerate him. It's speculative at
15 best, so that allegation should be denied as a matter of
16 law.

17 Additionally, counsel proficiently investigated
18 this. We have the testimony of Mr. Furse that their
19 investigator attempted to speak to all the co-defendants
20 including Mr. Brown and was prevented from doing so. And
21 so the State asks that this allegation be denied and that
22 applicant has not met his burden of proof as to that
23 allegation.

24 As to the kind of connected allegation newly
25 discovered evidence based on this, first it must fail as

1 newly discovered evidence as a matter of law because the
2 testimony is clear that this purported kite was known
3 prior to the plea. And so it can't meet the first factor
4 for newly discovered evidence, that it's newly discovered.
5 It was known well prior to Mr. Jackson's plea and so we
6 ask the Court to deny that allegation as a matter of law.

7 As to the third allegation that counsels were
8 ineffective for failing to file an appeal on Mr. Jackson's
9 behalf, we have credible testimony from Mr. Furse that he
10 spoke with Mr. Jackson in person following the guilty
11 plea, advised him of his appellate rights. Mr. Jackson
12 did not ask him to file an appeal on his behalf and never
13 asked him to file an appeal on his behalf. The plea
14 colloquy is ---

15 THE COURT: Speaks for itself, I guess.

16 MS. JAMESON: Speaks for itself. And Judge
17 Curtis advised him he had ten days. Mr. Furse went and
18 met with him. He never asked for one, and so there is no
19 evidence that he's entitled to belated appellate review
20 pursuant to White v. State. And we ask you to deny the
21 application in full.

22 THE COURT: Thank you, ma'am.

23 MR. GRIFFITH: If it please the court, your
24 Honor.

25 THE COURT: Yes, sir.

1 MR. GRIFFITH: The attorney general office
2 stated that there was no evidence presented about this
3 exonerating material. However, Mr. Furse testified that
4 he did receive that statement and that it was exculpatory.
5 And so there has been testimony that the evidence did
6 exist your Honor.

7 THE COURT: All right. Thank you, sir.
8 Anything further from anyone?

9 MR. JACKSON: May I say something please, sir?

10 THE COURT: Go ahead, Mr. Jackson.

11 MR. JACKSON: Yes, sir. The new statement it
12 was notarize and it wasn't given to Mr. Shaun Kent where
13 the CO was notarize as saying that he taken this from
14 Deontre Jarvay Brown. She notarize it in front of
15 Mr. Shaun Kent, and she handed it to him. And it was also
16 notarize, sir. And when Mr. Jack Furse came to ask me for
17 the appeal, he's the one who told me if it's ineffective
18 counsel, that they can't do it, sir. So I have to do it
19 on my own now.

20 THE COURT: All right.

21 MS. JAMESON: Your Honor, at this point
22 Mr. Jackson is offering me testimony ---

23 THE COURT: This is non-jury. I've heard
24 enough. Thank you all for your lively presentation. I'll
25 let you know my decision in due course. I'll give both

1 sides an opportunity to submit proposed orders. Now, how
2 much time would y'all like to have? Mr. Griffith, you go
3 first. The last time you wanted ten days. The last time
4 the AG wanted 30 days. I give you 30 days to get me
5 proposed orders.

6 MR. GRIFFITH: Thank you, your Honor.

7 THE COURT: Thank you very much. Ms. Shivers.
8 Where is she? She left. Let's see if she's still here.
9 Ms. Shivers. Ms. Shivers. Can we find her? Can you hear
10 me?

11 MS. SHIVERS: Yes, sir.

12 THE COURT: I just want to say this to you,
13 ma'am, in closing. I wish you all the very best. I have
14 children of my own. You got to love your son regardless
15 of what happened, but he's alive and bless you and him.
16 And I hope things work out in the future.

17 MS. SHIVERS: Yes, sir.

18 THE COURT: Only God knows what's going to
19 happen. You said you you had a Bible, that's what the
20 Bible would tell you.

21 MS. SHIVERS: Yes, sir.

22 THE COURT: Thank you for your service to this
23 country along with your other family members. I wish you
24 and your son and your entire family the very best going
25 forward. Thank you you all so very much.

1 MS. SHIVERS: Thank you, sir. And I will
2 continue to be a praying mother because we have mothers
3 have to pray for each other. Thank you, your Honor.

4 THE COURT: Thank you, ma'am.

5 MR. GRIFFITH: Thank you, your Honor.

6 MR. JACKSON: Thank you, your Honor.

7 END OF REQUESTED TRANSCRIPT

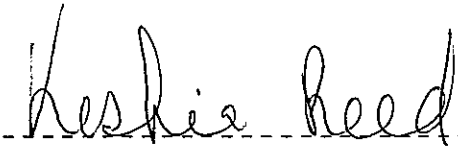
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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter in and for the State of South Carolina At Large, do hereby certify that the above-entitled cause was heard as hereinafter set out; that I was authorized to and did transcribe the said proceedings; and that the foregoing and annexed paged, numbered 1 through 51, inclusive, constitute a true and accurate transcription of my stenographic report of the said cause taken during the said hearing. In the Court of Common Pleas for Sumter County, South Carolina, on the 16th day of February, 2022.

I do further certify that I am neither of kin, counsel nor interest to any party hereto. In witness whereof, I have hereunto affixed my signature this 10th day of July 2022.



Keshia Reed, Court Reporter

STATE OF SOUTH CAROLINA RECORDED IN THE COURT OF COMMON PLEAS
COUNTY OF SUMTER) FOR THE THIRD JUDICIAL CIRCUIT

2022 APR 21 PM 1:15

Jaelon Jackson, SCDC # 384937

JAMES C. CAMPBELL
CLERK OF COURT

Case No.: 2021-CP-43-01221

Applicant, SUMTER COUNTY, S.C.

ORDER OF DISMISSAL

v.

State of South Carolina,

Respondent.

CERTIFIED TRUE COPY
OF ORIGINAL FILED

[Signature]
DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

INTRODUCTION

This matter comes before this Court by way of an application for post-conviction relief filed by Applicant Jaelon Jackson on July 19, 2021, asserting various claims of ineffective assistance of counsel and involuntary guilty plea. In response, Respondent the State of South Carolina filed a return and requested a more definite statement of allegations prior to any evidentiary hearing to resolve the claims set forth in the application. Thereafter, Applicant, through counsel Timothy L. Griffith, served an amended application on Respondent with specific claims of ineffective assistance of counsel and newly discovered evidence.

An evidentiary hearing on this action was convened February 16, 2022, before this Court utilizing the virtual courtroom on the Cisco WebEx platform.¹ Applicant appeared virtually along with his counsel. Respondent was represented by Senior Assistant Deputy Attorney General Megan Harrigan Jameson of the South Carolina Attorney General's Office. Applicant proceeded forward on the claims raised in his amended application. This Court heard testimony from

¹ At the onset of the hearing, this Court questioned Applicant as to whether he was comfortable proceeding forward virtually. Applicant informed this Court he consented to conducting his post-conviction relief hearing virtually.

Applicant, his mother, and plea counsel, John Furse.²

Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismissed this action with prejudice. Specific findings of fact and conclusions of law as required pursuant to S.C. Code Ann. § 17-27-80 are set forth below:

FACTUAL & PROCEDURAL HISTORY

The records before this Court establish Applicant is presently incarcerated within the South Carolina Department of Corrections (SCDC) following his guilty plea and sentence in Sumter County. On April 15, 2018, Applicant and several co-defendants planned an armed robbery guised as a drug deal, and, during this robbery, shot and killed the intended target of the robbery—a high school student. Thereafter, the Sumter County Grand Jury indicted Applicant and three co-defendants for criminal conspiracy, murder, attempted armed robbery, and possession of weapon during the commission of a violent crime pursuant to a multi-count indictment (2019-GS-43-1215). Applicant retained Shaun Kent, Esquire, and John Furse, Esquire, to represent him on these charges. Deputy Solicitor John Meadors of the Third Circuit Solicitor's Office prosecuted the case.

Following extensive plea negotiations with the State, Applicant accepted a plea offer to the lesser-included offense of voluntary manslaughter for a determinate twenty-five-year sentence and the dismissal of all other charges. On February 25, 2021, Applicant appeared before the Honorable Kristi F. Curtis, circuit court judge, via Judge Curtis's virtual courtroom utilizing the WebEx

² During his general sessions proceedings, Applicant was also represented by counsel Shaun Kent, who was present for this hearing but was not called as a witness.

platform,³ to plead guilty to the lesser-included offense of voluntary manslaughter pursuant to this plea agreement. Following a thorough plea colloquy with Applicant, Judge Curtis accepted Applicant's plea and imposed a twenty-five-year term of incarceration pursuant to the terms of the plea agreement. Applicant did not pursue an appeal.

Applicant then initiated this action with the filing of his *pro se* application for post-conviction relief on July 19, 2021.

CURRENT PROCEEDING

In his *pro se* application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following ground of ineffective assistance of counsel:

- (10) State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 - a) Failure to investigate
 - i. Counsel "failed to investigate facts and law of case"
 - b) Involuntary guilty plea
 - i. "Guilty plea was involuntary (sic) obtained"
 - c) Failure to object
 - i. Counsel "failed to object to evidence of the State"

As relief sought, Applicant stated he was seeking to, "vacate guilty plea."

Timothy Griffith, Esquire, was thereafter appointed by the Sumter County Clerk of Court to represent Applicant.

In response to the application, Respondent filed a return and a motion for a more definite statement, requesting Applicant, through appointed counsel, file an amended application setting forth specific grounds with supporting facts before an evidentiary hearing. Attached to this return

³ Applicant was questioned regarding his right to appear in-person and waived this right in order to enter his guilty plea virtually. See Plea Tr. p. 3-4.

and before this Court are the records from the Sumter County Clerk of Court regarding Applicant's underlying general sessions matter, the transcript from Applicant's guilty plea proceeding, Applicant's inmate records from the South Carolina Department of Corrections, and the records from this current action.

On February 3, 2022, Applicant, through counsel Griffith, served an amended application, setting forth the following additional claims of ineffective assistance of counsel:

1. Counsel was ineffective for failing to investigate and inform the Solicitor's Office of statements by co-defendants that exonerate Applicant;
2. Counsel was ineffective for failing to file an appeal from his guilty plea; and
3. Newly discovered evidence from co-defendant statements that Applicant was not present during the commission of the crime.

A hearing on was convened February 16, 2022, before this Court in this Court's virtual courtroom. Applicant was present virtually, and consented

At the hearing, Applicant proceeded forward on the claims set forth in his amended application. Applicant testified on his own behalf and presented testimony from his mother.⁴ Respondent presented testimony from Applicant's former plea counsel, John Furse. At the conclusion of the hearing, this Court requested proposed orders from both parties.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged various claims of ineffective assistance of plea counsel and asserts that as a result of counsel's purported errors, he is entitled to have his guilty plea undone and

⁴ Although not called as a witness, Applicant's mother asked to address the Court and this Court allowed her to do so. She was sworn-in as a witness and provided testimony as to the statement from a co-defendant subject to Applicant's amended allegations. Respondent then requested an opportunity to cross-examine Applicant's mother, noting that she had provided substantive testimony regarding the allegations presented to this Court. This Court declined Respondent's request and did not permit cross-examination of Applicant's mother.

proceed back to the court of general sessions for a new disposition of his case. He also asserts he is entitled to relief based on a claim of newly discovered evidence based on statements from co-defendants that establish Applicant was not present for the crime.

Under the Uniform Post-Conviction Procedures Act, an applicant may seek post-conviction relief upon the following types of allegations:

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

S.C. Code Ann. § 17-27-20(A).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985); Rule 71.1(e), SCRPC.

This Court has thoroughly reviewed the record in its entirety, including the plea transcript and the records for this current action. Additionally, this Court heard the testimony presented at the evidentiary hearing and was able to observe the witnesses presented at the evidentiary hearing,

which allowed the Court to scrutinize the credibility of all witnesses presented. Based on this comprehensive review, this Court finds Applicant has failed to meet his burden of proof as to any of his allegations and finds this action must be denied and dismissed with prejudice. 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).

Ineffective Assistance of Plea Counsel

Applicant's first two claims for relief as set forth in his amended application pertain to ineffective assistance of counsel. The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, post-conviction relief allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in post-conviction relief actions). The allegation of denial of such representation sets forth a prima facie violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so ineffective as to require reversal" of the applicant's conviction or sentence. 466 U.S. at 687. First, the applicant must show that counsel's performance was

deficient; and second, that the deficient performance prejudiced the applicant. Id. at 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

The first prong—constitutional deficiency—is “necessarily linked to the practice and expectations of the legal community.” Padilla v. Kentucky, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel’s representation fell below an objective standard of “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

Strickland, however, “does not guarantee perfect representation[—]only a ‘reasonably competent attorney.’” Harrington v. Richter, 562 U.S. 86, 110 (2011) (quoting Strickland, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel’s conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. Strickland, 466 U.S. at 686. Just as there is “no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities.” Harrington, 562 U.S. at 110.

Accordingly, “[j]udicial scrutiny of counsel’s performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel’s assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” Strickland, 466 U.S. at 689; see also Yarborough v. Gentry, 540 U.S. 1, 6 (2003) (“The Sixth

Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. *Id.* (quoting *Strickland*, 466 U.S. at 690).

Thus, a fair assessment of attorney performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time. *Id.* Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” *Butler*, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625.

Reviewing courts “must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed at the time of counsel’s conduct.” *Strickland*, 466 U.S. at 690. An applicant making a claim of ineffective assistance “must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment.” *Id.* The reviewing court must then “determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance.” *Id.*

The *Strickland* standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690; *see also Harrington*, 562 U.S. at 105 (cautioning that an ineffective assistance

of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial). Even under *de novo* review, the standard for judging counsel's representation is a most deferential one. Harrington, 562 U.S. at 105. Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690) (emphasis added).

The second, or "prejudice" prong of Strickland is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. Id. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 694. Thus, it is not enough "to show the errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to deprive the defendant of a fair trial." Id. at 687 (emphasis added).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel." Hill, 474 U.S. 52; cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to

effective assistance of counsel): A claim of ineffective assistance of guilty plea counsel requires the applicant present evidence satisfying two prongs: first, evidence that counsel's performance was deficient; and second, evidence that counsel's deficient performance prejudiced the defendant by causing him to plead guilty rather than go to trial. Hill, 474 U.S. 52.

The analysis of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show counsel's representation fell below the objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not “within the competence demanded of attorneys in criminal cases.” Hill, 474 U.S. at 56.

The second, or “prejudice” prong, however, “focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process.” Id. at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” Id. at 59. This inquiry “focuses on a defendant's decisionmaking” and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. ___, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d

442, 444 (1999).

Surmounting Strickland's high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." Lee, 582 U.S. ___, 137 S. Ct. at 1967 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 ("[R]equiring a 'prejudice' showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'"). Reviewing "[c]ourts should not upset a plea solely because of post hoc assertions from a defendant about how he would have pleaded but for his attorney's deficiencies. Lee, 582 U.S. ___, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences. Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the PCR hearing. Harres, 282 S.C. at 134, 318 S.E.2d at 361.

The performance and prejudice standards, however, "do not establish mechanical rules; [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." Id. at 696. Moreover, "there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one." Id. at 697. The court "need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. Id. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. Id.

This Court finds Applicant cannot meet his burden as to any of his claims of ineffective assistance of counsel. Each specific claim is addressed below:

Ineffective assistance of counsel for failure to investigate and inform the State of exonerating co-defendant statements

As his first claim for relief, Applicant asserts plea counsel was ineffective for failing to investigate and inform the State of beneficial statements from co-defendants that exonerated him. In support of this allegation, Applicant testified that he was aware of statements from his co-defendants that exonerated him. Specifically, he testified these statements say he was not present during the crime. He testified he does not have these statements but that the statements were sent to his mother. He testified he told his attorneys about these statements but they did not investigate these statements. He acknowledged he reviewed discovery with his attorneys, including statements implicating him in the crime.

Applicant's mother provided testimony regarding these purported statements. She testified that when Applicant was originally represented by different counsel, she received information of a "kite", a letter sent between inmates at the detention center, in which one of Applicant's co-defendants threatens the life of a witness. She testified that this was mailed directly to her, and she provided it to her son's attorney. She testified that this letter should have been provided to Furse and Kent and claims that her son's attorneys did nothing to investigate this letter. She did not present the statement or "kite."

Applicant did not present any of his co-defendants to testify or otherwise provide evidence of their statements in accordance with the rules of evidence at the hearing.

In response to this allegation, plea counsel John Furse testified that his firm utilized their private investigator to work on this case. He testified their investigator attempted to pursue a

potential alibi defense Applicant provided to them but, after extensive investigation, it was not fruitful." He testified he attempted to speak with Applicant's co-defendants, but they were all represented by counsel and their individual attorneys refused to let them speak with the defense team. He testified that based on this, it was impossible to know exactly what co-defendants would have stated if they cooperated with the State and testified against Applicant at his trial. He acknowledged that numerous co-defendants had given statements to law enforcement implicating Applicant in the crime.

Counsel testified he was informed of a "kite", and it was his understanding that it was from one of Applicant's co-defendants and could have been interpreted as the co-defendant recanting a prior statement implicating Applicant. Counsel testified he discussed this with Applicant and explained that there would still be a significant risk in proceeding to trial based on the other statements implicating Applicant in the crime, including a statement where Applicant admitted to being the shooter. Counsel testified that after thoroughly reviewing all evidence with Applicant and a through investigation into the facts and circumstances of the case as well as potential defenses, it was his believe that it was in Applicant's best interest to accept the favorable plea offer from the State.

This Court finds Applicant has failed to meet his requisite burden of proof as to this allegation. As an initial matter, Applicant failed to present any statements or any of the co-defendants as witnesses, or otherwise offer evidence of what their testimony would have been, in accordance with the rules of evidence, and, accordingly, this claim must fail as a matter of law. See Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998) (noting our courts have "repeatedly held a PCR applicant must produce the testimony of a favorable witness or otherwise

offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial"); Glover v. State, 318 S.C. 496, 499, 458 S.E.2d 538, 540 (1995) (holding a PCR applicant's mere speculation as to what the witnesses' testimony would have been cannot, by itself, satisfy the burden of showing prejudice); Smith v. State, 404 S.C. 493, 502, 745 S.E.2d 378, 383 (Ct. App. 2012) (holding an applicant failed to meet his burden of proof where he failed to present testimony from any of the witnesses he asserts should have been called at trial). As Applicant failed to present any evidence to support this allegation, this claim fails.

Additionally, this Court finds Applicant cannot establish that counsel was deficient in his performance. Counsel credibly testified that he investigated the case fully and attempted to speak with Applicant's co-defendants but was prohibited by their counsels. He testified that he discussed the "kite" with Applicant and explained that he would still have significant problems if he proceeded to trial based on the statements from other co-defendants implicating him in the crime. This Court finds counsel provided competent representation based on the facts and circumstances of this case, and that this claim is denied.

Ineffective assistance of counsel for failure to file an appeal on Applicant's behalf

As his second claim for relief, Applicant asserts plea counsel was ineffective for failing to file an appeal on his behalf. Applicant provided inconsistent testimony in support of this claim, asserting that he did want to pursue an appeal but then stating he wanted to pursue an action against his attorneys for their performance (i.e., a post-conviction relief action such as he is currently litigating). Applicant also testified that he could not recall asking his attorneys to file an appeal on his behalf, but then stated that he was aware his counsels could not handle his appeal because the

claims would be against them. He later reiterated that he did not ask his attorneys to file an appeal on his behalf. He later claimed the only reason he did not file an appeal was because he was unable to contact his attorneys but admitted he never called, wrote, or otherwise attempted to contact counsels following his plea. He testified he first decided he wanted an appeal when he was at Kirkland Correctional Institution. He acknowledged he was advised on the record during his guilty plea that he has ten days to file a direct appeal and needed to contact his attorneys as soon as possible if he wanted to secure direct appellate review. (Plea Tr. p. 22)

In response to this claim, counsel testified he discussed appellate rights with Applicant prior to the plea proceeding. He testified the plea court also advised him of his appellate rights, including that an appeal must be filed within ten days. Counsel testified he received a call about a possible appeal from Applicant's mom following the plea. Counsel testified the defense team also visited Applicant following the plea on March 2, 2021, where they again reviewed appellate options with Applicant. Counsel testified they did not attempt to talk Applicant out of an appeal but discussed the various options available to applicant. He testified Applicant never requested the defense team file an appeal on his behalf.

This Court finds Applicant has failed to meet his burden of proof as to this allegation, as the uncontradicted evidence before this Court is that Applicant was fully advised of his right to seek appellate review and never asked his attorneys to seek appellate review. Applicant was advised of his appellate rights by his attorneys both before and after his plea, as well as by the plea court during the plea. With this knowledge of the right to pursue an appeal, as well as the timeline required to secure appellate review, Applicant never sought appellate review. Accordingly, this allegation must be denied.

Newly Discovered Evidence

Finally, Applicant claims he is entitled to relief based on a claim of newly discovered evidence. Specifically, Applicant asserts that statements from his co-defendants exonerate him by stating he was not present during the commission of the crime.

To succeed on a claim of newly discovered evidence following a guilty plea, Applicant must establish:

(1) the newly discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the "interest of justice" requires the applicant's guilty plea to be vacated. In other words, a PCR applicant may successfully disavow his or her guilty plea only where the interests of justice outweigh the waiver and solemn admission of guilt encompassed in a plea of guilty and the compelling interests in maintaining the finality of guilty-plea convictions.

Jamison v. State, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014).

Here, the "interests of justice" do not require vacation of Applicant's guilty plea. As an initial matter, this claim must fail because Applicant cannot meet his burden of proof. As discussed above in relation to this allegation as one of ineffective assistance of counsel, Applicant did not present any of his co-defendants to testify or otherwise provide evidence of their statements in accordance with the rules of evidence at the hearing, and, accordingly, he can only speculate as to what evidence could be provided, if any. Moreover, the testimony presented regarding the "kite" statement was that it was known before Applicant entered his plea, and, therefore, does not meet the Jamison standard. Additionally, the "kite" statement does not exonerate Applicant but merely impeaches his co-defendant regarding threats he made to another witness. This Court finds

Applicant has failed to present any newly discovered evidence and this claim is denied.

CONCLUSION

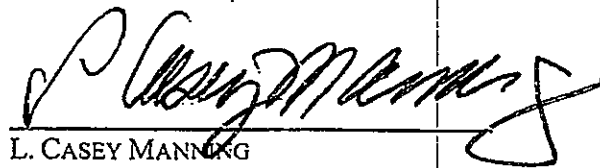
Based on all the foregoing, this Court finds Applicant has not established any other constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. Therefore, this application for post-conviction relief is denied and dismissed with prejudice.

This Court notes that if Applicant wishes to appeal this order, Applicant, though his counsel of record, must file and serve a notice of appeal within thirty days from the receipt of this Order. See Rule 203 and 243, 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 post-conviction relief. Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and
2. Applicant Ashley Prior shall remain remanded to the custody of the State of South Carolina.

AND IT IS SO ORDERED this 31 day of March, 2022.



L. CASEY MANNING
Presiding Judge
Third Judicial Circuit

Columbia, South Carolina

AMENDED
DOCKET NO. 2018-GS-43-1215

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

May TERM 2019

THE STATE

vs.

SHANICE OCTAVIA BRADLEY

JAELEON MARKELL JACKSON

DIONTRE BROWN

DEQUAN LAMONT WASHINGTON

Indictment for

Criminal Conspiracy

Murder

Possession of a Weapon During the Commission of a

Violent Crime

Attempted Armed Robbery

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

WITNESSES

Letitia I. Culick Sumter Police Dept.

ARREST WARRANT NUMBER

2018A4320100300 2018A4320100302

2018A4320100301 2018A4320100286

2018A4320100303 2018A4320100299

2018A4320100287 2018A4320100297

2018A4320100305

2018A4320100306 2018A4320100307

2018A4320100309 2018A4320100296

2018A4320100298

ACTION OF GRAND JURY

Charles H. Hester
Foreperson of Grand Jury
Date: 5/2/19

VERDICT

TRUE BILL

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)

INDICTMENT FOR

Criminal Conspiracy
 Murder
 Possession of a Weapon During the Commission of a Violent
 Crime
 Attempted Armed Robbery

CERTIFIED TRUE COPY
 OF ORIGINAL FILE

At a Court of General Sessions, convened on May 2, 2019 the Grand Jurors of

SUMTER County present upon their oath:

Bachon Snape
 DEPUTY CLERK OF COURT
 SUMTER COUNTY
 SOUTH CAROLINA

COUNT ONE - CRIMINAL CONSPIRACY

That Shanice Octavia Bradley, Diontre Brown, Jaelon Markell Jackson and Dequan Lamont Washington did in Sumter County on or about April 15, 2018 combine with each other, and/or with other persons, for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: Armed Robbery, in violation of Section 16-17-410, S. C. Code of Laws, 1976, as amended.

COUNT TWO - MURDER

That Jaelon Markell Jackson, Diontre Brown, Dequan Lamont Washington and Shanice Octavia Bradley did in Sumter County, on or about April 15, 2018, willfully, feloniously, and intentionally kill the victim, Joshua Goodman, with malice aforethought, either express or implied, by means of shooting the victim with a handgun, and the victim did die as a proximate result thereof on or about April 15, 2018 in Sumter County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

COUNT THREE - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That Jaelon Markell Jackson and Diontre Brown, did in Sumter County, on or about April 15, 2018, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

COUNT FOUR - ATTEMPTED ARMED ROBBERY

That Jaelon Markell Jackson, Diontre Brown, Dequan Lamont Washington and Shanice Octavia Bradley did, along with co-defendants in Sumter County on or about April 15, 2018, while armed with a deadly weapon, attempt to take and carry away the personal property from or in the immediate presence of Joshua Goodman with intent to deprive him/her of possession by use of force, threats, or intimidation, in violation of Section 16-11-0330(B), S. C. Code of Laws, 1976, as amended.

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

Solicitor

Ernest A. Finley III

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER
STATE VS.

Jaelon Markell Jackson

AKA

Race: Black

Sex: M

Age: 24

*CDL ☐ CMV ☐ Harms ☐In disposition of the said indictment comes now the Defendant who was
TO: Voluntary Manslaughter

in violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code #

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS/CSC ☐ 417-25-45

w/minor 1st or 2nd 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

Meadors, John P

SC Bar#

Defendant

Kurt, Sherryl

SC Bar#

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years, or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____ plus costs and assessments as applicable*, the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,

which are incorporated by reference

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total \$ _____ plus 20% fee \$ _____

days/hours Public Service Employment

Payment Terms

☐ Set by SCDOPPSObtain GED ☐

Attend Voc Rehab or Job Corp

May serve W.E. beginning

Substance Abuse Counseling ☐Random Drug Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other

Recipient:

*Fine	\$
§14-1-206 (Assessments 117.5 %)	\$
§14-1-211 (AX1) (Conv. Surcharge)	\$100
§14-1-211 (AX2) (DUI Surcharge)	\$100
§56-3-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def Probation)	\$500
§14-3-212 (Law Enforcement Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§10-21-114 (BLT Breath Test Fee)	\$50
§56-5-2942 (1) (Vehicle Assessment)	\$40 ea
to County (if paid in installments)	

TOTAL

\$128.75

☐ Appointed PI or appointed other counsel.

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before

any other fees

Clerk of Court/Deputy Clerk

Court Reporter

James C. Campbell
Sherryl Jones (Clerk)

Presiding Judge

Judge Code

Sentence Date

Kurt, Sherryl
2762
2-25-2021

SC CA217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE# 2018-05-43-1215

A/W# 2018A4320100286

Date of Offense 4/15/2018

S.C. Code § 16-03-0010

CDR Code # 0116

CERTIFIED TRUE COPY
OF ORIGINAL FILESENTENCE BY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA☐ CONVICTED OF

or

☒ PLEADS

years

ARREST WARRANT

2018A4320100286

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Sumter Municipal

THE STATE

18052328

against

Jaelon Markell Jackson

Address: Brighton Hill Rd Apt
Columbia, SC 29223-8616Phone: SSN: [REDACTED]
Sex: M Race: B Height: 6 Weight: 150

Agency ORI #: SC0430100

Prosecuting Agency: Sumter Police Department

Prosecuting Officer: Letitia I Culick - S00186

Offense: Murder / Murder

Offense Code: 0116

Code/Ordinance Sec: 16-03-0010

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to
defendant Jaelon Jackson
on 04-18-18J. Melton 1624
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

General Sessions
215 N. Harvin St.
Sumter, SC 29150

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Sumter Municipal

Personally appeared before me the affiant Letitia I Culick

being duly sworn deposes and says that defendant Jaelon Markell Jackson

did within this county and state on or about 4/15/2018

State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of

Sumter Municipal

in the following particulars:

DESCRIPTION OF OFFENSE: Murder / Murder

I further state that there is probable cause to believe that the defendant named above did commit
the crime set forth and that probable cause is based on the following facts:That on April 15, 2018, at 10 Peach Street in the city of Sumter, one Jaelon Markell Jackson did, with malice aforethought, cause
the death of Joshua Gordon Jackson, along with codefendants attempted to rob the victim and during the robbery, Jackson was
armed with and fired a handgun hitting the victim before fleeing the scene. Victim was taken to Palmetto Health Tuomey where
was pronounced dead from the inflicted gunshot. A Codefendant has implicated Jackson as the shooter in the incident. Law
enforcement shall arrest to the same.DEPUTY CLERK OF COURT
SUMTER COUNTY
SOUTH CAROLINA

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Sumter Municipal

Affiant's Address 107 East Hampton Avenue

Sumter, SC 29150-

Affiant's Telephone (803)436-2790

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe

on or about 4/15/2018

defendant Jaelon Markell Jackson

did violate the criminal laws of the State of South Carolina (or ordinance of

☐ County/ ☒ Municipality of Sumter Municipal

) as set forth below:

DESCRIPTION OF OFFENSE: Murder / Murder

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable

Sworn to and subscribed before me

on 4/16/2018

Signature of Issuing Judge

Bryan Keith Griffin

Judge Code: 5043

Judge's Address 190 E. Canal Street

Sumter, SC 29151-1428

Judge's Telephone (803)436-2280

Issuing Court: ☒ Magistrate ☐ Municipal ☐ Circuit

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Form Approved by
S.C. Attorney General
April 21, 2003
SCCA 518

AFFIDAVIT

who

violate the criminal laws of the

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