

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

—————
Certiorari to Cherokee County

Honorable William A. McKinnon, Circuit Court Judge
—————

ROBERT BUNYAN HOLLIS, JR.,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-001139
—————

APPENDIX
—————

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S.C. SUPREME COURT

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1 STATE OF SOUTH CAROLINA) IN THE COURT OF
 2) GENERAL SESSIONS
 3 COUNTY OF CHEROKEE) OF THE SEVENTH
 4) JUDICIAL CIRCUIT
 5)
 6 THE STATE OF SOUTH CAROLINA,)
 7 Plaintiff,) TRANSCRIPT OF RECORD
 8 vs.) 2019-GS-11-00410
 9 ROBERT BUNYAN HOLLIS, JR.,) 2019-GS-11-00410A
 10 Defendant.) 2019-GS-11-00411
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 12)
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 22)
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 24)
 25)

May 11, 2021
 Gaffney, South Carolina

B E F O R E:

HONORABLE GRACE G. KNIE, Judge.

A P P E A R A N C E S

DERRICK B. BULSA, DEPUTY SOLICITOR
 For The State

STEVEN D. EPPS, ESQUIRE
 For Defendant

Julie A. Cendroski,
 Circuit Court Reporter III
 Seventh Judicial Circuit

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EXHIBITS

MARKED

ENTERED

NO EXHIBITS PROFFERED

1 THE STATE VS. ROBERT B. HOLLIS, JR.

2 THE CLERK: Please raise your right hand.

3 (Complies.)

4 Do you solemnly swear the information you give
5 this court to be the truth, the whole truth, and nothing
6 but the truth so help you God?

7 THE DEFENDANT: Yes, ma'am.

8 THE CLERK: You can lower your mask to speak,
9 Mr. Hollis, okay?

10 THE DEFENDANT: Yes, ma'am.

11 MR. BULSA: May it please the Court, Your Honor?

12 THE COURT: Yes, sir. Mr. Hollis, if you'll
13 direct your attention to the deputy solicitor, okay?

14 THE DEFENDANT: All right.

15 MR. BULSA: If it please the Court, Your Honor.
16 2019-GS-11-410, it's a true billed indictment. It's two
17 counts. Count one is for murder, count two is for
18 possession of a weapon during the commission of a
19 violent crime. He's pleading guilty to the lesser
20 offense of voluntary manslaughter, as well as count two.
21 This is a negotiated sentence.

22 2019-GS-11-411, this is also a two-count
23 indictment for attempted murder and possession of a
24 weapon during the commission of a violent crime. He's
25 pleading on count one to that charge to lesser included

1 offense of assault and battery of a high and aggravated
2 nature. There are additional indictments that are being
3 dismissed related to this charge.

4 THE COURT: Thank you. Okay. So, under
5 indictment 19-GS-11-411A, that is being dismissed?

6 MR. BULSA: Yes, ma'am.

7 THE COURT: Okay. And is anyone going to be
8 joining us either virtually or in person --

9 MR. BULSA: No, ma'am.

10 THE COURT: -- regarding the victim?

11 MR. BULSA: No, ma'am.

12 THE COURT: Or victims?

13 MR. BULSA: Your Honor heard from them in a
14 co-defendant case back in December, so they won't be
15 joining us today.

16 THE COURT: December the 16th?

17 MR. BULSA: Yes, ma'am.

18 THE COURT: Okay.

19 Okay. Mr. Epps, sir, you heard the recitation
20 of the charges and the sentence, sentences that have
21 been negotiated in this matter. Sir, is that your
22 understanding of the charges that Mr. Hollis will be
23 entering a plea or pleas to today?

24 MR. EPPS: Correct, Your Honor. And I believe
25 those are notated on the sentencing sheets.

1 THE COURT: And the sentences that --

2 MR. EPPS: The sentences ---

3 THE COURT: -- that is negotiated, do you
4 understand those to be 25, 20, and 5?

5 MR. EPPS: Yes, Your Honor. 25 is to the
6 voluntary manslaughter, 20 is to the ABHAN, and then 5
7 as to the possession of a weapon during a violent crime.
8 And as to the notations that I wrote on the upper right
9 of the sentencing sheet, those were reviewed also with
10 my client when we were going over the sentencing sheets
11 and you signed them.

12 THE COURT: Okay. And the credit for time
13 served, is that as of today?

14 MR. EPPS: 884 days as of today, Your Honor. My
15 client never bonded out. He has been in since arrest.

16 THE COURT: Oh, 884?

17 MR. EPPS: Yes, Your Honor.

18 THE COURT: Okay. And noted on my paperwork is
19 that Mr. Hollis is pleading under *Alford*?

20 MR. EPPS: Correct, Your Honor. And I will go
21 into that as needed when the time is appropriate.

22 THE COURT: And any objection by the State?

23 MR. BULSA: No, no objection, Your Honor.

24 THE COURT: Okay. Good afternoon, sir. You are
25 Robert, is it Bunyan?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Hollis, Jr.; is that correct?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: And I believe the clerk has already
5 placed you under oath; is that correct, Madam Clerk?

6 THE DEFENDANT: Yes, ma'am.

7 THE CLERK: Yes.

8 THE COURT: Okay. Mr. Hollis, sir, the way that
9 this will work, I have a series of questions that I'm
10 going to go over with you. And after that, I will hear
11 again from the deputy solicitor and I will hear from Mr.
12 Epps. Lastly, I will hear from you regarding anything
13 that you think that I should know before agreeing or
14 disagreeing with the negotiated sentence, okay?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Is anybody else gonna be addressing
17 me?

18 MR. EPPS: Your Honor, Mr. Hollis's father is
19 here in the crowd; however, since this is a negotiated
20 plea, it's either a yes or a no as to the negotiations,
21 I don't believe a statement is truly gonna be needed or
22 necessary. Mr. Hollis also has family members in
23 support, but due to COVID restrictions they are
24 downstairs. But they're here, he knows they're here.
25 They want the Court to know that they're here to support

1 him today.

2 THE COURT: Okay. And I'm gonna let you get
3 into as much of that as you want to, as well as Mr.
4 Hollis, and as well as his father. If his father wants
5 to address me, Mr. Epps, you know I'll entertain that,
6 okay?

7 MR. EPPS: I'll be glad to check with him while
8 the solicitor is asking, if you'd like, Your Honor.

9 THE COURT: Why don't you just go ahead and ask
10 him --

11 MR. EPPS: Sure.

12 THE COURT: -- so that you can come back and
13 stand next to your client.

14 MR. EPPS: Your Honor, no statement from Mr.
15 Hollis, Sr., but he did want to stand here with his son
16 during this time.

17 THE COURT: Any objection to that?

18 MR. BULSA: No. No, Your Honor.

19 THE COURT: Okay. And normally I wouldn't ask
20 if there's an objection, but because of COVID things
21 have been a little -- okay. And so now, I am going to
22 question Mr. Hollis, sir, okay?

23 Sir, do you understand that the purpose of the
24 hearing today is for you to enter pleas on these three
25 charges, it's my understanding, in consideration of your

1 entering pleas on these charges and I know there were
2 some reduction in charges, but one of the possession of
3 a weapon during the commission of a violent crime is
4 being dismissed. Do you understand that?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Okay. And even though you're
7 entering your plea under North Carolina vs. Alford,
8 you're still entering a plea, so the questions are gonna
9 be pretty much the same up until I ask you how you
10 plead, all right? And I'll go into that in more detail
11 in just a few minutes. But, do you understand that the
12 purpose of the hearing today is for you to enter pleas
13 on three of the charges against you?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And that would be opposed to having
16 a jury trial or a bench trial on these charges?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Now, sir, when you enter a plea, not
19 only are you waiving your right to a trial by jury, but
20 you also waive your right to confront witnesses against
21 you and your right to remain silent, do you understand?

22 THE DEFENDANT: Yes, ma'am, I do.

23 THE COURT: And, sir, if you were to go forward
24 and have a trial, the burden of proof would not be on
25 you and Mr. Epps, the burden of proof is on the State,

1 on the solicitor, to prove every element of every charge
2 against you beyond a reasonable doubt. You, sir, are
3 presumed to be innocent until proven guilty. Do you
4 understand?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And, sir, if you were to have a jury
7 trial, every member of the jury, all 12, would have to
8 agree before you could be found guilty. Do you
9 understand?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And so, Mr. Hollis, sir,
12 understanding all of that, do you still today wish to go
13 forward waiving these very important constitutional
14 rights that I've stated to you in exchange for pleas on
15 these charges?

16 THE DEFENDANT: Yes, ma'am, I do.

17 THE COURT: Sir, has anybody threatened you or
18 coerced you in any way to get you to enter your plea?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: And don't be offended, Mr. Hollis, I
21 ask everybody the next questions, okay? Are you today
22 under the influence of alcohol, drugs, or any intoxicant
23 that would impair your judgment?

24 THE DEFENDANT: No, ma'am, I'm not.

25 THE COURT: Do you suffer from any mental or

1 physical infirmity that would affect your ability to
2 understand what we're doing?

3 THE DEFENDANT: No, ma'am, I'm not.

4 THE COURT: Do you take any type of prescribed
5 medication?

6 THE DEFENDANT: No, ma'am.

7 THE COURT: And are you satisfied with the
8 services of your lawyer?

9 THE DEFENDANT: Yes, ma'am, I do.

10 THE COURT: Has he done everything that you've
11 asked of him in this case?

12 THE DEFENDANT: Yes, ma'am, he has.

13 THE COURT: And, sir, if you have any questions
14 during the hearing, you can ask him, you can tell me,
15 okay, and we can take a break.

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: All right. Do you understand that?

18 THE DEFENDANT: Yes, ma'am, I do.

19 THE COURT: Okay. Now, with regard to the
20 charges against you, they've already been recited by --
21 excuse me just one moment.

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: By the deputy solicitor. Sir, I
24 have three indictments. I have 2000 -- I have true
25 billed indictment 2019-GS-11-410. And originally, sir,

1 this was for the offenses of murder as count one, and
2 possession of a weapon during the commission of a
3 violent crime as count two. You are actually entering a
4 plea to voluntary manslaughter, which is a lesser
5 included offense. And the potential penalty under this
6 indictment is a mandatory minimum of two years and a
7 maximum of 30 years. And so, sir, with regard to this
8 indictment, 19-GS-11-410, do you understand the offense
9 that you're entering your plea to?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And do you understand the potential
12 penalty?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Now, sir, has it been explained to
15 you that this offense is classified as being both
16 violent and most serious?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Do you have any questions regarding
19 the classification of this offense for me or for Mr.
20 Epps?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: And, sir, I have as count two of the
23 true billed indictment for count A, 19-410A, is the
24 offense of possession of a weapon during the commission
25 of a violent crime. The potential penalty for this,

1 sir, is five years. Do you understand the offense that
2 you're entering your plea to as to 410A?

3 THE DEFENDANT: Yes, ma'am, I do.

4 THE COURT: Do you understand that the potential
5 penalty is five years?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: And that cannot be reduced?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Also, sir, I have true billed
10 indictment 19-411, and this was for, originally for the
11 offense of attempted murder as count one, and possession
12 of a weapon during the commission of a violent crime as
13 count two. You are pleading to the lesser included
14 offense of assault and battery of a high and aggravated
15 nature. Is that your understanding?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And, sir, do you further understand
18 that the potential penalty is zero to twenty years?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Sir, has it been explained to you
21 that this offense is classified as being both violent
22 and serious in nature?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And so, again, sir, do you
25 understand the offense that you're entering your plea

1 to?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: The potential penalty?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And classification?

6 THE DEFENDANT: Yes, ma'am, I do.

7 THE COURT: Do you have any questions regarding
8 the classification for me or for Mr. Epps?

9 THE DEFENDANT: No, ma'am, I don't.

10 THE COURT: Sir, in exchange or in consideration
11 of your entering a plea, the second charge or count two
12 is being dismissed, and that was possession of a weapon
13 during the commission of a violent crime. Do you
14 understand?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: All right. Now, this is coming
17 before me as a negotiated sentence. And the
18 negotiations of counsel have rendered that you would
19 receive a sentence of 5 years on the possession of a
20 weapon during the commission of a violent crime, 20
21 years on the assault and battery of a high and
22 aggravated nature, and 25 years on voluntary
23 manslaughter. Do you understand that?

24 THE DEFENDANT: Yes, ma'am, I do.

25 THE COURT: Have you had enough time to discuss

1 that with your lawyer?

2 THE DEFENDANT: Yes, ma'am, I have.

3 THE COURT: Do you have any questions about it?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: Okay. And, further, has it been
6 explained to you that apparently you have been
7 incarcerated for a considerable period of time, I'm
8 assuming since on or about the date of the incident, and
9 you will be getting credit for 884 days. Is that your
10 understanding?

11 THE DEFENDANT: Yes, ma'am, I do.

12 THE COURT: Okay. Now, has Mr. Epps explained
13 to you that when sentences come before the Court that's
14 negotiated that I can accept that or reject that, but I
15 can't change that? Do you understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: So, for instance, you can't think
18 that I'm going to reduce the 25 years to 15 today. It's
19 either I'm accepting it or I'm going to reject it. Do
20 you understand that?

21 THE DEFENDANT: Yes, ma'am, I do.

22 THE COURT: Okay. And so, if I decide that I
23 can't accept it, I'm going to let you and Mr. Epps stand
24 down and withdraw the plea. You all can regroup on it.
25 Do you understand?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. And this is being done
3 under *Alford*, which is just another -- so do you
4 understand, sir, that you are pleading today under North
5 Carolina versus Alford?

6 THE DEFENDANT: Yes, ma'am, I do.

7 THE COURT: And, so, let me ask Mr. Epps a
8 couple questions, okay?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Mr. Epps, sir, do you remember
11 reviewing the evidence and the discovery with Mr.
12 Hollis?

13 MR. EPPS: I do.

14 THE COURT: And have you also discussed with Mr.
15 Hollis his, his options of doing what he is doing today,
16 which is entering a plea or rolling the dice and going
17 in front of a jury?

18 MR. EPPS: We have discussed the trial aspects
19 of this case, as well as the potential plea aspects of
20 this case, as well as what a guilty plea and what I call
21 an *Alford* plea entailed.

22 THE COURT: Okay. And so now, Mr. Hollis, sir,
23 do you remember discussing with Mr. Epps the discovery
24 and the evidence in this case?

25 THE DEFENDANT: Yes, ma'am, I do.

1 THE COURT: Do you also remember discussing with
2 him your options of doing what you're doing right now,
3 which is entering a plea or going forward with a jury
4 trial?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And in your discussions, sir, do you
7 believe that based on the evidence against you, okay, if
8 that evidence was reviewed by a jury, that it's more
9 likely than not that a jury would find you guilty of
10 these charges?

11 THE DEFENDANT: Yes, ma'am, I do.

12 THE COURT: And is that the reason that you're
13 entering your pleas today under North Carolina versus
14 Alford?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Are you doing so freely, knowingly,
17 and voluntarily?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Sir, please be advised that in the
20 event that you wish to appeal any aspect of the plea
21 hearing today, you only have ten days to do so in
22 writing to this court. Do you understand?

23 THE DEFENDANT: Yes, ma'am, I do.

24 THE COURT: Okay. Thank you, sir. All right.
25 And so now, sir, I am going to hear from the deputy

1 solicitor regarding the facts.

2 MR. BULSA: Thank you, Your Honor. This
3 incident occurred on December the 1st, 2018. The police
4 received a call from 9-1-1 at 4:42 in the morning from a
5 residence on Concord Acres Drive in Gaffney. The
6 gentlemen making the call had been shot. He told the
7 three men coming in, all possessing weapons, and him
8 getting shot during the incident, as well as a lady by
9 the name of Janet Smith getting hit and shot.

10 Ms. Smith lived at that residence. The 9-1-1
11 call was Christopher Poole. He was visiting with her.
12 He had actually visited with her earlier in the evening,
13 fell asleep on her couch while she left the residence
14 and came back.

15 When he was interviewed by the police, he told
16 of being awoken by some noise at the door. He described
17 a forceful entry into the residence, and money being
18 demanded from Ms. Smith by the three men. He was able
19 to recognize and identify one of those men by the
20 nickname of Red, who was Dewayne Lipscomb.

21 The police continued with that information and
22 found Mr. Lipscomb, found some other individuals where
23 Mr. Lipscomb had been earlier that evening. Mr.
24 Lipscomb had confronted Ms. Smith at another residence
25 and there was some demand of money at that residence as

1 well.

2 The police were able to connect two other men
3 with Mr. Lipscomb, that being Mr. Hollis and a Covatrice
4 Ford. Mr. Hollis was located by the police and
5 interviewed. Mr. Hollis admitted in his interview that
6 he was at the scene, but tried to downplay his
7 involvement. He did admit that he had a weapon. And he
8 put in his hand a 9 millimeter.

9 And based on forensics, Your Honor, the house
10 was somewhat cluttered and only four, four shell casings
11 were found. It was certainly possible that more rounds
12 were there. Mr. Poole had five wounds to him, some of
13 which were believed to be through and through. He still
14 has shrapnel in him. So no bullet was pulled from him
15 matched with any weapon.

16 But the weapon -- but the round pulled from Ms.
17 Smith's head was determined to be most likely from a 9
18 millimeter pistol. While we can't specifically identify
19 who the shooter was, the State would have presented this
20 case under the theory of the hand of one is the hand of
21 all. There's a strong argument that Mr. Hollis
22 possessed the 9 millimeter that struck Ms. Smith.

23 Mr. Lipscomb was arrested with a 9 millimeter in
24 his possession in North Carolina. Tests were
25 inconclusive on that weapon which is why the State can't

1 implicitly say that Mr. Hollis is the one that fired the
2 9 millimeter. However, in Mr. Hollis's statement, he
3 gave himself a 9 millimeter and put a .40 caliber and a
4 .45 caliber in the other two gentlemen's hands, so he
5 does not describe another 9 millimeter being present.

6 The police continued their investigation and
7 located Mr. Ford. Mr. Ford did not give a statement,
8 but subsequently spoke to the prosecution. And he has
9 since pled guilty and is awaiting sentencing.

10 The defendant was cooperative with the
11 prosecution as well. When we interviewed him for the
12 trial, the trial of Mr. Lipscomb he changed his story
13 about who had what gun, which gave us hesitancy in using
14 him, so we backed off.

15 And then we were actually preparing this case
16 for trial; however we negotiated this sentence to be the
17 same as the one that Mr. Lipscomb received from Your
18 Honor back in December. We discussed that with the
19 families and they understand.

20 THE COURT: Okay. All right. Anything else,
21 Deputy Solicitor?

22 MR. BULSA: Not regarding the facts, no, ma'am.

23 THE COURT: Okay, thank you. I find that
24 there's a factual basis for the plea.

25 All right. Mr. Epps, you've already -- anything

1 else with regard to the victims?

2 MR. BULSA: No, ma'am. As I stated earlier,
3 they both were present at Mr. Lipscomb's plea and they
4 understood the negotiations at that time and spoke their
5 peace to Your Honor.

6 THE COURT: Okay, thank you, and I do remember
7 that, okay?

8 All right. So, Mr. Epps, sir, I've already
9 asked if you've reviewed the evidence and the discovery
10 with Mr. Hollis and you stated that you had. And so,
11 yes, sir, I'm happy to hear from you.

12 MR. EPPS: Thank you, Your Honor. Solicitor
13 Bulsa probably hit the nail on the head as it relates to
14 this *Alford* plea when he talked about prosecuting the
15 case under the theory of the hand of one is the hand of
16 all.

17 Shortly after this incident, within a few days,
18 my client was arrested. He has a lengthy interview
19 video. Also audio, of course. But you can see his
20 mannerisms. We have discussed that interview at length
21 because that is what I believe, and I think what he
22 believes to be the primary issue we have with going to
23 trial. He, he has essentially already testified.

24 I think he did that out of a willingness to
25 present his side of the story. I think defense and

1 prosecution may debate a little bit as to whether he was
2 trying to be self-serving or not. But my client gave
3 his interview to law enforcement and I think he was
4 visibly intoxicated. Not drunk, but under the influence
5 of drugs at the time.

6 My client told me during our first interview he,
7 unfortunately had been using meth for a number of years,
8 but started using pills at the age of 15. He's now 34.
9 He'll be 35 in a month-and-a-half. But he's been using
10 intoxicants for almost 20 years now. Voluntary
11 intoxication is not a defense. And I explained that to
12 him, and that wasn't something hard for him to
13 understand. He got that right off.

14 But what I was saying is that in my discussions
15 with my client, his story to law enforcement, high or
16 otherwise, remained very, very similar. I don't want to
17 say the exact same because we never can say the exact
18 same thing time and time again. When he met with
19 Solicitor Bulsa and Solicitor Berry and law enforcement
20 this past summer in preparation for possibly going to
21 trial on the Lipscomb case, his story, again, was in my
22 mind very, very similar.

23 But that story, Your Honor, there are three
24 people in Janet Smith's house. Ms. Smith is the lady
25 who unfortunately died. It was one bullet. She did

1 not, she did not have other bullet wounds. It was, I
2 believe, an errant shot. I think no one can do that
3 again. Nevertheless, she died.

4 Mr. Poole was hit a number of times. There's no
5 disputing that. My client was in the home, there's no
6 disputing that. He, by his own words, said he was
7 armed. And the other two individuals that were with him
8 were also armed.

9 As to the guns, Your Honor, Solicitor Bulsa's
10 right. During his statements at one point he says a
11 nine and another time he says a .45. His co-defendants,
12 he said, had a .40 or .45, he thinks.

13 Frankly, under the best case scenario, Your
14 Honor, my client was probably not in his right mind to
15 be able to make a clear determination. But,
16 nevertheless, he out of his own mouth said at one point
17 that he did have a nine. And it's clear from the
18 evidence there was a 9 millimeter involved in this
19 shooting, likely in both of these shootings. That
20 creates a huge hurdle for us.

21 I will say that the clients I've had in similar
22 situations, I don't know if I've met one that has
23 expressed the remorse that Mr. Hollis has expressed.
24 His issues with this case have been he is steadfast that
25 he did not shoot Ms. Smith, he did not shoot Mr. Poole.

1 He will acknowledge being in that house. He will
2 acknowledge being on with those other two people. He
3 will acknowledge, you know, the statements.

4 Under a best case scenario, Your Honor, I don't
5 know that we have any way to avoid if we went to trial a
6 guilty. We've had some very intense discussions because
7 he knows what -- he, being Mr. Hollis, knows what this
8 could ultimately lead to.

9 But that being said, he also was, when this was
10 presented to him, he -- I don't want to say took it like
11 a man. I can't think of another way to say it. He
12 acknowledged placing himself in a situation he could not
13 extract himself from and that the writing was on the
14 wall.

15 Your Honor, I would ask that you would consider
16 the negotiations. One of the other things that we were
17 considering also during negotiations is if we went
18 through trial, that's obviously something that Mr. Poole
19 would have to live through again.

20 There were some issues that I think we would
21 definitely have to get into with Mr. Poole if we went to
22 trial. That, obviously, could backfire on us, but it
23 was possibly one of our main sources of defense in this
24 case. This was a hard one all the way around, Your
25 Honor. Again, I'd just ask that you would consider the

1 negotiations and impose the negotiated sentence. Thank
2 you.

3 THE COURT: Okay, thank you. Anything else?
4 Well, the prior conviction history?

5 MR. BULSA: Yes, ma'am.

6 THE COURT: And then anything else from Mr.
7 Hollis's family before I hear from Mr. Hollis? But let
8 me, let me hear his history.

9 MR. BULSA: Yes, ma'am. The last ten years he
10 had a 2013 possession of marijuana second offense;
11 assault and battery third degree; a discharging a
12 firearm; unlawful carrying of a firearm; possession of a
13 controlled substance. And he also had a probation
14 violation as a result of those charges from an earlier
15 offense.

16 2016, possession with intent to distribute a
17 controlled substance, distribution of crack cocaine.
18 Two counts, also distribution within a half mile. And
19 then in 2018 assault and battery second degree. He was
20 on probation at the time of this offense, Your Honor.

21 THE COURT: Thank you.

22 MR. EPPS: Your Honor, this is Mr. Hollis, Sr.,
23 here to my left. He is here. The family is here in
24 support of Mr. Hollis, but they have been -- this is
25 hard for all of them. He just wants the Court to know

1 that they do support Mr. Hollis. They do not condone,
2 obviously, the situation he got himself into, but
3 they're here to support. Thank you.

4 THE COURT: Okay, thank you. Yes, sir, I have
5 acknowledged that in my notes that you are here and I
6 understand that other members are downstairs.

7 MR. HOLLIS, SR.: Thank you.

8 THE COURT: All right. Mr. Hollis, sir, is
9 there anything that you'd like to tell me?

10 MR. HOLLIS: Yes, ma'am. At the time that I got
11 caught for these charges I was under the influence of
12 methamphetamine. I wasn't thinking in my right mind at
13 the time, just trying to put something together to let
14 it be known the best way I could, and for that I have to
15 be punished.

16 I apologize to the Court. I apologize
17 vehemently to the family, something I don't condone.
18 This is something that happens out of the blue with
19 another altercation to try to de-escalate the situation.
20 It just, I tried to de-escalate it and I ain't called
21 the police after it. That's what gets me involved just
22 as guilty as the person that did it, but I didn't see
23 nobody get shot or killed. I just only heard a shot.

24 With that being said, I apologize for my actions
25 and I apologize to the Court as well as the family and

1 the victim too, Your Honor.

2 THE COURT: Thank you, sir.

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Anything else?

5 MR. BULSA: No, ma'am.

6 MR. EPPS: Your Honor, the only -- I don't think
7 you heard it or said it, and I just want to be, just to
8 make sure we have a clear record. The sentence, the
9 negotiation was that the other two were to run
10 concurrent with the 25 year -- uh -- yeah, concurrent
11 with the 25-year sentence.

12 THE COURT: That's my understanding. Mr.
13 Hollis, is that your understanding?

14 THE DEFENDANT: Yes, ma'am.

15 MR. EPPS: Thank you, Your Honor.

16 THE COURT: All right. And, Mr. Hollis, do you
17 agree with the statements of your lawyer?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Okay. Anything else, sir?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Okay. With regard to the matter of
22 the State versus Robert Bunyan Hollis, Jr., and as to
23 indictment 19-410, it would be the order of the Court
24 that I will accept the sentence that's been negotiated
25 on behalf of Mr. Hollis and order that he be committed

1 to the State Department of Corrections for a period of
2 25 years. He will get credit for the 884 days that he
3 has spent at the detention facility.

4 The concurrent sentences are under indictment
5 19-411 for assault and battery of a high and aggravated
6 nature for which the defendant shall receive a sentence
7 of 20 years. And under indictment 19-410A, possession
8 of a weapon during the commission of a violent crime,
9 for which the defendant shall receive a sentence of five
10 years. Again, these are concurrent and he will get the
11 same credit for time served, 884.

12 I know that it is implicit in the negotiations,
13 but there will be no contact with the victim's family
14 members or the surviving victim. Good luck to you, sir.
15 I wish you and your family, as well as the family
16 members of the victims, the deceased and the surviving
17 victim the very best.

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Thank you for being here. And that
20 will conclude the hearing.

21 (Hearing concluded at 4:11 p.m.)

22
23
24 --- THIS ENDS REQUESTED TRANSCRIPT ---
25

1 COURT REPORTER CERTIFICATE

2
3 I, the undersigned Julie A. Cendroski, Court
4 Reporter for the Seventh Judicial Circuit Court of the
5 State of South Carolina, do hereby certify that to the
6 best of my ability the foregoing is a true, accurate,
7 and complete transcript of record of all the proceedings
8 and evidence introduced in the hearing and/or trial of
9 the captioned case, relative to appeal, in the Court of
10 General Sessions for Cherokee County, South Carolina, on
11 the 11th day of May, 2021.

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

14
15
16
17
18 *Julie A. Cendroski*
19 Julie A. Cendroski
20 Circuit Court Reporter III
21 Seventh Judicial Circuit
22
23
24
25

STATE OF SOUTH CAROLINA

COUNTY OF Cherokee

Robert B. Hollis J.R.

Plaintiff(s)

vs.

State of South Carolina, Cherokee County Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

-CP-

21 CP-110615

Submitted By: Address:

SC Bar #: Telephone #: Fax #: Other: E-mail:

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint. This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules. This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules. This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), General (130), Breach of Contract (140), Fraud/Bad Faith (150), Failure to Deliver/Warranty (160), Employment Discrim (170), Employment (180), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20 -NI-, Notice/ File Med Mal (230), Other (299)
Torts - Personal Injury: Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Assault/Battery (370), Slander/Libel (380), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Incapacitated Adult Settlement (790), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Sexual Predator (510), Permanent Restraining Order (680), Interpleader (690), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Pre-Suit Discovery (670)

FILED IN OFFICE OF CLERK OF COURT CHEROKEE COUNTY, S.C. 2021 SEP 17 AM 11:30 BRANDON W. MCBE

Submitting Party Signature: Robert B. Hollis J.R. Date: 9-5-21

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

RECEIVED

SEP 20 2021

Referred to PCR

Answered _____

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

FORM 5

STATE OF SOUTH CAROLINA)

County of Cherokee)

Robert B. Hollis Jr #323035)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

21 CP-110615

APPLICATION FOR
POST-CONVICTION RELIEF

BRANDY W. HOBBE

2021 SEP 17 AM 11:30

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

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 Cherokee County Detention Center,
now in place at Evans Corr. Inst. Cherokee FSA #165, 610 Highway 9 W, Benne-Harwell,
S.C. 29516
2. Name and location of Court which imposed sentence Cherokee County,
General Sessions 125 E. Floyd Baker Blvd. Grapney, S.C. 29342
3. Name(s) of co-defendant(s) (if any) Dewayne K. Lipscomb, and
Covative R. Ford Jr.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) Voluntary Manslaughter 2019GS1100410, Assault and
 - (b) Battery of a High and Aggravated Nature 2019GS1100411,

5. (c) ~~Poss. Weapon during violent crime, if not also sentenced to life without parole or death, 2019 GS1100410A~~
The date upon which sentence was imposed and the terms of the sentence:

(a) ~~5-11-21, Alford plea / 25 yrs. to Manslaughter~~ ^{Voluntary} ~~concurrent~~ ^{with}

(b) ~~5-11-21 ASHAN Alford plea / 20 yrs. concurrent~~

6. (c) ~~5-11-21 Poss. Weapon during violent crime, if not also sentenced to life with parole or death, 5 yrs. concurrent~~
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 after a Alford Plea

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

NO

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

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

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

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

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

(c) the date of each such result:

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

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

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

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

(a) Deerick, Balsa, Emailed my attorney on April 16, 2021 and stated "this is a trial, it will be held the week of June 7th. If convicted the state will ask for the maximum sentences for all charges, with consecutive sentences for Murder (b) and Attempted Murder since there are two victims, I felt threaten that I might be given consecutive sentences. I stated I was on the scene, but also stated that, I did not participate in the action that my co-defendants had going on the night this took place. I was scared if consecutive sentences on all counts was given to me, if convicted I would get over 100 years.

(c) _____

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

- (a) Ineffective Represented of Council participate
- (b) Ineffective Represented of Council
- (c) Ineffective Represented of Council

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

under Hand of one Law (a) Threatened by my Attorney that I by being present in 12-1-18 would be convicted
of defendant, Covance R (B) In S.C. nobody knew my mind set. My attorney stated we all would not the same amount of time, well my
of one Law why I did not agree to was the shooter and received 18 years, who also pleaded guilty, if this was the hat
I was scared and threaten with a letter to my Attorney from the solicitor about me going to trial, and what would be the consequence if I did not take the Alford ple

12. Prior to this application have you filed with respect to this conviction: no.
- (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)? none
 - (d) any other petitions, motions or applications in this or any other Court? none

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. N/A
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. N/A
 - iii. _____
 - iv. _____

(c) the disposition thereof:

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

N/A

(d) the date of each such disposition:

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

N/A

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

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

N/A

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

NO

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

(a) which grounds have been presented:

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

N/A

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

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

N/A

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:

and I got 25 yrs to same crime and charges. since you convicted me under the hand of one to the hand of 17
-no. We all should have gotten the same amount of time.

(a) recently discovered evidence that co-defendant pleaded guilty and got 12y
(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? Alford Plea
(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?
self for rite 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. Steven Epps
500 College Drive
ii. Spartanburg, S.C. 29303
iii. _____
(b) the proceedings at which each such attorney represented you:
i. The only proceeding I had with Mr. Epps is when
I went to take a Alford plea in court.
ii. _____
iii. _____

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

Alford Plea, under Due to Ineffective Assistance of Council. I was scared and threaten into a the hands of on hand of all Law. I feel intitled to my sentence being vacated or Redu to 18 years like Co-defendant Covatice R. Ford Jr. which was a trigger man to the crime

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

no

STATE OF SOUTH CAROLINA)
County of Marlowe)

VERIFICATION

I, Robert B. Hollis J.R. #323035, 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.

Robert B Hollis J.R. #323035

SWORN to and subscribed before me this 9th day of September, 2021

[Signature] (L.S.)
Notary Public

My Commission Expires: 2117/24

21CP-110615

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

I, Robert B. Hollis J.R. #323035, 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.

Robert B. Hollis J.R. #323035
Applicant

SWORN or affirmed to and subscribed before me this 9th day of September, 2021

Southern
Notary Public

My Commission Expires: 2/17/24

21 CP-110615



THE GAFFNEY LEDGER

A newspaper in all that the word implies, devoted to the best interests of the people of Cherokee County.

Alford plea results in 25-year prison sentence

By ohtadmin on December 18, 2020

By **ABBIE SOSSAMON**
Ledger News Editor
abbie@gaffneyletter.com

A Gaffney man was sentenced to 25 years in prison Wednesday for his role in a 2018 fatal shooting. Dewayne Keshun Lipscomb, 27, entered an Alford plea before Circuit Court Judge Grace Knie to voluntary manslaughter, possession of a weapon during the commission of a violent crime and assault and battery of a high and aggravated nature. In an Alford [...]

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FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2021 SEP 17 AM 11:31
BRANDY W. HOOPER

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Accept Privacy policy

From: **Bulsa, Derrick** dbulsa@spartanburgcounty.org
 Subject: **Robert Hollis**
 Date: **Apr 16, 2021 at 4:39:13 PM**
 To: **Steven Epps** steven@eppslawfirm.com
 Cc: **Adrienne Barry** Adrienne.Barry@cherokeecountysc.com

21 CP-110615

Steven,

I heard this is now a trial. That is fine, but please make sure Mr. Hollis understands the offer will **expire at the end of April**. If he wants to accept the offer, then he will enter the plea either **May 11** or **May 12**.

As stated before, the State will accept a plea to the same charges that Mr. Lipscomb pled to:

Voluntary Manslaughter
 ABHAN
 one Firearm count
 all other charges nolle prossed

If this is a trial, it will be held the week of June 7. If convicted, the State will ask for the maximum sentences for all charges, with consecutive sentences for the Murder and Attempted Murder since there are two victims.

I am attaching the order dismissing Mr. Lipscomb's appeal.

I look forward to hearing from you.

Derrick

FILED IN OFFICE OF
 CLERK OF COURT
 CHEROKEE COUNTY, S.C.
 2021 SEP 17 AM 11:31
 BRANDY W. MOBILE

The South Carolina Court of Appeals

The State, Respondent,

v.

Dewayne Keshun Lipscomb, Appellant.

Appellate Case No. 2020-001641

ORDER

Appellant has failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.


FOR THE COURT

Columbia, South Carolina

cc:

Dewayne K. Lipscomb, 00384614
E. Joshua Schultz, Esquire
Robert Michael Dudek, Esquire
Adrienne Elizabeth Barry, Esquire
Derrick Bruce Balsa, Esquire
Alan McCrory Wilson, Esquire
William M. Blich, Jr., Esquire

FILED
Feb 22 2021

21CP-110615

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of General Sessions

The Honorable Grace G. Knie
Seventh Judicial Circuit Court Judge

FILED IN THE OFFICE
CLERK OF COURT
2020 DEC 17 P 2:20
BRANDY W. MCBEE
CHEROKEE COUNTY, SC

Case Nos.
2018A1110101240, 2018A1110101243, 2018A1110101239

The State of South Carolina.....Respondent
vs.
Dewayne K. Lipscomb.....Appellant

PROOF OF SERVICE

The undersigned, Courtney Tucker, hereby certifies that she is employed in the office of E. Joshua Schultz, Attorney at Law, and is a person of such age and discretion as to be competent to serve papers and that a copy of the EXPLANATION OF APPEAL PURSUANT TO RULE 203(d)(1)(B) SCACR, was served upon the following person(s) on the State, by depositing copies of same in the United States Mail, with sufficient postage affixed thereto, on December 17, 2020 addressed as follows:

The Honorable Jenny A. Kitchings
Clerk of Court, SC Court of Appeals
P.O. Box 11629
Columbia SC 29211

Courtney Tucker
COURTNEY TUCKER

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2021 SEP 17 AM 11:31
BRANDY W. MCBEE

Subscribed and sworn to before me
on 17 day of December, 2020
Barbara Thornton
Notary Public for South Carolina
My commission expires: 11/29/28

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

**APPEAL FROM CHEROKEE COUNTY
Court of General Sessions**

**The Honorable Grace G. Knie
Seventh Judicial Circuit Court Judge**

**FILED IN THE OFFICE
CLERK OF COURT
2020 DEC 17 P 2:20
BRANDY W. MCBE
CHEROKEE COUNTY, SC**

Case Nos.

2018A1110101240, 2018A1110101243, 2018A1110101239

The State of South Carolina.....Respondent
vs.
Dewayne K. Lipscomb.....Appellant

EXPLANATION OF APPEAL PURSUANT TO RULE 203(d)(1)(B), SCACR

Pursuant to Rule 203(d)(1)(B), SCACR, Dewayne K. Lipscomb files this explanation of his appeal of his guilty plea, conviction and sentence in this case. The sentence was imposed by the Honorable Grace G. Knie on December 16, 2020. No issues were raised during the guilty plea; however, the client insisted upon an appeal; therefore, this appeal was filed pursuant to Weathers v. State, 319 S.C. 59, 459 S.E.2d 838 (1995), and State v. Thrift, 378 S.C. 70, 661 S.E.2d 373 (2008).

December 17, 2020


E. JOSHUA SCHULTZ
Attorney for Appellant

SCHULTZ LAW FIRM, LLC
184 North Daniel Morgan Avenue
Spartanburg, South Carolina 29306
Office: (864) 582-3030
Fax: (864) 585-0068
Email: jschultz@schultzlawfirmllc.com

Other Counsel(s) of record:

**Adrienne E. Barry, Esquire
Seventh Circuit Solicitor's Office
125 E. Floyd Baker Blvd.
Gaffney SC 29340**

**Derrick B. Balsa, Esquire
Spartanburg Solicitor's Office
180 Magnolia Street
Spartanburg SC 29306**

21 CP-110615

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2021 SEP 17 AM 11:31

BRANDY W. HCBET

APPEAL FROM CHEROKEE COUNTY
Court of General Sessions
The Honorable Grace G. Knie, Circuit Court Judge

Case Nos. 2018A1110101240, 2018A1110101243, 2018A1110101239

The State,.....Respondent
v.
Dewayne K. Lipscomb,.....Appellant

PROOF OF SERVICE

FILED IN THE OFFICE
CLERK OF COURT

2020 DEC 17 P 2:21

BRANDY W. HCBET
CHEROKEE COUNTY, S.C.

The undersigned, Courtney C. Tucker, hereby certifies that she is employed in the office of E. Joshua Schultz, Attorney at Law, and is a person of such age and discretion as to be competent to serve papers and that a copy of the Notice of Intent to Appeal, was served upon the following person(s) on the State, by depositing copies of same in the United States Mail, with sufficient postage affixed thereto, on December 17, 2020 addressed as follows:

Adrienne E. Barry, Esquire
Seventh Circuit Solicitor's Office
125 E. Floyd Baker Blvd.
Gaffney SC 29340

Derrick B. Balsa, Esquire
Spartanburg Solicitor's Office
180 Magnolia Street
Spartanburg SC 29306

(Signature on second page)

The South Carolina Court of Appeals

The State, Respondent,

v.

Dewayne Keshun Lipscomb, Appellant.

Appellate Case No. 2020-001641

ORDER

Appellant has failed to provide a sufficient explanation as required by Rule 203(d)(1)(B)(iv) of the South Carolina Appellate Court Rules (SCACR). Accordingly, this matter is dismissed, and the remittitur will be sent as required by Rule 221(b), SCACR.

[Handwritten Signature]
FOR THE COURT

Columbia, South Carolina

- cc:
- Dewayne K. Lipscomb, 00384614
- E. Joshua Schultz, Esquire
- Robert Michael Dudek, Esquire
- Adrienne Elizabeth Barry, Esquire
- Derrick Bruce Balsa, Esquire
- Alan McCrory Wilson, Esquire
- William M. Blich, Jr., Esquire

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CHEROKEE COUNTY, SC
2021 SEP 17 AM 11:31
BRANDY W. HOBBS

FILED
Feb 22 2021

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

Robert Hollis, #323035,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2021-CP-11-0615

**RETURN AND MOTION FOR A
MORE DEFINITE STATEMENT**

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter "PCR") application filed on September 17, 2021, by Robert Hollis (hereafter "Applicant"). Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Cherokee County Clerk of Court. During its March 2019 term, the Cherokee County Grand Jury indicted Applicant for murder (count one) and possession of a weapon during the commission of a violent crime (count two) (2019-GS-11-0410) and attempted murder (count one) and possession of a weapon during the commission of a violent crime (count two) (2019-GS-11-00411). Applicant was represented by Steven D. Epps, Esquire. Deputy Solicitor Derrick B. Balsa of the Seventh Circuit Solicitor's Office prosecuted the case. On May 11, 2021, Applicant appeared before the Honorable Grace Gilchrist Knie, circuit court judge, and entered an *Alford* plea to the lesser included offenses of voluntary manslaughter and assault and battery of a high and aggravated nature. He pled to one count of possession of a weapon, as indicted. All remaining charges were dismissed. Applicant pled to negotiated sentences of

twenty-five years' imprisonment for voluntary manslaughter, twenty years' imprisonment for assault and battery of a high and aggravated nature, and five years' imprisonment for possession of a weapon in commission of a violent crime. Judge Knie sentenced Applicant in accordance with the negotiated sentences, sentences running concurrently. Applicant did not pursue a direct appeal.

II. Statement of Facts

State's Version of the Facts

On December 1, 2018, the police received a 911 call from Christopher Poole, a victim, who had been shot. (Tr. 18). The victim stated that three armed men arrived and, during the incident, he as well as another victim, Janet Smith, were hit and shot. (Tr. 18). Smith lived at the residence and Poole was visiting her and slept on her couch earlier in the evening as she left the residence and came back. (Tr. 18). Poole stated that he was awoken by a noise at the door, and he described a forceful entry in the residence and money demanded from Smith by the three men. (Tr. 18). He identified one of the men as Red, who was Dewayne Lipscomb. (Tr. 18). Lipscomb was located by the police with other individuals that Lipscomb was with earlier that evening. (Tr. 18). Lipscomb confronted Smith at another residence, demanding money at that residence as well. (Tr. 18-19).

The police connected Applicant and Covatrice Ford to the incident. (Tr. 19). Applicant was located by the police and interviewed. (Tr. 19). Applicant admitted to being on scene, but tried to downplay his involvement. (Tr. 19). He admitted to having 9 millimeter pistol, which he had in hand. (Tr. 19).

The house was cluttered, and only four shell casings found. (Tr. 19). Poole had five wounds on him, some believed to be through and through. (Tr. 19). He still has shrapnel

remaining inside him. (Tr. 19). No bullet was pulled from him that was matched with any weapon. (Tr. 19).

The round pulled from Smith's head was determined to be most likely from a 9 millimeter pistol. (Tr. 19). The shooter was not identified, but all co-defendants, including Applicant, were indicted under hand of one hand of all. (Tr. 19).

Lipscomb was arrested with a 9 millimeter in his possession in North Carolina. (Tr. 19). The State stated they could not determine that Applicant fired the weapon, but in the statement Applicant gave, he stated he had a 9 millimeter and his co-defendants had a .40 caliber and .45 caliber, respectively. (Tr. 19-20). Applicant did not describe another 9 millimeter being present. (Tr. 20). The police located Ford, who did not give a police statement, but later spoke with prosecution. (Tr. 20). Ford pled guilty and was awaiting sentencing by the time of Applicant's plea. (Tr. 20). Applicant cooperated with the State, but his testimony was not used at Lipscomb's trial because his narrative of who had what gun changed over time. (Tr. 20).

Defense's Version of the Facts

Counsel stated that Applicant seemingly gave a police statement while visibly intoxicated, in an attempt to give his version of the story. (Tr. 21-22). Three people were in the home. (Tr. 22). Smith, the deceased, was shot one time. (Tr. 22-23). Poole was shot multiple times. (Tr. 23). Applicant was in the home at the time, and the other two individuals in the home were also armed. (Tr. 23). Applicant stated during the police interview he had a 9 millimeter gun and evidence shows that a 9 millimeter was likely involved in both shootings. (Tr. 23). Applicant was steadfast leading up to the plea that he did not shoot either victim. (Tr. 23-24). Still, he entered an *Alford* plea. Applicant stated he agreed with Counsel's statements.

III. Current Action before the Court

In his *pro se* PCR application, Applicant alleges he is detained unlawfully for the following reasons:

1. Ineffective assistance of counsel
 - a. Threatened by my attorney that I, by being present on scene, could be convicted under hand of one hand of all.
 - b. Counsel stated that he would receive the same amount of time as his co-defendants if he pled, but one co-defendant received less time.
 - c. Threatened with going to trial if he did not plead under *Alford*.

Attached to and incorporated herein are Applicant's Cherokee County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea transcript, and the current PCR application. Respondent reserves the right to amend this return upon receipt of additional relevant information.

IV. Argument

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Effective assistance of counsel does not mean perfect or mistake-free representation. *See Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) (“[A] defendant has a right to effective representation, not a right to an attorney who performs his duties ‘mistake-free.’” (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) (“[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]”); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. *Strickland*, 466 U.S. at 687-688.

When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRPC (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); *see Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel’s strategic decisions are to be afforded “‘strong presumption’ of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel’s performance remains highly deferential.

towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually “countless” ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so 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. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Importantly, “[t]he likelihood of a different result must be *substantial*, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 112 (2011).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Invalid Plea

Applicant also implies in his application that his plea was invalid. For a guilty plea to be valid, the record must establish the defendant had a full understanding of the consequences of his plea and the charges against his. *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)). Further, an applicant can attack the voluntary, knowing and intelligent character of a guilty plea entered on advice of counsel by showing counsel’s advice in taking the plea fell below an objective standard of

reasonableness. *Porter v. State*, 368 S.C. 378, 629 S.E.2d 353 (2006). “That 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.

Respondent contends that the plea was entered voluntarily, freely, knowingly, and intelligently. After the State recited the charges pled to, Counsel stated that was his understanding of what Applicant would be pleading to. (Tr. 5). The Court, upon review of the sentencing sheets, confirmed with Counsel what the negotiated sentences were. (Tr. 5-6). Counsel confirmed Applicant would receive credit for time served. (Tr. 6). The Court confirmed with Counsel that the plea was being entered under *Alford* without objection from the State. (Tr. 6).

The Court spoke with Applicant, after confirming he was placed under oath. (Tr. 7). Applicant confirmed his understanding was he would be pleading to lesser included offenses for a couple of the charges as well as one possession of a weapon during commission of a violent crime, with the other weapons possession charge being dismissed. (Tr. 8-9). He confirmed he knew the purpose of the hearing was to enter a plea to three charges, as opposed to having a jury or bench trial on the charges. (Tr. 9). He stated he understood he was waiving his rights to trial by jury, to remain silent, and call and confront witnesses. (Tr. 9). He stated he understood that if he went forward to a trial, the burden of proof would be on the State to prove every element against him beyond a reasonable doubt and that he would be presumed innocent until proven

guilty and that every jury would have to agree on a guilty verdict before he was proven guilty. (Tr. 9-10). He stated he wanted to waive these rights to plead. (Tr. 10). He stated no one forced, promised, or threatened him into pleading and that he was not under the influence of anything that would impair his judgment. (Tr. 10). He stated he did not have a mental or physical disability impairing his ability to understand what he was doing and that he was not on prescribed medication. (Tr. 10-11). He stated he was satisfied with Counsel and that Counsel did everything he asked him to do on the case. (Tr. 11). He stated he understood the charges, lesser included offenses pled to, and the sentencing ranges. (Tr. 11-14). He stated he understood the voluntary manslaughter offense is classified as violent and most serious and that assault and battery of a high and aggravated nature is classified as both violent and serious. (Tr. 12-13). He stated he understood the second weapons possession charge would be dismissed. (Tr. 14). He stated he understood the negotiated sentences and that she could not reduce the negotiated sentences in any way. (Tr. 14-15). Applicant stated he understood that if the Judge determined she was unwilling to accept the plea, he had the option to withdraw it. (Tr. 15-16). He stated he understood he was entering an *Alford* plea. (Tr. 16).

The Court again asked Counsel questions. Counsel stated that he remembered reviewing evidence and discovery with Applicant, that they discussed his options between pleading and going to trial, and that they discussed the trial and potential plea aspects of the case and he informed Applicant of what a plea is. (Tr. 16). Applicant stated he remembered discussing the evidence and discovery with Counsel and his options between pleading and going to trial. (Tr. 16-17). Applicant stated that he believed that, based on the evidence, a jury would more likely than not determine he was guilty. (Tr. 17). He stated he was entering the plea freely, knowingly, and voluntarily. (Tr. 17). He stated he understood he had ten days to appeal the plea after the

hearing. (Tr. 17). Thus, Respondent contends that the plea was entered freely, knowingly, intelligently, and voluntarily.

Accordingly, all three allegations Applicant raised in his PCR application are seemingly refuted by the record. Specifically, Applicant's claims that he was threatened by his attorney that he could be convicted at trial or face additional jail time if convicted at trial, as opposed to taking the plea, are undermined by his statements at the plea hearing that he was entering the plea freely, knowingly, and voluntarily and that no one forced or threatened him into pleading, nor did anyone promise him anything to get him to plead. (Tr. 10, 17). Additionally, concerning his claim that one co-defendant received less time than he did, Applicant entered the plea freely, knowingly, and voluntarily to negotiated sentences, which he stated he understood the Judge could not alter in any way. (Tr. 14-16). Thus, Respondent contends that Applicant's claims lack merit and relief should be denied on these grounds.

Still, the ineffective assistance of counsel allegations probably raise questions of fact that the record does not conclusively refute. Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) ("Where an application for post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.").

V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding Applicant's allegations. Applicant alleges that plea counsel was constitutionally ineffective and the plea invalid. However, he does not explain exactly what Counsel did that constituted ineffective assistance of

counsel. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must “specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Respondent moves pursuant to Rule 12(e), SCRPC, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the allegation.

VI. Other Allegations Denied

Each and every other allegation in Applicant’s PCR application not explicitly admitted, qualified, or explain in this return is hereby denied by the Respondent.

VII. Assertion of Rights to Notice of Amendments, Experts

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well

in advance of the hearing. Here, Applicant's court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRPC and *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 is 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, 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, 242, 834 S.E.2d 196, 201 (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), SCRPC (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 the Court grants leave upon good cause shown. 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 withheld until the last minute resulting in undue prejudice to Respondent.

VIII. Conclusion

WHEREFORE, Respondent requests that the Court require Applicant to provide a more definite statement and then hold an evidentiary hearing regarding Applicant's allegations.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

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November 24, 2021

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

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

Robert Hollis, #323035)

Case No.: 2021-CP-11-0615)

Applicant,)

v.)

Certificate of Service by Mail)

State of South Carolina)

Respondent,)
_____)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and Motion for a More Definite Statement in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. Rodney Wade Richey
Richey & Richey, PA
PO Box 10916
Greenville, SC 29603-0916

DATED this 24th day of November, 2021.



Grayson Horton, Legal Assistant
For Respondent

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STATE OF SOUTH CAROLINA)	
)	IN THE COMMON PLEAS COURT
COUNTY OF CHEROKEE)	
Robert Hollis, Jr.,)	
Applicant,)	TRANSCRIPT OF RECORD
)	2021-CP-11-0615
-vs-)	
)	June 7, 2022
The State.)	Spartanburg, South Carolina

B E F O R E:

HONORABLE WILLIAM A. MCKINNON, JUDGE

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

RODNEY RICHEY, ESQUIRE
Attorney for the Applicant

CHELSEY MARTO, ESQUIRE
Attorney for the State

Linda D. Moffitt
Circuit Court Reporter

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No exhibits entered into evidence.

1 THE COURT: Yes, ma'am. Ms. Marto.

2 MS. MARTO: Good afternoon, Your Honor. May it please
3 the Court.

4 We are here today in the case of Robert Hollis vs. the
5 State of South Carolina, Docket No. 2021-CP-11-0615.

6 My name is Chelsey Marto and I represent the
7 applicant. Mr. Rodney Richey is -- or I represent the
8 respondent. Mr. Rodney Richey is representing the
9 applicant in this matter.

10 The applicant is presently confined in the South
11 Carolina Department of Corrections. During its March 2019
12 term he was indicted for murder and possession of a weapon
13 during the commission of a crime and attempted murder and
14 possession of a weapon during the commission of a violent
15 crime.

16 He was represented by Mr. Steven Epps, and Deputy
17 Solicitor Derrick Bulsa prosecuted the case.

18 May 11th of 2021 applicant appeared before the
19 Honorable Grace Gilchrist Knie and entered an Alford plea
20 to the lesser included offenses of voluntary manslaughter
21 and assault and battery of a high and aggravated nature.
22 He pled to one count of possession of a weapon, and the
23 remaining charge was dismissed.

24 He pled to a negotiated sentence of 25 years
25 imprisonment for voluntary, 20 years for assault and

Robert Hollis, Jr.
Direct examination by Mr. Richey

1 battery of a high and aggravated nature and five years for
2 weapons possession. And Judge Knie sentenced him in
3 accordance with the negotiations with all sentences running
4 concurrently.

5 He did not pursue a direct appeal.

6 The application was filed September 17th of 2021 and
7 the state's return was made November 24th of 2021.

8 With that, I'll turn it over to Mr. Richey.

9 THE COURT: Mr. Richey.

10 MR. RICHEY: Thank you, Your Honor. We call
11 Mr. Hollis.

12 ROBERT HOLLIS, JR., having
13 been first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. RICHEY

15 Q Sir, state your name, please.

16 A Robert Hollis.

17 Q Sir, are you currently in the Department of
18 Corrections?

19 A Yes, sir.

20 Q Okay. And -- and were you convicted in Cherokee
21 County?

22 A Yes, sir.

23 Q who represented you on those charges?

24 A Mr. Steven Epps.

25 Q Okay. And you filed this post conviction relief

Robert Hollis, Jr.
Direct examination by Mr. Richey

1 because you feel like that he didn't properly represent
2 you, correct?

3 A Yes, sir.

4 Q Can you tell me briefly what happened in this case?
5 Just briefly.

6 A During the time that the case we -- he would ask me.
7 He was like do you want to go to --

8 Q No, no, no, no. About -- about the incident in 2018.
9 what happened with the three of y'all? The other two went
10 to this place. The one gentleman went to this place to rob
11 these people, correct?

12 A Yes.

13 Q And -- and you and another gentleman was there,
14 correct?

15 A Yes.

16 Q And -- and the one gentleman -- Lipscomb -- shot the
17 guy, is that correct?

18 A Yes.

19 Q And he killed the guy.

20 A Yes.

21 Q And -- and -- and you were in the house, but it's your
22 position that you had nothing to do with the shooting,
23 correct?

24 A I had nothing to do with it.

25 Q okay. And upon the shooting the three of y'all left

Robert Hollis, Jr.
Direct examination by Mr. Richey

- 1 the residence, correct?
- 2 A Yes, sir.
- 3 Q Okay. And did you -- didn't -- you cooperated with
- 4 the police, didn't you?
- 5 A Yeah.
- 6 Q Yeah. You --
- 7 A After, yeah.
- 8 Q Yeah.
- 9 A After we talked to Mr. Epps about the situation, yeah.
- 10 Q Right. And so go ahead. I'm sorry.
- 11 A He tried to put the blame on me.
- 12 Q Right. Did --
- 13 A I didn't have nothing to do with it.
- 14 Q The other two gentlemen tried to claim that you was
- 15 the one that did the shooting.
- 16 A Did the shooting.
- 17 Q Correct?
- 18 A Yes, sir.
- 19 Q And this Lipscomb and the -- and Mr. Ford -- I believe
- 20 Ford was the one that was waiting to testify supposedly
- 21 against you, right?
- 22 A Yes. He -- he was in the court right after Lipscomb,
- 23 and they dragged him outta the court in the middle of the
- 24 court and sat me in front of him about five minutes later.
- 25 Q Right. And -- and you -- and in this case did -- did

Robert Hollis, Jr.
Direct examination by Mr. Richey

1 you and Ford receive the same amount of time?

2 A No, sir.

3 Q Okay. And how much time did Ford get?

4 A Ford got 18 years.

5 Q Okay. And you got how many?

6 A Twenty-five years.

7 Q Right. And at the time of your plea were you told
8 anything about the sentencing of everybody?

9 A Yes, sir. Mr. Steven Epps said that all three of us
10 was getting the same time since nobody knew who the shooter
11 was and none of our story was admissible.

12 Q Okay. So he said that the three of y'all were in the
13 house, the guy got shot and killed but they don't know
14 exactly who shot the guy, right?

15 A This is what he said. He stated this is what's the
16 facts, is when the detective arrived on the scene there was
17 a man unconscious but still breathing. There was a woman
18 D.O.A. He said no matter what, they trying to put the
19 blame on you, he trying to put the blame on you, you trying
20 to put the blame on them, none of y'all story's admissible,
21 all y'all getting the same time under the law of the hands
22 of one, hands of all.

23 Q Okay. What -- what kind of time did Lipscomb get, do
24 you know?

25 A Twenty-five years.

Robert Hollis, Jr.
Direct examination by Mr. Richey

1 Q So -- so everybody got 25 other than Ford.

2 A Other than Ford.

3 Q Okay. And when you talked to Mr. Epps about pleading
4 was that any consideration of you pleading to the amount of
5 time you would get?

6 A He said that there could be no less than in 25 years
7 from none of it, none of us getting no less than that 25
8 years. But there was a zero in front of my 25. So I felt
9 like they could give me anything that the judge presumably
10 wanted me to have in the situation of what she dealt with
11 or wanted to make a final decision on. But I ended up
12 getting 25 years like the next man. Period.

13 Q Okay.

14 THE COURT: Mr. Hollis, can you tell me that last? I
15 didn't quite understand that. You said because there was a
16 zero in front of it.

17 THE WITNESS: Yes. I -- I thought you could give me
18 anywhere from the minimum from zero to 25 years.

19 THE COURT: So you thought --

20 THE WITNESS: I thought.

21 THE COURT: -- the judge could give you zero to 25?

22 THE WITNESS: Yes, sir. I thought --

23 THE COURT: Didn't she tell you at the sentencing that
24 it was negotiated?

25 THE WITNESS: At the sentencing she said there could

Robert Hollis, Jr.
Direct examination by Mr. Richey

1 be no lesser time, she could go no lesser than that.

2 THE COURT: But you thought -- before you pled guilty
3 you thought you could get less than 25 years.

4 THE WITNESS: There's a zero in front of it. So I had
5 a misunderstanding of maybe -- am I thinking of it wrong,
6 like there's a zero in front of it. You can give me one,
7 two, three, ten, fifteen, twenty years. The maximum was
8 25; the minimum was zero.

9 THE COURT: But at the plea the judge told you she had
10 to give you --

11 THE WITNESS: In the middle of the court she said I
12 cannot go no lesser than 25 years, and I felt like that was
13 not right just because it's a zero in front of it. You can
14 give me what you want me to have.

15 Q Okay. So it sounds like the Court -- let me tell you
16 this. Did you understand what a negotiated plea was?

17 A I thought a negotiated plea was, like, I would get no
18 more than 25 years. That's what I thought.

19 Q Okay. You didn't understand that whatever, for
20 example, if you negotiate 25 years, negotiated plea, the
21 judge has to give you that 25 years or can't sentence you?
22 Do you understand that?

23 A I -- I didn't understand it at the time.

24 Q Okay. All right. Okay. And -- and you never
25 admitted any guilt in this case, correct?

Robert Hollis, Jr.
Direct examination by Mr. Richey

1 A I never did nothing.

2 Q Okay. And you pled under North Carolina vs. Alford,
3 right?

4 A I took -- I took Alford plea.

5 Q Yeah. And -- and when you and Mr. Epps talked about
6 it, you told him your version. And what was your version?

7 A My version was I paid -- I paid Dewayne Lipscomb \$3 to
8 take me to a place where everybody was having a kickback
9 at. I got in the car. I gave him the \$3. He took me to
10 the store and got the gas.

11 He went on a trip to his house on his own personal
12 business. So when he went in the house they -- they got to
13 talking or whatever. He took so long I told Spiderman
14 [sic] what's going on with Red. And I looked out the
15 window. Red had his gun out.

16 Q Red is Lipscomb, right?

17 A Lipscomb. Screaming and yelling.

18 So we didn't know what was going on. So I jumped
19 outta the car to go see what was going own. I noticed that
20 the black truck was there, and I noticed that black truck
21 was Ms. Punkie truck because Ms. Punkie had gave me a ride
22 earlier in that truck. So I had noticed who this was. So
23 we at Ms. Punkie's house.

24 So when I got to the screen door, the screen door was
25 locked. I knocked on the screen door. Ms. Punkie came to

Robert Hollis, Jr.
Direct examination by Mr. Richey

1 the door. I said what's going on.

2 Q Ms. Pumpkin. Is that the --

3 A That's the deceased, yes.

4 Q Okay.

5 A So Ms. Punkie came to the door. She say, Rob, will
6 you please get Red outta the house, he tricked me. I say
7 what Red, what Red got going on with his gun out, what he
8 got going on, because I ain't see the man. The man chill
9 is to the back. You can't see it till you come into the
10 house. So, she was, like, he owing him money and he ain't
11 got the money to pay him.

12 So I say you want me to get him out. Said please get
13 him out before I called the police.

14 So I walks in the house and tries to calm Red down.
15 When I finally calmed him down, we trying to get him outta
16 there. He finally turns his back to walk out.

17 I hear a big loud noise, boom, and the gun drops. I
18 turn around. Red and the man is like tussling. The man
19 got the blade towards Red's neck trying to go towards Red's
20 neck.

21 Red trying to pull his hand away and tussling. The
22 gun on the ground with the clip right there.

23 So I turned and Moo's raising his gun. I look. Moo
24 was fast forward. So I turned and Moo raised the gun
25 toward me. I say, man, we ain't got nothing to do with

Robert Hollis, Jr.
Direct examination by Mr. Richey

1 this, let's get outta here, leave him alone.

2 I turned to Ms. Punkie and told Ms. Punkie to call the
3 police because he won't leave. I'm gone. I ain't got
4 nothing to do with this. The moment I hit the porch and
5 leave that house, that's when gunshots was fired. I took
6 off.

7 Q Okay. And so -- so you were not in the house when the
8 shots went off.

9 A I was not in the house at all when the shots were
10 fired.

11 Q Well, tell me why you pled to this charge then.

12 A He told me if I go to trial they would charge me
13 separately for each charge and that would lead me to a lot
14 of years that I would never, ever be able to do or complete
15 to get back to my family.

16 So I feel like in my heart that maybe I should take
17 this plea and go down the road and study the law and try to
18 figure out what I could figure out and come back to fight
19 it the best way I can with a different attorney, somebody
20 who will be there to try to fight for me.

21 Q And so you want -- you believed that you were promised
22 basically the same sentence as the other codefendant,
23 correct?

24 A I was promised that we all was going to get 25 years.
25 Nothing less, nothing more. That's what he said.

Robert Hollis, Jr.
Cross-examination by Ms. Marto

1 THE COURT: Mr. Hollis, if all three codefendants had
2 gotten 25 years would you have any complaint about what
3 happened?

4 THE WITNESS: Because it would've been the hands of
5 one, the hands of all.

6 THE COURT: But, I mean, that you -- you would think
7 everything had been correct if everyone had gotten the 25?

8 THE WITNESS: The hands of one, hands of all, Your
9 Honor.

10 THE COURT: So your complaint is that one of the
11 codefendants got less than you thought.

12 THE WITNESS: That shows sympathy and favoritism. So
13 I'm entitled to get 18 years just like him.

14 Q So -- so once you heard that the gentleman got 18
15 years, what do you think your attorney should have done at
16 that point?

17 A My attorney should have said we should've had a
18 reconsideration of the time or however you 'posed to do it
19 or however you 'posed to announce, a consideration of the
20 time being reconsidered during my case because they gave me
21 25 years and they gave him 18. You don't know who the
22 shooter is.

23 Q Was that done?

24 A No, sir.

25 Q Thank you. Answer any questions the attorney general

Robert Hollis, Jr.
Cross-examination by Ms. Marto

1 may have.

2 CROSS-EXAMINATION

3 BY MS. MARTO

4 Q Good afternoon, sir.

5 A Good afternoon, ma'am.

6 Q So your main grievance again is that one of the other
7 guys you were associated with in this case received less
8 time, correct?

9 A Yes, ma'am.

10 Q You never wanted to go to trial, correct?

11 A I -- I basically wanted to go to trial and let them
12 hear my story. But if they knew they were going to convict
13 me, which Mr. Epps was telling me they were going to
14 convict me anyway with the hands of one, hands of all, then
15 it didn't matter what my story would have been presented to
16 you, or would it matter to anybody.

17 Q So you were afraid you could get technically a life
18 sentence.

19 A Yes, ma'am.

20 Q And that's why you pled, correct?

21 A That was a lot of numbers that I'd never be able to
22 complete. I have four kids.

23 Q Yes.

24 A So the best way I could do is take the plea the best
25 way I can and go study the law and try to come back and

Robert Hollis, Jr.
Cross-examination by Ms. Marto

1 fight it the best way I can.

2 Q And you knew the rights you were waiving by pleading,
3 right?

4 A Ma'am?

5 Q You were aware of the rights you were waiving by
6 pleading?

7 A Not really, but somewhat, yes.

8 Q To remain -- you know the right to remain silent, the
9 right to a trial, to call witnesses. You knew what you
10 were giving up.

11 A Yes, ma'am. They said that. Yes, ma'am. They said
12 that.

13 Q And the judge told you that you was bound to the
14 25-year sentence at the plea hearing, correct?

15 A She said that I couldn't get no less than that 25.

16 Q Okay.

17 A There's nothing she could do.

18 Q You knew going into the plea that day that you were,
19 if the judge accepted the plea you were, for a fact going
20 to be sentenced to 25 years, correct?

21 A Yeah. I felt -- I felt in my heart I would get 25
22 years, yes, ma'am.

23 Q Okay. And the only -- again, the only issue you
24 perceived with it now is because your codefendant got 18.

25 A Yes, ma'am.

Robert Hollis, Jr.
Cross-examination by Ms. Marto

1 Q Okay. Because you think that because of the hands of
2 one, hands of all, every single person should receive the
3 exact same sentence.

4 A If you don't know who the shooter is, every person
5 should have got 25 years just like we did. You -- you
6 basically numbered us out by the cases. It was two
7 different cases, so you numbered me out. It's like it's
8 two shooters. I ain't shoot at all.

9 Q Right.

10 A But who I am to tell you? who am I? I can't make you
11 believe me. You understand that. I -- I can say my story
12 a million times. It wouldn't be -- it wouldn't matter to
13 you. The only thing is facts is when Detective Pennell
14 arrived on the scene that there was a man unconscious and
15 there was a woman D.O.A. And they had these three
16 defendants right here that's pointing the blame at each
17 other.

18 So you don't know the shooter is. Everybody should've
19 got treated fairly. That's all I'm saying. If you give
20 him 18 years, I'm entitled to get 18 years too. You pled
21 guilty. I took Alford plea.

22 Q And your only complaint against Mr. Epps is that?

23 A He -- he's a professional lawyer. He seen that. He
24 seen that man got 18 years. He could have at least stood
25 up and said, oh, I want a reconsideration of time for

Steven D. Epps
Direct examination by Mr. Richey

1 Mr. Hollis because you said to him, to me, that you was
2 going to give all of them 25 years just in case hands of
3 one, hands of all.

4 Q Okay.

5 A It made me feel like what -- what did -- what did the
6 state offer them to show favoritism to the next man when in
7 actuality I could sit up here and take the stand on you and
8 say that the man, the shooter. What made you show
9 favoritism to him? I mean, if you -- I'm sorry if I was
10 rude. I apologize.

11 Q You're okay.

12 A I'm sorry.

13 Q No, no.

14 A But I just don't see. I just don't see no fairly -- I
15 just don't see nothing fairly in it, and I don't know what
16 they did to Mr. Epps, said to Mr. Epps to make Mr. Epps not
17 even stand up to even put a reconsideration of my time in
18 to see if I could get 18 years like him.

19 Q Okay.

20 A Because he can go home in 15. I have to do 25.

21 MS. MARTO: No further questions. Your Honor.

22 THE COURT: Mr. Richey.

23 MR. RICHEY: No other questions.

24 We call Mr. Epps.

25 THE WITNESS: Say sorry to the Court too.

Steven D. Epps
Direct examination by Mr. Richey

1 THE COURT: That's okay, sir.

2 STEVEN D. EPPS, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. RICHEY

5 Q Sir, will you state your name, please?

6 A Steven Epps.

7 Q And, Mr. Epps, do you recall representing Mr. Hollis
8 in this case?

9 A I did.

10 Q And I'm just going to get to -- you were in the
11 courtroom during his testimony, is that correct?

12 A Just now?

13 Q Yes, sir.

14 A Yes.

15 Q And this case was a 3-defendant case, is that correct?

16 A Yes.

17 Q And the theory of this shooting was the hand of one,
18 hand of all in terms of the culpability of all three of
19 them. Somebody was the shooter but it was -- it would be a
20 hand of one, hand of all case minimum, right?

21 A I guess I don't understand exactly what you're
22 going -- so I'll give you two different ways. Obviously,
23 hand of one is hand of all.

24 There was also some -- well, I guess maybe three ways.
25 There was, obviously, hand of one, hand of all.

Steven D. Epps
Direct examination by Mr. Richey

1 That's the -- what I call the low-hanging fruit.

2 Secondary concern is you've got Covatice Ford who is
3 much younger than -- Robert was the oldest defendant of the
4 three. I don't think he's quite twice the age of Covatice
5 Ford, but he was considerably older.

6 My understanding was Covatice was entertaining
7 cooperating, if we decided to go to trial that he would
8 testify that Robert was the shooter and then somewhat --
9 regardless of whether he testified or not -- if it went to
10 trial.

11 when Robert was picked up by law enforcement a couple
12 of days after this incident occurred and reported to me
13 that he was intoxicated and high on meth, had a long
14 interview with law enforcement, and during that time he
15 said he had a 9mm and the other gentlemen, the two
16 codefendants, had either .40s or .45s. Yeah. .40s or
17 .45s.

18 Autopsy results were -- my opinion would indicate that
19 Janet Smith died of a 9mm gunshot wound. And Robert right
20 from the hip said he was the only one that had a nine. He
21 then changed his story. So that may have been more than
22 you were looking for, but there you go.

23 Q Okay. And so at any time in the representation did
24 you convey this cause that these people be sentenced
25 similarly?

Steven D. Epps
Cross-examination by Ms. Marto

1 A Yeah. I did. I thought that they likely would be
2 sentenced similarly. I was surprised that Covatice Ford
3 got 18 as opposed to 25.

4 Maybe I should back that up. It didn't necessarily
5 surprise me that Covatice got less than 25. I was
6 surprised he got 18. I was thinking it'd be more around
7 20. I wasn't entirely sure what they were going to do with
8 Covatice. My concern was representing Robert and --

9 Q And do you believe that you should have filed a motion
10 to reconsider the sentence after this gentleman got 18
11 years?

12 A Yeah. I often wonder about that. To be honest, on a
13 negotiated sentence I didn't see what grounds I had to
14 truly ask for a reconsideration.

15 My -- my understanding was that he was given a lesser
16 sentence because, one, his lack of record; two, his age.
17 But --

18 Q But -- but all three of these folks were in the house
19 at the same time. Is there any dispute to that?

20 A I don't believe there is.

21 Q And there's no dispute as to the actual shooter was
22 not determined at the point of this plea, is that correct?

23 A Correct.

24 Q Okay.

25 A Everybody pointed the finger at anyone but themselves.

Steven D. Epps
Cross-examination by Ms. Marto

1 Q And was Mr. Hollis available to testify in the case
2 against Ford at all? was he -- was he willing to accept
3 that? Do you know?

4 A I'm sure he was. They never were really interested in
5 his testimony.

6 Q Thank you.

7 A Sure.

8 THE COURT: Ms. Marto.

9 MS. MARTO: Yes, Your Honor.

10 CROSS-EXAMINATION

11 BY MS. MARTO

12 Q Sir, how long have you been practicing criminal law
13 for?

14 A All right. So I was sworn in November of '04, but I
15 was a judicial clerk. So I didn't really practice, start
16 practicing, law until August of '05. I'm not great at
17 math. I guess that's why I'm a lawyer. However long that
18 is.

19 Q Okay. And in your experience have you witnessed
20 codefendants being charged under the hand of one, hand of
21 all and receive different sentences?

22 A I'm sure it's happened. That -- that was a lot.
23 Different sentences, certainly. Hand of one, hand of all,
24 yes. Hand of one, hand of all resulting in different
25 sentences, I'm not sure.

Steven D. Epps
Redirect examination by Mr. Richey

1 Q okay.

2 A I will say though you got to consider there are three.
3 One received a different sentence, the youngest, the one
4 with the least amount of record. I believe the one that
5 didn't have a gun when he was picked up.

6 The other two received the same sentence.

7 Q Okay. And, again, you weren't surprised when Mr. Ford
8 received a lighter sentence than the other two.

9 A I wasn't. I -- I -- candidly, it stung a little bit,
10 but I got it. I mean, I also didn't like the fact that we
11 were pleading to a 25-year.

12 I will say this in Robert's behalf. His story never
13 changed much. I always appreciate it when after a long
14 time of representation their story matches. The problem is
15 the story you give doesn't create a great defense and --
16 anyway.

17 Q And so after his, I guess, meth-induced confession, he
18 main -- always maintained his innocence, correct?

19 A Yes.

20 Q And so there was never really any issue with him maybe
21 cooperating with the state, because he was always claiming
22 it wasn't him and he wasn't involved.

23 A No. He -- he always cooperated. We -- prior to my
24 involvement, he had talked with law enforcement. After my
25 involvement, we talked with law enforcement. But some of

Steven D. Epps
Redirect examination by Mr. Richey

1 the credibility issues that were plain and evident from day
2 one is involvement in this case, or were there. The state
3 was not interested in using him as a witness.

4 Q Do you think the plea was in his best interest?

5 A Absolutely.

6 Q Was it your understanding he was waiving by pleading?

7 A Do I believe he understood? Yes. We went over it ad
8 nauseam on many different days.

9 This plea was set up at least once in the past right
10 around the time Lipscomb pled and then turned into a trial.
11 And for a couple of months it was essentially we were going
12 to try the case. So we went over those a number of times.

13 Q And you -- even if you were to file a motion to
14 reconsider the sentence, did you think there was any basis
15 upon which that would be granted?

16 A No.

17 MS. MARTO: No further questions.

18 THE COURT: Mr. Richey.

19 REDIRECT EXAMINATION

20 BY MR. RICHEY

21 Q So do you believe that -- initially, you believed
22 they'd all be sentenced at the same point. And you were
23 kind of surprised when that younger guy got that much
24 lesser time, correct?

25 A Yes.

Steven D. Epps
Redirect examination by Mr. Richey

1 Q Okay. Thank you.

2 THE COURT: Ms. Marto.

3 MS. MARTO: No questions.

4 THE COURT: Thank you, sir. He can step down.

5 THE WITNESS: Thank you.

6 THE COURT: Mr. Richey.

7 MR. RICHEY: Thank you, Your Honor.

8 Your Honor, that's all of the testimony we have at
9 this time.

10 MS. MARTO: No witnesses, Your Honor.

11 MR. RICHEY: And we would ask the Court to consider
12 the trial transcript, the testimony, the applicant
13 testimony of Mr. Epps. We would rely on that and ask the
14 Court to grant his P.C.R.

15 THE COURT: Ms. Marto.

16 MS. MARTO: Yes, Your Honor.

17 The state would rely upon the pleadings and the record
18 as well.

19 THE COURT: Thank you, Counsel.

20 The Court is going to take this under advisement.

21 END OF REQUESTED TRANSCRIPT OF RECORD

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Steven D. Epps
Redirect examination by Mr. Richey

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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Cherokee County, South Carolina, on the 7th day of June 2022.

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

September 6, 2022

s/ Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter

STATE OF SOUTH CAROLINA)
 COUNTY OF CHEROKEE)
)
)
 Robert Hollis, #323035,)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2021-CP-11-00615

ORDER OF DISMISSAL

FILED IN OFFICE OF
 CLERK OF COURT
 CHEROKEE COUNTY, S.C.
 2022 AUG - 9 AM 9:35
 BRANDY W. HOBBEE

This matter comes before this Court by way of Applicant’s post-conviction relief application filed September 17, 2021. Respondent made its return on November 24, 2021, requesting an evidentiary hearing be convened. An evidentiary hearing was held on June 7, 2022, at the Spartanburg County Courthouse. Rodney W. Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel Steven Epps, Esquire, also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Cherokee County Clerk of Court. During its March 2019 term, the Cherokee County Grand Jury indicted Applicant for murder (count one) and possession of a weapon during the commission of a violent crime (count two) (2019-GS-11-0410) and attempted murder (count one) and possession of a weapon during the commission of a violent crime (count two) (2019-GS-11-00411). Applicant was represented by Steven D. Epps, Esquire. Deputy

Solicitor Derrick B. Balsa of the Seventh Circuit Solicitor's Office prosecuted the case. On May 11, 2021, Applicant appeared before the Honorable Grace Gilchrist Knie, circuit court judge, and entered an *Alford* plea to the lesser included offenses of voluntary manslaughter and assault and battery of a high and aggravated nature. He pled to one count of possession of a weapon, as indicted. All remaining charges were dismissed. Applicant pled to negotiated sentences of twenty-five years' imprisonment for voluntary manslaughter, twenty years' imprisonment for assault and battery of a high and aggravated nature, and five years' imprisonment for possession of a weapon in commission of a violent crime. Judge Knie sentenced Applicant in accordance with the negotiated sentences, sentences running concurrently. Applicant did not pursue a direct appeal.

Summary of Relevant Facts

State's Version of the Facts

On December 1, 2018, the police received a 911 call from Christopher Poole, a victim, who had been shot. (Tr. 18). The victim stated that three armed men arrived and, during the incident, he as well as another victim, Janet Smith, were hit and shot. (Tr. 18). Smith lived at the residence and Poole was visiting her and slept on her couch earlier in the evening as she left the residence and came back. (Tr. 18). Poole stated that he was awoken by a noise at the door, and he described a forceful entry in the residence and money demanded from Smith by the three men. (Tr. 18). He identified one of the men as Red, who was Dewayne Lipscomb. (Tr. 18). Lipscomb was located by the police with other individuals that Lipscomb was with earlier that evening. (Tr. 18). Lipscomb confronted Smith at another residence, demanding money at that residence as well. (Tr. 18-19).

The police connected Applicant and Covatrice Ford to the incident. (Tr. 19). Applicant

was located by the police and interviewed. (Tr. 19). Applicant admitted to being on scene but tried to downplay his involvement. (Tr. 19). He admitted to having 9-millimeter pistol, which he had in hand. (Tr. 19).

The house was cluttered, and only four shell casings found. (Tr. 19). Poole had five wounds on him, some believed to be through and through. (Tr. 19). He still has shrapnel remaining inside him. (Tr. 19). No bullet was pulled from him that was matched with any weapon. (Tr. 19).

The round pulled from Smith's head was determined to be most likely from a 9-millimeter pistol. (Tr. 19). The shooter was not identified, but all co-defendants, including Applicant, were indicted under hand of one hand of all. (Tr. 19).

Lipscomb was arrested with a 9-millimeter in his possession in North Carolina. (Tr. 19). The State stated they could not determine that Applicant fired the weapon, but in the statement, Applicant gave, he stated he had a 9-millimeter and his co-defendants had a .40 caliber and .45 caliber, respectively. (Tr. 19-20). Applicant did not describe another 9-millimeter being present. (Tr. 20). The police located Ford, who did not give a police statement, but later spoke with prosecution. (Tr. 20). Ford pled guilty and was awaiting sentencing by the time of Applicant's plea. (Tr. 20). Applicant cooperated with the State, but his testimony was not used at Lipscomb's trial because his narrative of who had what gun changed over time. (Tr. 20).

Defense's Version of the Facts

Counsel stated that Applicant seemingly gave a police statement while visibly intoxicated, to give his version of the story. (Tr. 21-22). Three people were in the home. (Tr. 22). Smith, the deceased, was shot one time. (Tr. 22-23). Poole was shot multiple times. (Tr. 23). Applicant was in the home at the time, and the other two individuals in the home were also

armed. (Tr. 23). Applicant stated during the police interview he had a 9-millimeter gun and evidence shows that a 9-millimeter was likely involved in both shootings. (Tr. 23). Applicant was steadfast leading up to the plea that he did not shoot either victim. (Tr. 23-24). Still, he entered an *Alford* plea. Applicant stated he agreed with Counsel's statements.

Current Action Before this Court

In his current PCR application, Applicant alleges he is being held in custody unlawfully because of ineffective assistance of counsel in that:

1. Ineffective assistance of counsel
 - a. Threatened by my attorney that I, by being present on scene, could be convicted under hand of one hand of all.
 - b. Counsel stated that he would receive the same amount of time as his co-defendants if he pled, but one co-defendant received less time.
 - c. Threatened with going to trial if he did not plead under *Alford*.

At the PCR hearing, Applicant proceeded forward on the following allegations:

1. Ineffective assistance of counsel:
 - a. For failure to file a motion to reconsider the sentence because one of his co-defendants received a lesser sentence.
2. Involuntary plea:
 - a. Applicant was afraid he would receive life imprisonment if he went to trial.
 - b. Counsel failed to convey what a negotiated plea means.

All other allegations raised in his initial application and amendments are deemed waived and abandoned and, accordingly, will not be addressed in this order.

Summary of the Testimony

Applicant Testimony

Applicant testified that the State alleged that he and his co-defendants traveled somewhere, and someone was shot and killed by them. He stated that he was home at the time and had nothing to do with the shooting. The other two men claimed that he was the shooter. He stated he received a twenty-five-year sentence, but that one of his co-defendants only received eighteen years' imprisonment. Applicant testified that his other co-defendant also received a

twenty-five-year sentence. Applicant stated that he did not understand what a negotiated plea was at the time of the plea. When questioned by the Court, Applicant stated he thought that the Court could sentence Applicant between zero- and twenty-five years' imprisonment. He stated he was not in the house when the shots were fired. He stated he was promised everyone involved would receive the same sentence. Applicant stated that he thought Counsel should have filed a motion to reconsider the sentence after Applicant's co-defendant received a lesser sentence.

On cross-examination, Applicant stated he decided to plead because he was afraid, he would receive life imprisonment if he went to trial. Applicant stated that he knew the rights he was waiving by pleading. He stated that he knew the Court had to impose a twenty-five-year sentence, based upon the negotiations. Applicant stated that he thought everyone should have received the same sentence because, under the hand of one hand of all theory, they are all equally culpable under the law. Accordingly, Applicant stated that because they are equally culpable, they should each receive equal punishment, whether that be eighteen- or twenty-five years' imprisonment. He stated that imposition of different sentence lengths is unfair and Counsel, being an attorney, should have discovered and acted upon this by moving to reconsider the sentence.

Counsel Testimony

Counsel testified that there were three defendants involved in this incident. He stated that they were being charged under the hand of one hand of all theory. He stated that Applicant was the oldest of the three and was high on methamphetamine when picked up by the police. He stated that Applicant had a nine-millimeter gun, which was the type of gun used to kill the victim. Counsel testified he was surprised Applicant's co-defendant received eighteen years' imprisonment. He testified that he thought he would have received twenty years' imprisonment.

Counsel testified he has considered whether he should have filed a motion to reconsider the sentence but was unsure whether that would have been successful.

On cross-examination, Counsel testified that he has seen co-defendants receive different sentence lengths, even when charged and convicted under the hand of one hand of all theory. He stated that he understood why Applicant's co-defendant received a lesser sentence. Specifically, he cooperated with law enforcement early on and was not the shooter. Counsel testified that he thought the plea was in Applicant's best interest. He stated he did not think Applicant would receive a lesser sentence if he filed a motion to reconsider the sentence based upon Applicant's co-defendant receiving a lesser sentence.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. Before this Court are the Spartanburg County Clerk of Court Records, Applicant's South Carolina Department of Corrections Records, the plea transcript, and this PCR action's records. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusion of law as required by South Carolina Code Annotated Section 17-27-80 (2003).

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984);

Butler, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v.*

Washington.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so 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. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695.

Realistically, this matters “only in the rarest case” because “[t]he likelihood of a different result must be substantial, not just conceivable.” *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. *Strickland*, 466 U.S. at 696. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant because of the alleged deficiencies; if it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. *Id.* at 696-97.

Involuntary Plea

Applicant also implies in ^{his} ~~her~~ application that her plea was invalid. For a guilty plea to be valid, the record must establish the defendant had a full understanding of the consequences of ^{his} ~~her~~ plea and the charges against ^{him} ~~her~~. *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)). Further, an applicant can attack the voluntary, knowing, and intelligent character of a guilty plea entered on advice of counsel by showing counsel’s advice in taking the plea fell below an objective standard of reasonableness. *Porter v. State*, 368 S.C. 378, 629 S.E.2d 353 (2006). “That 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.

Respondent contends that the plea was entered voluntarily, freely, knowingly, and intelligently. After the State recited the charges pled to, Counsel stated that was his understanding of what Applicant would be pleading to. (Tr. 5). The Court, upon review of the sentencing sheets, confirmed with Counsel what the negotiated sentences were. (Tr. 5-6). Counsel confirmed Applicant would receive credit for time served. (Tr. 6). The Court confirmed with Counsel that the plea was entered under *Alford* without objection from the State. (Tr. 6).

The Court spoke with Applicant, after confirming he was placed under oath. (Tr. 7). Applicant confirmed his understanding was he would be pleading to lesser included offenses for a couple of the charges as well as one possession of a weapon during commission of a violent crime, with the other weapons possession charge being dismissed. (Tr. 8-9). He confirmed he knew the purpose of the hearing was to enter a plea to three charges, as opposed to having a jury or bench trial on the charges. (Tr. 9). He stated he understood he was waiving his rights to trial by jury, to remain silent, and call and confront witnesses. (Tr. 9). He stated he understood that if he went forward to a trial, the burden of proof would be on the State to prove every element against him beyond a reasonable doubt and that he would be presumed innocent until proven guilty and that every jury would have to agree on a guilty verdict before he was proven guilty. (Tr. 9-10). He stated he wanted to waive these rights to plead. (Tr. 10). He stated no one forced, promised, or threatened him into pleading and that he was not under the influence of anything that would impair his judgment. (Tr. 10). He stated he did not have a mental or physical disability impairing his ability to understand what he was doing and that he was not on prescribed medication. (Tr. 10-11). He stated he was satisfied with Counsel and that Counsel did everything he asked him to do on the case. (Tr. 11). He stated he understood the charges, lesser included offenses pled to, and the sentencing ranges. (Tr. 11-14). He stated he understood the

voluntary manslaughter offense is classified as violent and most serious and that assault and battery of a high and aggravated nature is classified as both violent and serious. (Tr. 12-13). He stated he understood the second weapons possession charge would be dismissed. (Tr. 14). He stated he understood the negotiated sentences and that she could not reduce the negotiated sentences in any way. (Tr. 14-15). Applicant stated he understood that if the Judge determined she was unwilling to accept the plea, he had the option to withdraw it. (Tr. 15-16). He stated he understood he was entering an *Alford* plea. (Tr. 16).

The Court again asked Counsel questions. Counsel stated that he remembered reviewing evidence and discovery with Applicant, that they discussed his options between pleading and going to trial, and that they discussed the trial and potential plea aspects of the case and he informed Applicant of what a plea is. (Tr. 16). Applicant stated he remembered discussing the evidence and discovery with Counsel and his options between pleading and going to trial. (Tr. 16-17). Applicant stated that he believed that, based on the evidence, a jury would more likely than not determine he was guilty. (Tr. 17). He stated he was entering the plea freely, knowingly, and voluntarily. (Tr. 17). He stated he understood he had ten days to appeal the plea after the hearing. (Tr. 17). Thus, Respondent contends that the plea was entered freely, knowingly, intelligently, and voluntarily.

Additionally, at the PCR hearing, Applicant testified that he pled because he was afraid, he would receive life imprisonment if he did not plead. Additionally, Counsel testified that he thought the plea was in Applicant's best interest. Thus, this Court finds that the plea was entered freely, voluntarily, intelligently, and knowingly and cannot be withdrawn now.

Failure to File Motion to Reconsider the Sentence

Applicant's allegation that Counsel was ineffective for failure to move to reconsider the sentence because he was sentenced differently than Applicant's co-defendant. The underlying argument Applicant wanted advanced through a post-trial motion is without merit. *See State v. Follin*, 352 S.C. 235, 257, 573 S.E.2d 812, 824 (Ct. App. 2004)("[W]hen the record clearly reflects an appropriate basis for a disparate sentence, the sentencing judge may impose a different sentence on a co-defendant in a criminal trial."); *State v. Charping*, 333 S.C. 124, 131, 508 S.E.2d 851, 855 (1998) (explaining sentencing judges may consider a codefendant's sentence but they are not required to do so).

Counsel was not deficient for failing to advance an unsuccessful argument, particularly considering his PCR hearing testimony that he did not think the motion would be successful. This Court concurs with Counsel finds that the post-trial motion on this basis would not have been successful in the case. Thus, no prejudice is found, and relief is denied on this allegation accordingly.

Trial Tax

Applicant claims he was coerced into pleading because he was told if he did not plead, he would likely face life in prison. Being informed that if he went to trial, he would face more time in prison does not rise to the level of coercion and is not enough to render the plead invalid. Accordingly, relief is denied on this ground.

Negotiated Plea

Applicant's claim that he did not understand what a negotiation plea is without merit. Despite his remark during direct examination indicating he did not understand what a negotiated sentence meant, Applicant testified during cross-examination at the PCR hearing that he knew

the Court had to impose a twenty-five-year sentence, based upon the negotiations. Additionally, at the plea hearing, Applicant was informed by the Court that the Court could only either accept or reject the plea, but if the plea was accepted, the Court was bound to the negotiations. (Tr. 14-16). To this, Applicant stated he understood. (Tr. 14-16). Accordingly, because this claim is refuted by the record and Applicant's testimony, relief is denied on this ground.

Conclusion

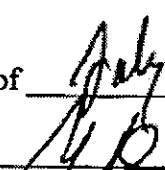
Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.

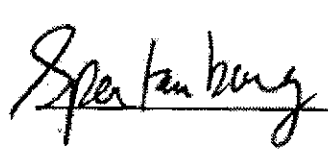
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty days of receipt by counsel of the judgment entry's written notice to secure appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant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

IT IS THEREFORE ORDERED:

1. The PCR application be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of Respondent.

AND IT IS SO ORDERED this 11 day of July, 2022.


 _____ 2761
 WILLIAM A. MCKINNON
 Presiding Judge
 Seventh Judicial Circuit

 _____, South Carolina.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2021CP1100615

Robert B Hollis Jr		State Of South Carolina	
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

FILED IN OFFICE OF
 CLERK OF COURT
 COUNTY OF CHEROKEE
 SOUTH CAROLINA
 2022 AUG - 9 PM 4: 1
 BRANDY W. MOORE

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

S/ William A. McKinnon

2761

8/9/2022

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

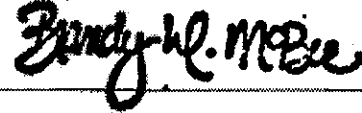
This judgment was entered on 08/09/2022, and a copy mailed first class or placed in the appropriate attorney's box on 08/09/2022, to attorneys of record or to parties (when appearing pro se) as follows:

Rodney Wade Richey PO Box 10916 Greenville, SC
29603-0916

Alan McCrory Wilson S.C. Attorney General's Office PO
Box 11549 Columbia, SC 29211-1549

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Court Reporter

Brandy W. McBee - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

WITNESSES

Cherokee County Sheriff's Office

ARREST WARRANT NUMBER

2018A1110101253 - (Count One)

2018A1110101258 - (Count Two)

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: 3-21-19

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 19-GS-11-00410

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

March 21 2019 TERM

THE STATE

vs.

ROBERT BUNYAN HOLLIS, JR.

Indictment for

MURDER AND
POSSESSION
OF WEAPON DURING COMMISSION OF A
VIOLENT CRIME

SC Code: 16-03-0010, 0020; 16-23-490

CDR CODE: 116; 0549

CLASS: FEL-EXM; FEL/F

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C

2019 MAR 21 AM 10:55

BRANDY W. MCBEE

WITNESSES

Cherokee County Sheriff's Office

ARREST WARRANT NUMBER

2018A1110101255 - Count 1

DIRECT INDICTMENT - Count 2

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 3-21-19

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 19-GS-11-00411

The State of South Carolina

County of Cherokee

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

March 21 2019 TERM

THE STATE

vs.

ROBERT BUNYAN HOLLIS, JR.

Indictment for

ATTEMPTED MURDER-COUNT ONE AND
POSSESSION OF A WEAPON DURING
COMMISSION OF A VIOLENT CRIME-
COUNT TWO

SC Code: 16-3-0029, 16-23-490

CDR Code: 3410, 0549

Class FEL-A, FEL/F

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.

2019 MAR 21 AM 10:55

BRANDY W. MCBEE

Alford plea / 25 yrs neg.

STATE OF SOUTH CAROLINA)
 COUNTY OF CHEROKEE)
 STATE VS.)
Robert Bunyan Hollis Jr)
 AKA: _____)
 Race: BLACK Sex: M Age: 34)
 DOB: _____ SS#: _____)
 Address: _____)
 City, State, Zip: _____)
 DL#: _____ SID#: _____)

INDICTMENT/CASE#: 2019GS1100410
 A/W#: 2018A1110101253
 Date of Offense: 12/1/2018
 S.C. Code § : 16-03-0010; 16-03-0020
 CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS Neg. 25 yrs
 TO: Voluntary manslaughter (2-30 years)

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

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
 The plea is: Without Negotiations or Recommendation Negotiated Sentence Recommendation by the State.
 ATTORNEY: R.B. Buls SCB15264 Robert Hollis SCB7272
BULSA, DERRICK SC Bar# Robert Hollis Epps, S.C. Douglas Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, *884 days*
 for a determinate term of 25 days/month/year 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. *884 days*
 The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

Recipient: _____

*Fine:	\$
§14-1-206 (Assessments 107.5%)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§14-1-212 (Law Enforce. Funding)	\$25
§14-1-213 (Drug Court Surcharge)	\$150
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.75
TOTAL	\$ 129.75

_____ days/hours Public Service Employment
 Obtain GED
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol testing
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: no contact victim or
victim's family members

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
 Presiding Judge: _____
 Judge Code: 27120
 Sentence Date: May 11, 2021

Clerk of Court/ Deputy Clerk: Brandy W. Mebel
 Court Reporter: Julie Cendanski
 SCCA/217 (04/2018)

Alford plea / 20 yrs conv to OHIO reg.
IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)
STATE VS.)
Robert Bunyan Hollis Jr)
AKA:)
Race: BLACK Sex: M Age: 34)
DOB: [REDACTED] SS#: [REDACTED])
Address:)
City, State, Zip:)
DL#: [REDACTED] SID#: [REDACTED])

INDICTMENT/CASE#: 2019GS1100411
A/W#: 2018A1110101255
Date of Offense: 12/1/2018
S.C. Code § : 16-03-0029
CDR Code #: 3410

SENTENCE SHEET

*CDL CMV Hazmat
In disposition of the said indictment comes now the Defendant who was
TO: Assault and Battery of a High and Aggravated Nature (0-20 years)

CONVICTED OF or PLEADS

in violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC §17-25-45
w/minor 1st or Lewd Act)

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

ATTEST: Darr B. Bulke SCB15264 Robert Hollis Jr SCB72722
BULSA, DERRICK SC Bar# Defendant Epps, Stephen Douglas Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ 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.

884 days

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.

884 days

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

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP _____

Total: \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____

Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§14-1-206 (Assessments 107.5 %)	\$
§14-1-211(A)(1) (Conv. Surcharge)	\$300
§14-1-211(A)(2) (DUI Surcharge)	\$100
§56-5-2995 (DUI Assessment)	\$12
§56-1-286 (DUI Breath Test)	\$25
Proviso (Public Def/Probation)	\$500
§14-1-212 (Law Enforce. Funding)	\$
§14-1-213 (Drug Court Surcharge)	-\$150
§50-21-114(BUI Breath Test Fee)	\$50
§56-5-2942(J) (Vehicle Assessment)	\$40/ea
3% to County (if paid in installments)	\$ 3.75

TOTAL \$128.75

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: no contact with victims & family members.

Appointed PD 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 Brandy W. McBeal

Court Reporter: Julie Gendrich

Presiding Judge _____

Judge Code: 2100

Sentence Date: May 11, 2021