

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

—————
Certiorari to Lee County

Honorable Diane Schafer Goodstein, Circuit Court Judge

—————
ISAAC WRIGHT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-001487

—————
APPENDIX
—————

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STATE OF SOUTH CAROLINA)	COURT OF GENERAL SESSIONS
COUNTY OF LEE)	2017-GS-31-0179
)	
)	
)	
)	
State of South Carolina)	TRANSCRIPT OF RECORD
vs.)	
Isaac Aramadais Wright)	
)	July 23, 2019
<u>DEFENDANT</u>)	Manning, South Carolina

B E F O R E:

THE HONORABLE R. FERRELL COTHRAN, JR.

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

JOHN GENTRY, ASSISTANT SOLICITOR
Attorney for the State

SCOTT L. ROBINSON, PUBLIC DEFENDER
Attorney for the Defendant

KESHIA REED
Official Court Reporter

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(WHEREUPON, there were no witnesses called.)

1 THE COURT: Okay.

2 THE CLERK: Do you swear to tell the truth, the
3 whole truth, and nothing but the truth so help you God?

4 THE DEFENDANT: Yes, ma'am.

5 THE CLERK: Thank you.

6 MR. GENTRY: May it please the Court. This is
7 Mr. Isaac Aramadais Wright. He's before the Court on
8 indictment 2017-GS-31-0179. He's represented by attorney
9 Scott Robinson. It's my understanding he's going to enter
10 an Alford plea to voluntary manslaughter in violation of
11 section 16-03-050 of the code of laws. And we have a
12 negotiated plea.

13 THE COURT: Mr. Wright, you want to plead
14 guilty?

15 MR. ROBINSON: Under North Carolina vs. Alford,
16 Your Honor.

17 THE COURT: Right.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay. Have you had enough time to
20 talk to your lawyer about this decision?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Are you satisfied with his
23 representation?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Outside of the negotiations that

1 your lawyer has stated and entered into, has anybody
2 promised you anything or threatened you in any way?

3 THE DEFENDANT: No, sir.

4 THE COURT: You under the influence of alcohol
5 or drugs today?

6 THE DEFENDANT: No, sir.

7 THE COURT: You got any mental diseases that
8 would keep you from understanding?

9 THE DEFENDANT: No, sir.

10 THE COURT: You understand that this
11 manslaughter, voluntary manslaughter is a violent and most
12 serious?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And is a no parolable offense. You
15 understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: So you got to serve up to 85 percent
18 of whatever sentence you receive. You understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And it carries up to 30 years in
21 prison, but the fact that this is a negotiated plea if I
22 find -- after I hear the facts I can't follow the
23 negotiations, I will allow you to withdraw your plea. You
24 understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. By pleading, you giving
2 up certain constitutional rights. You have a
3 constitutional right to remain silent. And when you plead
4 guilty, you give that up. You understand?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You also have a constitutional right
7 to a jury trial. We have a jury in the hall. And during
8 that trial, you would be presumed innocent and the State
9 would have the burden of proving you guilty beyond a
10 reasonable doubt to all 12 jurors. You be able to sit in
11 this courtroom and confront each witness that would
12 testify against you. Your lawyer could cross-examine the
13 State's witnesses. And you can subpoena witnesses to
14 testify on your behalf. When you plead guilty, you give
15 all that up. You understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you giving up any appeals that
18 could come out at trial by pleading guilty, you understand
19 that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Have you had enough time to go over
22 the discovery that the State has provided your attorney?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Do you have any
25 questions at all that the State has not provided a proper

1 discovery? They given you everything you think you're
2 entitled to?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Okay. You got any questions
5 concerning your rights that you want me to answer?

6 THE DEFENDANT: No, sir.

7 THE COURT: All right. Now, Solicitor is going
8 to tell me what happened. And I'll come back and talk to
9 you about it.

10 MR. GENTRY: Your Honor, on 10-28-2017 at about
11 030 in the morning, reporting Officer Cog was responding
12 to a shots fired call at [REDACTED] Brown Town Road. While in
13 en route to the call, dispatch received a second 9-1-1
14 call saying that someone had been shot at that address.
15 Caller did not provide name and requested police not be
16 dispatched, but just send an ambulance. Two other
17 officers were the first two to arrive on the scene.

18 Upon arrival, reporting officer observed several
19 subjects in the yard and inside the residence. Several of
20 these subjects began to walk away when deputies arrived.
21 The reporting officer was directed inside the mobile home
22 to the victim. Reporting officer observed a black male
23 victim laying on the floor of the residence and did not
24 appear to be responsive, that's the victim Mr. Fabian
25 Wright.

1 Several other black males were in the room
2 attempting to keep him awake and communicating. Reporting
3 officer was advised that the subject had been shot in the
4 back of the left shoulder. Reporting officer observed
5 some blood on the victim's T-shirt and rolled his body
6 over enough to see a small apparent entry wound in the
7 back of the left shoulder.

8 EMS arrived several minutes later and began
9 treating the victim. Victim was then transported to
10 Carolinas Hospital Pines in Hartsville where he was
11 pronounce dead after a short time.

12 Deputy Isman, Reams and Investigator Newman had
13 all arrived on the scene prior to victim being
14 transported. Reporting officer along with other deputies
15 attempted to obtain information from the subject in the
16 yard, but they all stated they did not know or see
17 anything.

18 Deputy Reams obtained the names and information
19 on as many individuals in the yard that could be located
20 at the time and these names were included in the report.
21 Subsequent investigation revealed that there were several
22 individuals who had been in the room when a shot was
23 fired. One indicated that he had actually seen Mr. Wright
24 pull the trigger on the gun. Another one indicated he had
25 seen Mr. Wright in the house with the gun. Another one

1 indicated that he had seen Mr. Wright exit the house right
2 after the shot was fired. There was excuse me -- these
3 individuals one of which indicated that he had seen
4 Mr. Wright fire the shot did not make his statement until
5 several days later until he had a chance to think over
6 what he had seen and to do the right thing.

7 The summation of the investigative report
8 apparently Mr. Wright -- and Mr. Wright, Mr. Fabian Wright
9 and Mr. Isaac Wright had had some type of dispute. I
10 don't know if it's an aggravated dispute or just words or
11 whatever, but there were some type of dispute at the time.
12 And Mr. Fabian Wright had said several words to Mr. Isaac
13 Wright. And as Mr. Fabian Wright was walking from the
14 door of the house back towards some other people, the shot
15 was fired. And that's the one that eventually that put
16 Mr. Fabian down.

17 The autopsy report indicated that he had lost
18 900 ccs of blood internally. The shot had clipped an
19 artery as well as some other organs. He did not bleed
20 very much because the bullet did not exit. They found the
21 bullet. In all candor, the sheriff's office did not find
22 a weapon, never able to find a weapon. There's no
23 scientific evidence in the case. It's just the witness
24 testimony.

25 THE COURT: Okay. Mr. Wright, you heard those

1 facts that the Solicitor gave me. And you understand that
2 if this case went to trial, those will be the facts that
3 they present against you. You understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Do you want me to accept your plea
6 under North Carolina vs. Alford?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. I find there's a factual
9 basis to your plea is freely and voluntarily entered into.
10 And that you've had advice of competent counsel whom you
11 tell me you're satisfied. And I'll accept your plea.

12 THE DEFENDANT: Yes, sir, I'm satisfied.

13 THE COURT: Mr. Robinson.

14 MR. ROBINSON: Thank you, Your Honor, just
15 briefly. Mr. Wright is 32 years old. He lives here in
16 Bishopville with his sister, Latosha, who's the one
17 standing immediately to his right. Four of the other --
18 three of these other four ladies are also his sisters.
19 And the young lady in the pink shirt is his niece. He is
20 a high school graduate. He's single. He does not have
21 any children. And at that time that he turned himself in
22 on these charges back on October 30th of 2017, he was
23 working with AO Smith Hot Water Heater company out of
24 McBee.

25 You've heard the State's recitation of what the

1 investigation revealed, so you can understand quite
2 frankly why Mr. Wright had some issues about pleading
3 guilty and some serious thought about going to trial. As
4 Mr. Gentry allude to, a couple of these statements given
5 by the State's eyewitnesses were not given immediately.
6 And actually they gave different statements the night of
7 the incident, the following day and then came back a
8 couple of days later and changed their statements to
9 implicate Mr. Wright.

10 We secured the services. I'm Mr. Wright's
11 second attorney in this matter as -- I think, it was you
12 actually here in January when he was here with Mr. Johnson
13 who had an investigator working on this case. I was not
14 able to obtain any information from Mr. Johnson's
15 investigator and retained my own investigator.

16 And based on our investigation, quite frankly
17 was that some of the witnesses who originally didn't see
18 anything or didn't know anything or were uncooperative
19 seems to be shifting toward the State's view of things.
20 And based upon that, Your Honor, just the fact that
21 witnesses that had said one thing previously kind of
22 changed their story or did appear that they were planning
23 to do so along with the support from Mr. Wright's family.
24 And based on our investigation, he deems this advisable to
25 plead guilty here today rather than stand to trial on

1 these charges -- on a murder charge which as you know
2 carries 30 years to life in prison, so I certainly think
3 the benefit of his bargain is well worth it. The
4 negotiated sentence I believe was 15 years suspended to
5 ten years followed by two years of probation.

6 MR. GENTRY: Supervise probation comes as a
7 matter of course as I understand it.

8 THE COURT: Say that again?

9 MR. ROBINSON: Fifteen suspended to ten years
10 followed by ---

11 THE COURT: This has got five years probation.

12 MR. ROBINSON: I wrote that wrong, Judge.

13 THE COURT: Suppose to be two years probation?

14 MR. ROBINSON: Two years, yes, sir.

15 MR. GENTRY: Yes, sir. I understand in talking
16 to the probation officer that's two years of supervised
17 probation and after that it more less disappears.

18 THE COURT: The victim's family been notified?

19 MR. GENTRY: Sir?

20 THE COURT: The victim's family been notified?

21 MR. GENTRY: The victim's family is sitting out
22 here, Your Honor.

23 THE COURT: All right. The sentence of the
24 Court is that you be committed to the state department of
25 corrections for a term of 15 years, provided upon the

1 service of ten years, the balance is suspended and placed
2 on probation for two years. And I've given you credit for
3 whatever time you serve.

4 MR. ROBINSON: Thank you, Your Honor.

5 END OF REQUESTED TRANSCRIPT
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FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Lee)

2020-CR-31-78

Isaac Armistead)

Full name and prison number (if any))

v.)

APPLICATION FOR

State of South Carolina)

POST-CONVICTION RELIEF



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 Kirkland Correctional Institution
2. Name and location of Court which imposed sentence General Sessions
123 South main street PO box 387
Blacksburg, SC 29010-0387
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017-GS-31-0179
 - (b) _____

(c) _____

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

(a) 7-23-19 10 yrs sentence followed by

(b) 2 yrs community supervision

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

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

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

i. NO

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

(c) the date of each such result:

i. N/A

ii. _____

iii. _____

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

i. N/A

ii. _____

iii. _____

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

(a) I wasn't advise that i could appeal

(b) my sentence by my lawyer

(c) _____

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

- (a) Ineffective Counsel by lawyer due to bad advice
- (b) lawyer never suppress witnesses statements due to change of statement. chain of custody due to lack of protocol by investigator doing his investigation
- (c) of the crime scene

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

- (a) being that my lawyer gave me bad advice i took the sentence
- (b) If lawyer suppress witness inconsistent statement i would not plead guilty
- (c) due to lack of investigation crime scene wasn't taped off

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

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

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

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

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

_____ N/A _____

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

(a) which grounds have been presented:

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

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

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

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

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

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

- (a) the name and address of each attorney who represented you:
 - i. scott L. Robinson
Clarendon county courthouse
 - ii. PO box 339
3 west Keitt street
 - iii. Manning, south carolina 29102
- (b) the proceedings at which each such attorney represented you:
 - i. Bond hearing, plea, And sentencing
 - ii. _____
 - iii. _____

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

Adismissal of the case and or a reduce
sentence.

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

NO

STATE OF SOUTH CAROLINA)
County of Lee)

VERIFICATION

I, Isaac Armada's Wright, 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.

Isaac Wright

SWORN to and subscribed before me this 14
day of February, 2020.

Melissa Spig (L.S.)
Notary Public

My Commission Expires: December 1, 2025

THE STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEE)	FOR THE THIRD JUDICIAL CIRCUIT
)	
)	
Isaac Aramadais Wright, #372353,)	Case No.: 2020-CP-31-0078
Applicant,)	
)	
v.)	RETURN
)	
)	
State of South Carolina,)	
Respondent.)	
_____)	

NOW COMES Respondent, the State of South Carolina, making its return to the application for post-conviction relief filed on February 24, 2020, and received August 5, 2020, by Applicant Isaac Wright, Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently in the South Carolina Department of Corrections. In December 2017, the Lee County Grand Jury indicted Applicant for Murder (2017-GS-31-0179, Count 1), and Possession of a Weapon During the Commission of a Violent Crime (Count 2). Scott L. Robinson, Esquire, represented Applicant. Assistant Solicitor John Gentry of the Third Circuit Solicitor’s Office, prosecuted the case.

On July 23, 2019, Applicant entered a negotiated Alford¹ plea before the Honorable R. Ferrell Cothran, Jr., for the lesser included offense of Voluntary Manslaughter. Judge Cothran sentenced Applicant to fifteen years of imprisonment for this charge. Applicant did not appeal his conviction or sentence.

¹ North Carolina v. Alford, 400 U.S. 25 (1970).

II. Factual History

The underlying facts of the crime for which Applicant is incarcerated were articulated by the State during the plea proceedings as follows:

“On October 28, 2017, at about 030 in the morning, reporting Officer Cog was responding to a shots fired call at [location]. While in route to the call, dispatch received a second 9-1-1 call saying that someone had been shot at that address. Caller did not provide name and requested police not be dispatched, but just send an ambulance. Two other officers were the first two to arrive on the scene.

Upon arrival reporting officer observed several subjects in the yard and inside the residence. Several of these subjects began to walk away when deputies arrived. The reporting officer was directed inside the mobile home to the victim. Reporting officer observed a black male victim laying on the floor of the residence and did not appear to be responsive, that’s the [Victim].

Several other black males were in the room attempting to keep him awake and communicating. Reporting officer advised that the subject had been shot in the back of the left shoulder. Reporting officer observed some blood on the [Victim’s] t-shirt and rolled his body over enough to see a small apparent entry wound in the back of the left shoulder[. . .]

One [witness] indicated he had actually seen [Applicant] pull the trigger on the gun...”

(GP Tr. 6-7).

III. Allegations Raised and Relief Sought in Application

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

1. Ineffective Assistance of Counsel
 - a. “Gave me bad advice I took the sentence.”
 - b. “Lawyer never suppress witnesses statements due to change of statement.”

2. “Chain of custody due to lack of protocol by investigator doing his investigation of the crime scene.”

Applicant requests the following form of relief: “a dismissal of the case and or a reduce sentence.”

Attached to and incorporated herein are the Lee County Clerk of Court Records regarding the subject convictions, the 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 relevant information.

IV. Responses to Allegations of Ineffective Assistance of Counsel

In his application, Applicant asserts he is entitled to post-conviction relief based on ineffective assistance of counsel for giving bad advice and for failing to suppress witness statements and drugs based on chain of custody. Respondent submits these allegations are without merit.

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984); *Taylor v. State*, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). In a PCR action, an 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 the 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*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. *Id.*; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625

(1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." *Id.* (citing *Strickland*, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. *Cherry*, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625.

In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pleaded guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Applicant's right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness included in the guilty plea process. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

Respondent submits Applicant can satisfy neither requirement of the *Strickland* test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. Assertion of Rights to Notice of Amendments, Experts

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

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent, or in the alternative 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), SCRCP (explaining how to amend a pleading).

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

VI. Denial of All Other Allegations

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

VII. Conclusion

WHEREFORE, having made its return, the State requests an evidentiary hearing be held on Applicant's claims of ineffective assistance of counsel.

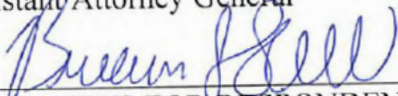
Respectfully submitted,

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March 17, 2021

State of South Carolina)	Court of Common Pleas
)	Third Judicial Circuit
County of Lee)	Case No. 2020-CP-31-00078
)	
)	
Isaac A. Wright,)	
)	
Applicant,)	
)	
-vs-)	Transcript of Record
)	
)	
State of South Carolina,)	
)	
Respondent.)	
)	

November 19, 2021
Via WebEx Virtual Courtroom

B E F O R E:

The Honorable Diane S. Goodstein, Judge

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

Timothy Griffith, Esquire
Attorney for the Applicant

Michael Neubauer, Esquire
Attorney for the Respondent State

Transcribed by:
Krystal J. Smith
Official Circuit Court Reporter

I N D E X

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

COURT REPORTER LEGEND

dashes	--	intentional or purposeful interruption
		or change in thought
ellipses	. . .	trailing off
[ph]		phonetically written
[sic]		written as said

1 NOVEMBER 19, 2021

2 (WHEREUPON, the proceedings began at 3:49 p.m.)

3 MR. NEUBAUER: This is the case of Isaac Wright versus
4 the State of South Carolina, Docket Number 2020-CP-31-0078.

5 In December of 2017, the Lee County Grand Jury indicted
6 applicant for murder and possession of a weapon during the
7 commission of a violent crime. Applicant was represented by
8 Scott Robinson, and Assistant Solicitor John Gentry of the
9 Third Circuit Solicitor's Office prosecuted the case.

10 On July 23rd, 2019, applicant entered a negotiated Alford
11 plea before the Honorable R. Ferrell Cothran, Jr., for a
12 lesser-included offense of voluntary manslaughter. Judge
13 Cothran sentenced applicant to 15 years' imprisonment on the
14 charge. Applicant did not appeal his conviction or sentence.

15 Applicant filed a post-conviction relief application on
16 February 24th, 2020, and raised the following allegations:
17 ineffective assistance of counsel; the attorney gave him bad
18 advice and he took the plea; his lawyer never suppressed
19 witness statements due to a change in statement; and chain of
20 custody issue due to the lack of protocol of the investigator
21 doing his investigation with the crime scene.

22 Applicant is currently present virtually and is
23 represented by Timothy Griffith.

24 THE COURT: All right. Yes.

25 And, Mr. Griffith, can you just examine your client with

1 regards to his willingness to proceed in this format, and then
2 call your first witness.

3 MR. GRIFFTH: Thank you, Your Honor. If it please the
4 Court.

5 THE COURT: Yes, sir.

6 MR. GRIFFTH: Mr. Wright, you and I have spoken over the
7 phone; is that correct?

8 THE APPLICANT: Yes, sir. Yes, sir, we have.

9 MR. GRIFFTH: And right now we're having what's called a
10 virtual courtroom. In other words, you have a right to be
11 present in the court and have everybody present in the court,
12 but because of the current situation, we're working with WebEx
13 and we're having a virtual court. But if you would prefer to
14 wait and have a hearing in the courtroom with everyone
15 present, you have that right, but you can consent for us to go
16 ahead with the hearing via WebEx. Do you consent to that?

17 THE APPLICANT: Yes, sir.

18 MR. GRIFFTH: Okay. The judge will probably swear you
19 in.

20 THE COURT: Yes. Raise your right hand for me, Mr.
21 Wright. Do you solemnly swear or affirm that the testimony
22 that you will give will be the truth, the whole truth, and
23 nothing but the truth?

24 THE APPLICANT: Yes, ma'am.

25 THE COURT: Thank you. All right.

ISAAC WRIGHT - DIRECT BY MR. GRIFFITH

1 All right. And if you would call your first witness,
2 please, sir.

3 MR. GRIFFITH: Your Honor, I would call Mr. Isaac Wright.

4 THE COURT: All right. Yes, sir. Go right ahead.

5 THE APPLICANT: Yes, ma'am.

6 ISAAC WRIGHT, being first duly
7 sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. GRIFFITH:

10 Q: Mr. Wright, could you state your full name, please?

11 A: Isaac Aramadais Wright.

12 Q: Sir, where are you currently incarcerated?

13 A: At Kirkland.

14 Q: Okay. And when were you first incarcerated?

15 A: I first was incarcerated -- it was October 30th, 2017.

16 Q: Okay. On this charge that you're currently being
17 incarcerated for?

18 A: (No audible response.)

19 Q: Okay. And so who was your attorney when you did your
20 plea?

21 A: Scott Robinson.

22 Q: You did a plea, you did not have a trial; isn't that
23 correct?

24 A: Yes, sir.

25 Q: And according to what you and I have talked about, you

ISAAC WRIGHT - DIRECT BY MR. GRIFFITH

1 believe Mr. Robinson gave you bad advice; is that correct?

2 A: Yes, sir.

3 Q: And basically, you believe you were talked out of a
4 trial; is that correct?

5 A: Yes, sir.

6 Q: But you would rather have gone to trial; is that correct?

7 A: Yes, sir.

8 Q: And why don't you tell us why you think or that is to say
9 how he talked you out of a trial?

10 A: On the day of my trial, I was supposed to go to trial.
11 Mr. Robinson -- (inaudible due to audio interference) -- until
12 4 o'clock that afternoon and I told him I wanted to go to
13 trial. I keep pushing for a trial. Mr. Robinson keep putting
14 it off saying take the plea. That was the best advice that he
15 was giving me, take the plea.

16 So I didn't want to take the plea. I kept going after 4
17 o'clock to go to trial. He said the jury was gone. So I went
18 back to the county jail until the next day. I came back the
19 next day and it took me up until 4 o'clock in the afternoon
20 before I plead guilty.

21 Q: Okay. And so how did he convince you to go ahead and
22 plead even though you wanted to go to trial?

23 A: Because he called my family up there the next day. He
24 called my sisters and my mom and all of them up there and they
25 talked to him. They all know what he was doing. Yep.

ISAAC WRIGHT - DIRECT BY MR. GRIFFITH

1 Q: And so --

2 A: I keep pushing wanting to go to trial, but Mr. Robinson
3 keep putting it off.

4 Q: Okay. And so what made you finally decide to go ahead
5 and do the plea?

6 A: It was late in the afternoon and my mother and my sister
7 was crying and -- because he was saying -- he's telling them
8 that if I go to trial and I lose, if the judge is in a good
9 mood, I may get 30 years, but if he's in a bad mood, I get a
10 life sentence. So they started crying and crying and say
11 listen to him this one time, and I ended up pleading guilty.

12 Q: Okay. Now, what were you originally charged with, Mr.
13 Wright?

14 A: I was originally charged with murder.

15 Q: Okay. And so what did you plead guilty to?

16 A: Voluntary manslaughter.

17 Q: Okay. Now, you do understand that if you win your PCR,
18 it goes back to being a murder charge. All the other charges
19 come back. You and I talked about that?

20 A: Yes, sir.

21 Q: Okay. And so, you know, you'd be going back. If you won
22 your PCR and got a new trial, which is -- the judge can just
23 give you a new trial. We talked about that.

24 A: Yes, sir.

25 Q: And -- and so you would be facing the murder charge

ISAAC WRIGHT - DIRECT BY MR. GRIFFITH

1 again. You understand that; right?

2 A: Yes, sir.

3 Q: But you want to -- you want to go ahead and work toward
4 this being granted a PCR; is that correct?

5 A: Yes, sir.

6 Q: Okay. And we talked about that quite a bit. Now, is
7 there anything else -- oh, wait a minute. Were you told by
8 your attorney that you could appeal your plea?

9 A: No, sir. I was never told that.

10 Q: Okay. Okay. But you -- do you remember the judge saying
11 that you have to appeal within 10 days?

12 A: No, sir. I don't remember. I don't recall.

13 Q: Okay. I understand. Did you not understand or not hear
14 the judge, basically not understanding you were -- were you
15 nervous?

16 A: Yes, I was nervous.

17 Q: Okay. And did your attorney give you any instructions
18 before you did the plea?

19 A: The only thing he told me, he was, like, look the judge
20 in his face, look him in his eyes, and answer every question
21 that's given to me. That was it.

22 Q: Okay. And so would you have appealed your plea if you
23 had been told that you could appeal by your attorney?

24 A: Yes, sir. If I had knowledge, I would.

25 Q: Okay. And so you feel like -- you feel like your

ISAAC WRIGHT - DIRECT BY MR. GRIFFITH

1 attorney put some pressure on you to appeal -- I mean to plead
2 guilty or did you do that on your own?

3 A: I feel that Mr. Robinson put pressure on me to plea.

4 Q: Okay. And explain to us how you felt like he did that?

5 A: Because I brought Mr. Robinson a piece -- a new piece of
6 evidence for me to go to trial. That in the police report it
7 stated it was a 9-1-1 call made on the night of October 28th.
8 So I told Mr. Robinson it says en route for the police for the
9 call, the 9-1-1 call, that another call was placed, and the
10 second call was placed saying that send EMS, not police. So I
11 told Mr. Robinson to get the 9-1-1 call from dispatch. He
12 said he tried, but they said there never was no call, no 9-1-1
13 calls that night. They didn't have the tape.

14 Q: Okay.

15 A: Yeah. So --

16 Q: Go ahead. You got anything?

17 A: That's it.

18 Q: Okay. Did you have anything else to add that would help
19 us to understand that you did not -- basically, you did not
20 voluntarily plead, that you were coerced, that you were kind
21 of pushed into the plea? Do you have anything else that would
22 help us understand that?

23 A: Only the -- when they took me to plead, it took me two
24 days to plead guilty. Well, a day and a half.

25 Q: Okay. Do you have anything else you want to tell the

ISAAC WRIGHT - DIRECT BY MR. GRIFFITH

1 Court about why you think you should have a new trial?

2 A: Yes, sir. Because I think that Mr. Robinson wasn't on my
3 case long enough to go to trial too because I had a paid
4 attorney first in like a year and a half, and I let him go
5 because of financial difficulty. Then I got Robinson. He
6 wasn't on my case for nothing but like maybe three months at
7 the most.

8 Q: And so do you think that he was ready to go to trial?

9 A: No, I don't think he was ready.

10 Q: Okay. All right. Anything else you want to tell us to
11 help us understand why you think you should have a new trial?

12 A: No, sir.

13 Q: Okay.

14 MR. GRIFFITH: I have no further questions, Your Honor.

15 THE COURT: All right. Cross-examination?

16 MR. NEUBAUER: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. NEUBAUER:

19 Q: Good afternoon, Mr. Wright.

20 A: Good afternoon.

21 Q: So you said you -- Mr. Robinson wasn't the first attorney
22 that you had; correct?

23 A: Correct.

24 Q: And how long did you have your first attorney for?

25 A: I had him for, like, a year and a half.

ISAAC WRIGHT - CROSS BY MR. NEUBAUER

- 1 Q: And did you guys have an opportunity to discuss the
2 evidence in your case, the discovery that the State had?
- 3 A: No. I only -- I only seen him once upon a time.
- 4 Q: Okay. And then you said ultimately due to financial
5 reasons he stopped representing you; correct?
- 6 A: Yeah. I relieved him.
- 7 Q: And then you had Mr. Robinson?
- 8 A: Yes, sir.
- 9 Q: Do you remember how many times you guys met prior to you
10 pleading guilty?
- 11 A: Me and Mr. Robinson?
- 12 Q: Yes, sir.
- 13 A: We met, like, twice.
- 14 Q: Two times? Okay. And did you guys have a chance to go
15 over discovery or the State's evidence in this case?
- 16 A: We didn't went over the discovery. We went over the
17 police interview.
- 18 Q: Okay. That was --
- 19 A: We went over the police interview.
- 20 Q: That's the only thing that you guys went over? You
21 didn't go over any other evidence?
- 22 A: No, sir.
- 23 Q: Okay. And did you and your attorney discuss any possible
24 defenses in this case?
- 25 A: A few we did.

ISAAC WRIGHT - CROSS BY MR. NEUBAUER

1 Q: And --

2 A: We never went over it.

3 Q: And did you give your attorney any leads or any names of
4 possible witnesses or anything that you wanted him to
5 investigate in this case?

6 A: Yeah. I gave him two witnesses, two alibis supposed to
7 be.

8 Q: And do you know if he talked with them?

9 A: No, I don't know.

10 Q: You don't?

11 A: He tried to.

12 Q: Okay. And did you guys discuss any plea offers during
13 your representation or during his representation?

14 A: Yeah. We talked about a plea, like, when he first became
15 my attorney.

16 Q: Okay.

17 A: He said they was offering seven years, but I told him I
18 wasn't take no plea because I didn't do it. So he said if it
19 comes down to the come down, what would you take? I said if
20 it comes down to the come down, I'll take five years. So he
21 said, okay, let me talk to the prosecutor.

22 He talked to the prosecutor. He came back. He said,
23 okay, the deal stands on the table for five years. So when it
24 was time for me to come back to court, he said that the deal
25 changed because of the victim's family. They said that wasn't

ISAAC WRIGHT - CROSS BY MR. NEUBAUER

1 enough time. So I had to wait and wait until it was time to
2 go to trial.

3 Q: All right. And so you told him that you wanted a trial,
4 you did not want to plead guilty?

5 A: Yes, sir.

6 Q: And did you -- did you discuss the maximum sentence that
7 you could receive for your charge?

8 A: He didn't discuss it until the day of trial.

9 Q: But you had had that discussion prior to your trial?

10 A: No.

11 Q: You're saying you didn't discuss the maximum sentence for
12 murder prior to going up for a trial?

13 A: No. I guess he figured I knew.

14 Q: Okay. And when you talked with Mr. Robinson, did you
15 understand what you guys were talking about? Did you ever
16 tell him that you didn't understand what you guys were
17 discussing?

18 A: I understand some of the things that we talked about, but
19 not all.

20 Q: Okay. And then when we get to your guilty plea, do you
21 remember the judge telling you what you were charged -- or the
22 judge telling you that you were going to be pleading guilty to
23 voluntary manslaughter?

24 A: No, I don't quite remember.

25 Q: All right.

ISAAC WRIGHT - CROSS BY MR. NEUBAUER

1 MR. NEUBAUER: I would draw the Court's attention to page
2 4 of the guilty plea transcript.

3 THE COURT: All right.

4 BY MR. NEUBAUER:

5 Q: Do you remember him telling you that it would be a no-
6 parole offense and that you'd have to serve 85 percent or up
7 to 85 percent of whatever you were sentenced to?

8 A: I don't quite remember. It was a long time ago.

9 MR. NEUBAUER: Again, I'd would draw the Court's
10 attention to page 4 of the transcript.

11 BY MR. NEUBAUER:

12 Q: Do you remember him telling you that that charge carried
13 up to 30 years in prison?

14 A: No.

15 Q: All right.

16 MR. NEUBAUER: Again, I'd draw the Court's attention to
17 page 4 of the transcript.

18 BY MR. NEUBAUER:

19 Q: Do you remember the judge telling you that by pleading
20 guilty you'd give up certain constitutional rights, which
21 would be the right to remain silent, the right to a jury
22 trial, the right to confront witnesses and cross-examine
23 witnesses?

24 A: No, sir. I don't remember.

25 MR. NEUBAUER: I'd draw the Court's attention to page 5

ISAAC WRIGHT - CROSS BY MR. NEUBAUER

1 of the guilty plea transcript.

2 BY MR. NEUBAUER:

3 A: I don't remember.

4 Q: Do you remember the judge telling you that by pleading
5 guilty you would give up any issues that you could have
6 appealed after a trial?

7 A: No, sir. I don't remember.

8 MR. NEUBAUER: I'd draw the Court's attention to page 5
9 of the transcript.

10 THE COURT: Okay.

11 BY MR. NEUBAUER:

12 Q: Do you remember telling the judge that you had enough
13 time to go over discovery that the State provided to your
14 attorney?

15 A: No, sir. I don't remember.

16 MR. NEUBAUER: I'd draw the Court's attention to page 5
17 of the transcript.

18 THE COURT: Okay.

19 BY MR. NEUBAUER:

20 Q: Do you remember the judge asking you if you had any
21 questions about what discovery the State provided to you?

22 A: No, sir. I don't remember.

23 MR. NEUBAUER: I'd draw the Court's attention to page 5
24 and page 6 in the transcript.

25 THE COURT: Okay.

ISAAC WRIGHT - CROSS BY MR. NEUBAUER

1 BY MR. NEUBAUER:

2 Q: Do you remember the judge asking if -- I apologize. Do
3 you remember the judge asking if anybody promised you anything
4 or threatened you anything to -- or threatened you in any way
5 so that it would make you plead guilty?

6 A: No, sir. I don't remember.

7 MR. NEUBAUER: I'd draw the Court's attention to page 4
8 of the guilty plea transcript.

9 BY MR. NEUBAUER:

10 Q: Do you remember telling the Court that you were satisfied
11 with Mr. Robinson's service?

12 A: No, sir. I don't remember.

13 MR. NEUBAUER: I'd draw the Court's attention to page 3
14 of the transcript.

15 THE COURT: Okay.

16 BY MR. NEUBAUER:

17 Q: Do you remember telling the judge that you had enough
18 time to talk with your lawyer about your decision to plead
19 guilty?

20 A: No, sir. I don't remember.

21 MR. NEUBAUER: Again, I'd draw the Court's attention to
22 page 3 of the guilty plea transcript.

23 THE COURT: Okay. Thank you.

24 BY MR. NEUBAUER:

25 Q: Do you remember -- I apologize.

ISAAC WRIGHT - CROSS BY MR. NEUBAUER

1 MR. NEUBAUER: I beg the Court's indulgence.

2 THE COURT: Okay.

3 BY MR. NEUBAUER:

4 Q: Do you remember the judge asking you under Alford that --
5 or do you remember the judge asking under Alford whether you
6 believed the State had enough evidence to convict you if you
7 went to trial?

8 A: No, sir. I don't remember.

9 MR. NEUBAUER: I'd draw the Court's attention to page 8
10 and 9 of the guilty plea transcript.

11 THE COURT: Okay.

12 BY MR. NEUBAUER:

13 Q: Do you remember telling the judge that you did believe
14 that they had enough evidence to convict you if you'd gone to
15 trial?

16 A: No, sir. I don't remember.

17 MR. NEUBAUER: I draw the Court's attention to the same
18 section, page 8 and 9 of the transcript.

19 THE COURT: Okay.

20 BY MR. NEUBAUER:

21 Q: Do you remember telling the judge that you wanted him to
22 accept your plea under *North Carolina v. Alford*?

23 A: No, sir. I don't remember.

24 MR. NEUBAUER: I'd draw the Court's attention to page 9
25 of the transcript.

ISAAC WRIGHT - CROSS BY MR. NEUBAUER

1 THE COURT: Okay.

2 BY MR. NEUBAUER:

3 Q: And one of your allegations is you said your lawyer never
4 suppressed witness statements. Did you have a conversation
5 with him about when he would be able to challenge witness
6 statements and that you couldn't challenge statements at a
7 guilty plea?

8 A: Yes, sir. We had a -- we had a conversation about the
9 statements.

10 Q: And do you remember what you guys talked about?

11 A: Yes, sir. We talked about the inconsistency of the
12 statements.

13 Q: I'm sorry, sir. We -- you froze for a minute and I
14 missed the back half of your answer.

15 A: We talked about the inconsistency of the statements, of
16 the witness statements.

17 Q: Yes, sir. And now regarding your right to appeal, did
18 you ever ask your attorney to file an appeal for you?

19 A: I never knew.

20 Q: Okay.

21 MR. NEUBAUER: I have no further questions at this point.

22 THE COURT: All right. Thank you.

23 All right. Redirect?

24 MR. GRIFFITH: Just a little bit, Your Honor, if it
25 please the Court.

ISAAC WRIGHT - REDIRECT BY MR. GRIFFITH

1 THE COURT: All right.

2 REDIRECT EXAMINATION

3 BY MR. GRIFFITH:

4 Q: Mr. Wright, you and I were talking just a minute ago
5 about you were really nervous when you did the plea; isn't
6 that right?

7 A: Yes, sir.

8 Q: And you really don't remember a lot of what happened
9 there. You were just saying I don't -- that you didn't
10 remember some of the statements. Okay? And was that because
11 you were kind of nervous?

12 A: Yes, sir.

13 Q: So you just -- were you paying attention to the judge?

14 A: No, not really.

15 Q: Okay.

16 MR. GRIFFITH: All right. No further questions, Your
17 Honor.

18 THE COURT: All right. Any recross?

19 MR. NEUBAUER: No, Your Honor.

20 THE COURT: Call your next witness, please, sir.

21 MR. GRIFFITH: The appellant [sic] rests, Your Honor.

22 THE COURT: Very well. Thank you.

23 All right. Mr. Neubauer?

24 MR. NEUBAUER: Thank you, Your Honor. The State would
25 call Scott Robinson.

SCOTT ROBINSON - DIRECT BY MR. NEUBAUER

1 THE COURT: Yes, sir, Mr. Robinson.

2 THE WITNESS: Hey, Judge.

3 THE COURT: Do you solemnly swear or affirm that the
4 testimony that you will give will be the truth and the whole
5 truth?

6 THE WITNESS: I do.

7 THE COURT: Thank you, sir.

8 Your witness, Mr. Neubauer.

9 MR. NEUBAUER: Thank you, Your Honor. May it please the
10 Court.

11 THE COURT: Yes, sir.

12 SCOTT ROBINSON, being first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. NEUBAUER:

16 Q: Good afternoon, Mr. Robinson. How are you doing?

17 A: I'm doing good. How about you?

18 Q: I'm doing good. Making it through. How long have you
19 been practicing law, sir?

20 A: Twenty-six years I think, a little over 26 years.

21 Q: Okay. And what percentage of that would be criminal law?

22 A: Seventy-five percent.

23 Q: Seventy-five?

24 A: Yeah.

25 Q: And you were Mr. Robinson's [sic] second attorney. Were

SCOTT ROBINSON - DIRECT BY MR. NEUBAUER

1 you appointed to represent him?

2 A: I was, yes.

3 Q: And how long before he ended up pleading were you
4 appointed to represent him?

5 A: I honestly do not recall that. I don't know. I don't
6 have that. I can look it up if you'd like me to. It would
7 take me a minute, but I really don't recall it.

8 Q: Yes, sir.

9 THE COURT: That would be helpful.

10 MR. NEUBAUER: Any chance that we can look it up?

11 THE WITNESS: Judge, I'm going to lose you for just a
12 second. Let me look him up.

13 THE COURT: No problem. Do not worry.

14 THE WITNESS: I'll leave this screen and I'll --

15 THE COURT: Do not worry.

16 MR. NEUBAUER: And, Your Honor, just a brief side point.
17 I believe Mr. McMahan has rejoined the hearing.

18 THE COURT: Oh, wonderful.

19 Mr. Robinson, take your time because I just need a second
20 just to communicate with these two folks, and I'm going to do
21 it by chat.

22 MR. NEUBAUER: Yes, Your Honor.

23 (WHEREUPON, there was a pause in the proceedings, after
24 which the proceedings resumed as follows.)

25 THE COURT: Okay. All right. Now, Mr. Robinson, were

SCOTT ROBINSON - DIRECT BY MR. NEUBAUER

1 you able to find the date?

2 THE WITNESS: I was, Your Honor. According to my files,
3 we opened our file for Mr. Wright on January the 7th of 2019.

4 THE COURT: Okay.

5 THE WITNESS: I don't recall the date he said he pled,
6 but we opened it on January 7th, 2019.

7 THE COURT: And the day of the plea is 2/24/20?

8 MR. NEUBAUER: I beg the Court's indulgence. I know I
9 have it.

10 THE COURT: No, no, no, that's when he filed the
11 application. I'm so sorry. That's when he filed. I'm so
12 sorry, y'all.

13 MR. NEUBAUER: I believe he pled guilty on -- I can't
14 read my own handwriting -- July 23rd of 2019.

15 THE COURT: July?

16 THE WITNESS: That's what my file indicated. I just
17 wasn't sure if that's when we closed our file or that's when
18 he pled, but that's right. 7/23/19 is what we have in there
19 for a closing date.

20 THE COURT: I gotcha. So -- okay. Good. Thank you.
21 That's -- thank you for that, Mr. Robinson.

22 THE WITNESS: No problem.

23 THE COURT: All right. Yes. And you may continue.

24 MR. NEUBAUER: Thank you, Your Honor. I appreciate it.

25 THE COURT: Yes.

SCOTT ROBINSON - DIRECT BY MR. NEUBAUER

1 BY MR. NEUBAUER:

2 Q: Do you remember how these charges arose against Mr.
3 Wright and how he ended up being arrested?

4 A: He was accused of shooting his cousin at a -- basically a
5 house party at a mobile home, and I don't remember the
6 community but a rural community in the Bishopville area of Lee
7 County. And someone -- he's correct that the undisputed
8 testimony from law enforcement was there was a 9-1-1 call that
9 someone had been shot, they needed some help, and then
10 somebody called back a few minutes later and said don't send
11 the police, just send the EMS.

12 Q: And --

13 A: He was absolutely correct about that.

14 Q: And did you feel a need to -- well, let me jump real
15 quick into that. Did you feel a need to investigate that
16 second 9-1-1 call?

17 A: No. I mean the police admitted it. They -- I mean that
18 was undisputed that they called. They testified to that at
19 the preliminary hearing. No one disputed that. It was in
20 writing in the incident report. So I really didn't feel -- I
21 don't recall not having the tapes. I thought I listened to
22 them. I could be mistaken, but either way it was undisputed
23 fact that there were two calls that night and the second one
24 said don't send the cops, just send the ambulance.

25 Q: Okay. And tell us all the kind of investigation you did

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1 into this case?

2 A: Yeah. I -- he had Charlie Johnson initially in this
3 case, and I talked with Charlie briefly when I first got the
4 case just to kind of see what was going on. And it's my
5 understanding that he had been scheduled to plead guilty to a
6 20-year offer with Mr. Johnson, and that didn't go through and
7 I think both of them at that point mutually parted ways. Mr.
8 Johnson asked to get off, as well as Mr. Wright wanted him off
9 the case.

10 So then I met with Mr. Wright. There was a substantial
11 amount of body-camera footage from the scene itself with a
12 number of officers responding, as you can imagine to a murder
13 scene. We spent a pretty good amount of time watching the
14 videos because there were, you know, different points of view
15 from different officers.

16 Watching the videos, discussing the matters, and he
17 initially told me, as he alluded to earlier, that he had an
18 alibi defense, that he was in -- I think in Sumter County
19 doing something else at the time. He gave me two individuals'
20 names to try to meet with, and he is correct I was
21 unsuccessful in ever meeting with either one of them.
22 However, one of them was a cousin of his and I was able to
23 speak with his mother, who just told me in no uncertain terms
24 that her son would not be a witness for Mr. Wright and I could
25 not talk to him.

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1 So at that point I hired an investigator or got a funding
2 order for an investigator, Mr. John Davis, to help me talk
3 with some of the witnesses, not only the alibi witnesses that
4 Mr. Wright had given me but other people that were at the
5 party because you could see individuals on the body-cam
6 footage that law enforcement either had not interviewed or had
7 not turned over the statements from.

8 So I sent Mr. Davis to that community to try to meet with
9 those people after Mr. Wright and I reviewed that for him to
10 identify them. I had no idea who they were. So that was
11 basically what I did was let John Davis work on that.

12 Q: And ultimately, were you able to get any testimony from
13 any of those witnesses?

14 A: No. Mr. Davis got -- to say he got the cold shoulder
15 would be an understatement. Nobody would hardly give him the
16 time of day. I think he did say he found one elderly lady
17 that basically told him that this is where these people live.
18 You're in the right area. They're just not talking to you.
19 They would shut the door, lock the door, and he could hear
20 them talking inside, but they would never open the door to
21 speak with him. He left his card in several doors. You know,
22 we left phone numbers and -- I'm sorry -- phone messages or
23 text messages for people that we could obtain that information
24 for. Nobody ever called us back.

25 And so to add injury to insult, on the day that we were

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1 scheduled to begin trial, all of these witnesses that Mr.
2 Wright had given me that I had tried to get Mr. Davis to
3 contact showed up and came in to court and sat with the
4 victim's family. So at that point we did have some serious
5 discussions about a guilty plea.

6 Q: Okay. And during your investigation, during your
7 meetings with Mr. Wright, did you have an opportunity to
8 discuss discovery with him in this case?

9 A: Yeah. That was all we had because I had come into the
10 case a couple years down the road from it. You know, I didn't
11 have the benefit of actually being at the preliminary hearing.
12 So everything I had was discovery that even Mr. Johnson had
13 given me or the Solicitor's Office had furnished.

14 And so, as I said, we went through the written testimony
15 or written statements of the witnesses where he was talking
16 about the inconsistencies. We looked at the body-cam videos
17 to try to figure out who these people were that could be
18 potential witnesses, why they didn't give statements to the
19 police, in hopes that that meant they would be favorable to
20 us, but that ultimately did not pan out.

21 Q: And --

22 A: Yes, I reviewed every piece of discovery that I had with
23 Mr. Wright several times in significant detail.

24 Q: And did you have an opportunity to discuss the elements
25 of the charges that he was facing and the possible sentences

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1 he could receive if he were convicted?

2 A: Of course. You know, a lot of that came up at least
3 initially just in the -- you know, you're charged with murder.
4 It carries life. The minimum sentence is 30 years. And
5 unlike voluntary or any other crimes, it's a day-for-day
6 crime. It's not an 85 percent. It's a day-for-day.

7 And so when they had offered -- they originally had
8 extended the offer that they had given to Mr. Johnson, which
9 was the 20 years. So my first conversation with him was just
10 to make sure he understood the difference between 85 percent
11 of 20 years and 100 percent of 30 or, you know, as we call
12 pine-box life, that he would never have any opportunity to get
13 out.

14 So we talked about that and, you know, again the
15 potential strengths and weaknesses of the case, which, you
16 know, there were some issues there that Mr. Wright and I
17 discussed that certainly could have been discussed at trial
18 because, as I said, ultimately when we realized we didn't have
19 any witnesses and all the witnesses were not only in the
20 courtroom -- in the courtroom with the victim's family, they
21 came in as, for lack of a better term, an entourage and all
22 sat together. You know, at that point I thought it was best
23 for him to enter a plea.

24 Q: Okay. And do you feel that he discussed -- or he
25 understood the discussions you had about the charges and the

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1 discovery that you guys reviewed together?

2 A: Yeah. I mean he was a big part of that because, as he
3 mentioned earlier, one of his main focal points was the
4 inconsistencies in the statements. I think the State had -- I
5 don't recall the specific number, whether it was three or four
6 witnesses that they were relying pretty heavily on, and I'm
7 pretty sure that either two out of the three or three out of
8 the four had given an inconsistent statement or given a --
9 basically, a kind of an I didn't see anything, I didn't hear
10 anything statement on the night of the actual crime and then
11 within the next day or two they went back to the police and
12 identified Mr. Wright. You know, they had some sort of
13 revelation that they did not reveal the night of the shooting,
14 but came back later and identified Mr. Wright, and we thought
15 that was significant, quite frankly, because, you know, if you
16 knew it then, why didn't you tell the police? Certainly, you
17 should be able to remember it better.

18 And so there was some theories about the victim in this
19 case had a brother who was a physically large man and he was
20 very well known throughout the community and respected/feared,
21 and that he had perhaps gotten to some of these people and
22 gotten them to change their statements, but that's kind of
23 where we were with the witnesses' testimony and making sure he
24 understood. He had to grasp that.

25 And he also mentioned the -- and I think he just got a

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1 little bit missed up on the terminology with the evidence,
2 mishandling of evidence or chain of custody or something like
3 that. I don't recall there being any physical evidence in the
4 case.

5 He and I had significant discussions about the way the
6 police handled the crime scene, which basically was they
7 didn't handle the crime scene. They didn't tape it off.
8 There were people in the house where the victim was laying.
9 He actually -- and this is pretty graphic, but the truth is we
10 watched him die on camera.

11 He was not dead when law enforcement got there. He was
12 gurgling, making noises, and there were, you know, four or
13 five people in the house with him and all over the yard. They
14 never cordoned off the area with police tape to secure the
15 scene to look for any type of shell casings. They never found
16 a gun. They didn't do GSR on the victim, even though they
17 arrived, you know, very shortly.

18 There were a lot of things they had botched, but
19 obviously those are talking points for trial, not some
20 automatic cause for dismissal on how they mishandled the
21 scene. And there was no evidence to challenge chain of
22 custody on it. Just, you know, in our discussions how poorly
23 they did and that they should've had evidence and they didn't
24 have any physical evidence.

25 Q: And did you discuss with him that if you guys were to

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1 challenge the lack of evidence and the lack of investigation
2 by the police that that's something you would have had to have
3 done at trial?

4 A: Correct. I told him at that point that the offer would
5 have been off the table and his gamble would have been, you
6 know, 30 years to life or nothing. You know, that was -- it
7 doesn't get much more all or nothing than a murder charge.

8 So we discussed that and, you know, at some point -- and
9 perhaps he still doesn't understand that. Maybe I didn't do a
10 good enough job explaining it to him, but he thought that
11 would be some sort of a grounds for dismissal or having the
12 charges, you know, thrown out of court if the police did a
13 sorry job of securing the crime scene and doing a proper
14 investigation. They never called in SLED. They don't have
15 their own, you know, criminal investigative unit, you know,
16 crime scene unit, anything like that.

17 So there was no preservation of evidence, and it was
18 just, you know, whomever was at the house party was trampling
19 all over everything. But it just wasn't anything we could do
20 short of arguing that to a jury, and that was the conversation
21 we had, the risk/reward of that.

22 Q: Okay. And again regarding the inconsistent statements,
23 did you inform Mr. Wright that you could not suppress those
24 statements?

25 A: I know we had that discussion and, again, I think that's

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1 just kind of a misunderstanding on his part. The fact that
2 there are -- at least my understanding of it is that there is
3 inconsistent statements does not make them inadmissible. It
4 may make them unbelievable or not credible to the jury, but
5 that doesn't keep them from being admitted in the trial.

6 Just like the State would put in the statement that they
7 wanted to come in, we certainly would not be prohibited from
8 impeaching the witness on the -- by introducing the prior
9 inconsistent statement, but I couldn't keep either one of them
10 out simply because they were inconsistent with one another.
11 I, you know, tried to explain that to him. I certainly
12 understood that and thought that he did, but we discussed that
13 for sure.

14 Q: Okay. And then regarding plea negotiations, you have
15 said that when you first were put on the case that there was a
16 20-year plea offer that had been I guess given to Mr. Wright's
17 former attorney? Do you remember how you got from that 20-
18 year offer to what he ultimately pled to?

19 A: I don't remember the exact sequence of it. I think, you
20 know, he and I did discuss five and seven. I honestly -- and
21 I could be mistaken and just simply not remember it. I do not
22 recall the solicitor extending to me a 5-year offer and then
23 saying, sorry, it's been taken off the table. I realize that
24 courts don't typically enforce plea offers, but something of
25 that magnitude I certainly believe or would like to believe

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1 that I would've made some sort of motion to that effect simply
2 to cover the record and protect myself and Mr. Wright.

3 And again, perhaps he is a little bit mis -- mis --
4 misunderstood the conversation that I couldn't get him there
5 or that, you know, the solicitor said he was fine, but he'd
6 have to check with the victim's family and then come back and
7 say the family won't go for it so he can't offer that, but I
8 don't ever remember saying that there was a hard and fast
9 offer that was revoked.

10 Q: Okay. And throughout the course of your plea
11 negotiations with the solicitor, did you convey all offers you
12 received to Mr. Wright?

13 A: Yes, I did. I think I only received those -- those two,
14 you know, the 15 and the 20 initially that Mr. Johnson had on
15 the table.

16 Q: And ultimately, who -- do you remember who decided that
17 it would be or who brought up the idea of an Alford plea?

18 A: I probably did honestly just because Mr. Wright -- you
19 know, I wasn't there. So I clearly didn't know what happened.
20 Mr. Wright was rather insistent, despite the fact that we
21 could not produce the alibi witnesses, that he was not there.
22 I simply did not want him to have to commit perjury and tell
23 the judge that he was in a place and committed an act that he,
24 you know, was adamant that he didn't. The Alford plea I
25 thought, you know, it kind of saves him the trouble of having

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1 to do that.

2 If they tell me they're not guilty of something, that
3 doesn't mean that the State can't convict them, which is what
4 the Alford plea is designed to cover. It just simply means
5 that he doesn't have to lie to the judge, and I thought this
6 case screamed for that. I thought the evidence that I had
7 seen with the witnesses that the State had were certainly
8 going to more than likely be able to convict Mr. Wright, and I
9 thought a plea was by far in his best interest, especially to
10 15 years. I simply didn't want to ask him to lie to the judge
11 if he was adamant that he was not guilty.

12 Q: And I think that you just caught me on my next question.
13 You thought that pleading guilty in this case was in Mr.
14 Wright's best interest?

15 A: I absolutely did. I thought that, you know, along and
16 all. Like I said, there was certainly some food for thought
17 in this case, the inconsistent statements, the lack of
18 physical evidence, the police mishandling of the scene, things
19 of that nature. I just simply -- once -- once all of his
20 witnesses showed up with the victim's family and it was clear,
21 you know, that we weren't going to be able to call, there were
22 going to be no witnesses that testified to Mr. Wright's side
23 of the story, and we had already discussed that it would
24 probably not be in his best interest for him to take the
25 witness stand. There was simply no way for him to get his

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1 side of the case out except through, you know, me doing some
2 borderline cross-examination and see if the State objected or
3 didn't object.

4 So based on the fact that the trial would have -- the
5 best -- as he said earlier that I told his family, this is
6 true that I told them that, you know, if he gets convicted,
7 the best thing you can hope for is the judge is in a good mood
8 and only gives him 30 years. If he, you know, thinks this
9 crime warrants more than that, he's getting life in prison and
10 has no chance of ever getting out.

11 Q: Okay. And regarding him -- Mr. Wright testifying, did
12 you discuss with him whether or not he would testify or
13 whether or not he would want to testify if this case was taken
14 to trial?

15 A: We discussed that considerably as far as our trial
16 strategy and, again, that was one of the things that we talked
17 about on a repeated basis was without these witnesses, how did
18 we get his story out because I couldn't testify. You know, I
19 could, again, somewhat through my cross-examination allude to
20 things or imply things and certainly in my closing argument I
21 could suggest things, but if the prosecutor was paying close
22 attention, he's not going to let me argue facts that aren't in
23 evidence and he's not going to let me testify to the jury.

24 So it was -- it was tenuous at best our ability to get
25 out the specifics of his story. Now, pointing out the

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1 inconsistencies in the witness statements and pointing out the
2 errors in the police handling of the case I don't think we
3 would've had any trouble doing. The problem is it did not
4 suggest an alternative that Mr. Wright wanted to, that he
5 wasn't there, he had nothing to do with it, things of that
6 nature because they were consistent, quite frankly, in their
7 statements that Mr. Wright was there, you know. So we didn't
8 have any way not to put him there.

9 Q: And do you remember discussing Mr. Wright's
10 constitutional rights with him prior to him entering his
11 guilty plea or entering his Alford plea?

12 A: Absolutely. I mean the time frame that he mentioned
13 earlier, I don't necessarily recall that. Probably what we
14 did was picked the jury on Monday afternoon and were ready to
15 start trial Tuesday morning and I thought it was Tuesday
16 morning, but I don't remember it taking until 4 o'clock that
17 afternoon.

18 But, you know, as I -- because my office is right behind
19 the courtroom across a very small hallway, and I was in my
20 office with Mr. Wright and the three female family members
21 that he alluded to earlier. And as the witnesses came in and
22 sat down, I took Mr. Wright and his family to the back door of
23 the courtroom and opened the door and let them look in there
24 and see the people that he knew that he was hoping would be
25 his witnesses and where they were sitting just so he would

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1 know what we were up against, and then we went back into the
2 room and had some more discussion and, ultimately, he ended up
3 pleading guilty or pleading under *North Carolina v. Alford*.

4 Q: Yes, sir. And is it your practice to discuss the right
5 to appeal with your clients?

6 A: Absolutely. Like I said, I've been doing this for a
7 very, very, very long time, and I would be honest with you in
8 this case. I am almost positive I told Mr. Wright that he had
9 the right to appeal and that I would recommend that he not
10 exercise that right because of the break that he had already
11 gotten in the plea and just what Mr. Griffith asked him
12 earlier that if he appealed and was successful, that this was
13 likely to come back as a murder case, not a voluntary
14 manslaughter case. So my recollection is that we had
15 discussions about that and, quite frankly, I advised him not
16 to do it.

17 Q: And with the guilty plea, did you feel that there were
18 any factual or legal bases for him to appeal on?

19 A: No, absolutely not.

20 Q: And if he had indicated to you that he did want you to
21 file an appeal on his behalf, would you have done that?

22 A: I would have, but as I said, I told him I would strongly
23 disagree. But I made it clear the plea, the appeal, things
24 like that, I'm his employee or his advisor and I'll make
25 suggestions to him, but the ultimate call was him because the

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1 only person that has to do any type of prison time at the end
2 of the day is Mr. Wright, not me, not his family, not the
3 Solicitor's Office, not the officers, just him. So I'm pretty
4 adamant about that. You know, I will speak my mind and tell
5 him my opinion because that's what my job is, but at the end
6 of the day the decision has always got to be his.

7 Q: Did you -- do you remember threatening, coercing,
8 pressuring him in any way to get him to plead guilty instead
9 of taking this case to trial?

10 A: No. I mean just being brutally honest with him, yes.
11 Threatening him or coercing him, no, because there's no
12 benefit to me in him pleading guilty. It's simply a matter of
13 me making sure that he completely understands the risk/reward
14 of the situation and, you know, sometimes I emphasize that
15 strongly, quite frankly. That's just my nature, but no, I
16 never threatened him or felt like I coerced him or tricked him
17 or did anything like that, and his mother and two other female
18 relatives were in the room when we were having these
19 discussions. They were in the room the whole time with us.

20 Q: Okay. And I know you said this already, but just to put
21 it back out there, ultimately, whose decision was it in this
22 case to plead guilty?

23 A: Mr. Wright's.

24 MR. NEUBAUER: Thank you. I have no further questions at
25 this point.

SCOTT ROBINSON - CROSS BY MR. GRIFFITH

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

2 CROSS-EXAMINATION

3 BY MR. GRIFFITH:

4 Q: Mr. Robinson, so your testimony is that you did not talk
5 him into a plea for a better term, but according to Mr.
6 Wright, he said that this discussion was basically in the
7 courtroom over the course of two days from 4 o'clock one day
8 until, like, 4 o'clock the next day. Is that what you recall?

9 A: No. Like I said, what my recollection is that we picked
10 a jury. Typically, what happens in Lee County -- and it is
11 changed. So I don't remember exactly what we were doing this
12 day, but typically what we were doing is Monday morning we'd
13 have the judge come in. We'd take the grand jury report.
14 We'd do some pleas, housekeeping matters, and then kind of
15 find out for sure whether or not we needed the jury. They
16 would come in at 2 o'clock. We'd qualify the jury. This is
17 pre-COVID, so it didn't take -- you know, we didn't have to
18 have them in in three or four panels.

19 So we would qualify the jury and then, if need be, we
20 would select a jury or, if not, we would send them away with
21 instructions to call back after 5 or 6 o'clock or something to
22 that nature. And my recollection is -- and again, I could
23 easily be wrong -- was that we picked the jury that Monday
24 afternoon. They came back the next morning, which would have
25 been Tuesday morning, and that we pled some time that morning,

SCOTT ROBINSON - CROSS BY MR. GRIFFITH

1 and I don't feel like Judge Cothran would have allowed a jury
2 to sit in a jury room until 4 o'clock that afternoon to plea.

3 I want to say that they -- that we pled, like, 10, 10:30,
4 maybe 11 o'clock. It was before lunch certainly is my
5 recollection, but again, I didn't write the times down. So I
6 don't know.

7 Q: So your case was the only one being called that day? In
8 other words, your jury was the only one that had been
9 selected; is that correct?

10 A: Yes. That was the only jury we had selected and, if my
11 memory serves correctly, they had released the balance of the
12 panel for the -- for the week. So it was all or nothing on
13 this trial.

14 Q: Okay. So as a matter of appeal, did you say that you --
15 you advised him not to appeal?

16 A: Yes, I did.

17 Q: And you said --

18 A: I told him I did not think that would be in his best
19 interest.

20 Q: Okay. So an appeal was mentioned? Did you mention --

21 A: Yes.

22 Q: Did you mention the 10-day limit as to whether he had
23 that right?

24 A: Yes. I'm sure I did because that is a pretty quick
25 turnaround. You know, criminal court makes it tougher. I

SCOTT ROBINSON - CROSS BY MR. GRIFFITH

1 think it should be the other way around, 30 days for criminal
2 and 10 days for civil, but I don't get to write the laws. But
3 yeah, we discussed that.

4 Q: I agree there, but so -- but when you were talking to him
5 about the plea and you came up with the discussion about the
6 Alford plea, do you think he understood everything you said
7 about that?

8 A: Oh, yeah. I mean I -- when when I explain it, I
9 typically can -- you know, I'm not the world's smartest guy.
10 So for me to understand it, it has to get on pretty basic
11 terms, and so I think I do a pretty good job of conveying it
12 in those same basic terms.

13 I just told him the Alford -- it sounds like o-f-f-e-r-e-
14 d, offered, but it's A-l-f-o-r-d, which is just the name of a
15 person and what he did was he wanted the benefit of the plea
16 bargain without having to lie to the judge and tell him that
17 he did something he didn't do. That's typically how I explain
18 it to my clients.

19 Q: Okay. Well, do you feel that Mr. Wright was totally
20 cognizant of what was happening when he was in front of the
21 judge when the judge was talking to him? Was he aware? I
22 mean, obviously, he was having quite a bit of trouble trying
23 to decide that he wanted the plea. So would you say that he
24 was pretty nervous?

25 A: I would hope so. He should have been. I mean he wasn't

SCOTT ROBINSON - CROSS BY MR. GRIFFITH

1 shaking or crying or doing anything out of the way, but I'm
2 sure he was nervous.

3 Q: And so he may not have understood what the judge was
4 saying? That's correct, isn't it?

5 A: He never indicated that to me and as, you know, Judge
6 Cothran always does -- you know, and every judge I've ever
7 been in front of says that if you need more time to talk to
8 your lawyer at any time while I'm talking to you, ask me to
9 take a break and you can talk to your lawyer.

10 So he never indicated that to me and we -- again, we
11 spoke after the plea because they were kind enough to let us
12 briefly go back into the room and kind of let him say goodbye
13 to his family. He never, you know, mentioned any of that and,
14 again, that's -- we talked about the appeal again at that
15 point where I simply told him, you know, you've got the right
16 to appeal this, but I don't think that would be a good idea.

17 Q: Okay.

18 MR. GRIFFITH: Thank you, Mr. Robinson.

19 I have no further questions, Your Honor. You're muted,
20 Your Honor.

21 THE COURT: Any redirect? I bet y'all knew what I said
22 though.

23 MR. NEUBAUER: Yeah.

24 THE COURT: Redirect?

25 MR. NEUBAUER: Very, very briefly, Your Honor.

SCOTT ROBINSON - REDIRECT BY MR. NEUBAUERREDIRECT EXAMINATION

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BY MR. NEUBAUER:

Q: So you got no indication from Mr. Wright that he did not understand what the judge was asking him at the plea?

A: No. And they -- again, I -- Mr. Wright -- and not to cast any dispersions upon him. This was not his first time he'd been in the judicial system. He had been up on this particular case before the plea with Mr. Johnson.

So I felt that he was certainly familiar with the mechanics of it, the questions and things that were being said, what his constitutional rights were. You know, I didn't think he had any trouble understanding any of that. So I didn't observe that and knowing, you know, his experience, I just didn't see or hear from him any type of indication of difficulty.

Q: And if you had any indication or any thought that he did not understand or that he did not know what was happening that day, would you have -- would you have stepped up and said something?

A: Absolutely. I would have stopped the plea and said, Judge, I need a minute to talk to my client. You know, if he had given me that look. You know, sometimes they give me a look or sometimes they'll look at me instead of the judge and say what did he say or what does that mean or how am I supposed to answer. And so, you know, certainly that is an

SCOTT ROBINSON - REDIRECT BY MR. NEUBAUER

1 indicator to me that he has no clue what the judge just said
2 because he should never have to ask me at that point how he
3 should answer.

4 So I would have stopped the plea, explained to him, you
5 know, perhaps in different terms exactly what the judge was
6 saying or what he meant, you know, what those words meant if
7 he didn't understand that, but again, there was no indication
8 of that. And Judge Cothran does a very good job. He's from
9 Clarendon County also. He knows how to break it down into
10 pretty basic English.

11 Q: And there was no indication that he was under the
12 influence of anything or dealing with any sort of mental
13 issues or stress-induced issues that would have prevented him
14 from understanding what was happening that day?

15 A: No. Not at all. None whatsoever.

16 Q: And --

17 A: He was -- he was not any different than any of the other
18 times that I had met with him and his family was there, and
19 none of them, you know, said anything or indicated any concern
20 on their part that he was acting less than normal. So no, I
21 don't have any recollection of there being any anomaly in his
22 behavior.

23 Q: And though you advised him that you thought he should not
24 appeal, he never indicated to you that he did not want to;
25 correct?

SCOTT ROBINSON - REDIRECT BY MR. NEUBAUER

1 A: He never indicated -- I'm sorry. I didn't hear it all.

2 Q: He never indicated that he didn't -- or that he wanted
3 you to file an appeal on his behalf? I think I added a phrase
4 to my question.

5 A: Yeah. No, he never asked me to appeal.

6 Q: All right.

7 MR. NEUBAUER: Thank you. No further questions.

8 THE COURT: Recross? No?

9 MR. GRIFFITH: None, Your Honor.

10 THE COURT: Thank you. Very well.

11 All right. Yes? Call your next witness, please, Mr.
12 Neubauer.

13 MR. NEUBAUER: I apologize, Your Honor. The State would
14 rest at this point.

15 THE COURT: All right. Very well.

16 All right, gentlemen. I'll consider these matters and
17 then ask one of you for a proposed order in this case.

18 And, Mr. Robinson, thank you so much. You are free to go
19 back to your business.

20 THE WITNESS: Thank you, Your Honor. Have a wonderful
21 weekend and a good Thanksgiving.

22 THE COURT: Thank you. Thank you.

23 THE WITNESS: Good luck, Mr. Wright.

24 THE COURT: Thank you as well, sir.

25 THE WITNESS: Take care.

1 THE COURT: All right. Take care. All right.
2 (WHEREUPON, the proceedings ended at 4:46 p.m.)
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4 --- END REQUESTED TRANSCRIPT ---
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STATE OF SOUTH CAROLINA)
 COUNTY OF LEE)
 Isaac Armadais Wright, SCDC #372353,)
 Applicant,)
 v.)
 State of South Carolina,)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE THIRD JUDICIAL CIRCUIT

Case No.: 2020-CP-31-0078

ORDER OF DISMISSAL



This matter comes before this Court by way of Applicant Isaac Armadais Wright's application for post-conviction relief challenging his negotiated guilty plea to voluntary manslaughter based on allegations of ineffective assistance of counsel. Timothy L. Griffith, Esquire, was thereafter appointed to represent Applicant. In response, Respondent the State of South Carolina filed a return to the application and requested an evidentiary hearing to resolve the claims of ineffective assistance of counsel as set forth in the application.

An evidentiary hearing on this action was convened November 21, 2021, before this Court in this Court's Virtual Courtroom utilizing the Cisco WebEx platform¹ authorized by the South Carolina Judicial Department. Applicant appeared virtually along with counsel Griffith. Respondent was represented by Assistant Attorney General Michael J. Neubauer of the South Carolina Attorney General's Office. Applicant proceeded forward on the claims raised in application. This Court heard testimony from Applicant and his former plea counsel.

Following a thorough review of the record in its entirety, along with the testimony and

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

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

FACTUAL AND PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined within the South Carolina Department of Corrections (SCDC). On October 28, 2017, officers were dispatched to a location in Lee County in response to shots fired at Brown Town Road. Law enforcement then received a second call that someone had been shot and requesting medical assistance. Law enforcement arrived and the victim was transported to the hospital where he succumbed to a fatal gunshot wound to his left shoulder. Witnesses on the scene originally told law enforcement they did know or see anything regarding the shooting. However, several witnesses subsequently came forward and reported that Applicant was the shooter and the shots were fired after a dispute between Applicant and the victim. Based on this information, law enforcement sought and obtained a warrant for Applicant's arrest.

Thereafter, the Lee County Grand Jury indicted Applicant for murder and possession of a weapon during a crime of violence (2017-GS-31-0179). Applicant originally retained Charlie J. Johnson, Jr., Esquire, to represent him, but moved to relieve Johnson and Scott L. Robinson, Esquire, was appointed to represent Applicant. Assistant Solicitor John Gentry of the Third Circuit Solicitor's Office prosecuted the case.

Following plea negotiations with the State, Applicant accepted a plea offer requiring him to enter a guilty plea pursuant to North Carolina v. Alford, 400 U.S. 25 (1970) to the lesser-

included offenses of voluntary manslaughter for a determinate sentence of fifteen years of imprisonment suspended upon the service of ten years of imprisonment followed by two years of probation in exchange for the dismissal of the weapons offense.

On November 18, 2013, Applicant appeared before the Honorable R. Ferrell Cothran, circuit court judge, and pled guilty pursuant Alford to voluntary manslaughter pursuant to the plea agreement. Following a thorough plea colloquy with Applicant, Judge Cothran found Applicant's plea was knowingly, intelligently, and voluntarily entered and accepted Applicant's plea. Judge Cothran then sentenced Applicant to fifteen years of imprisonment suspended upon the service of ten years of imprisonment followed by two years of probation in accordance with the negotiated plea agreement. The State dismissed the weapons charge in accordance with the plea agreement. Applicant did not pursue a direct appeal.

ALLEGATIONS BEFORE THE COURT

In his *pro se* application for post-conviction relief, filed on February 24, 2020 and not forwarded to Respondent by the Lee County Clerk of Court until August 5, 2020, Applicant alleges he is being held in custody unlawfully based on the following grounds:

1. "Ineffective Assistance of Counsel due to bad advice"
 - a. "Gave me bad advice I took the sentence."
 - b. "Lawyer never suppress[ed] witnesses statements due to change of statement."
 - c. "Chain of custody due to lack of protocol by investigator doing his investigation of the crime scene. . . . crime scene wasn't taped off."

As requested relief, Applicant states he is seeking "a dismissal of the case and or a reduce[d] sentence."

In response to the application, Respondent served a return and requested for a hearing to resolve Applicant's claims of ineffective assistance of counsel as set forth in the application.

Attached to this return and before this Court are the records from Applicant's general sessions proceedings, the transcript of his guilty plea proceeding, his SCDC records, and the records from this current PCR proceeding.

Timothy L. Griffith, Esquire, was appointed to represent Applicant in this proceeding pursuant to Re: Appointment of Counsel in Post-Conviction Relief Cases before the Circuit Court (S.C. Sup. Ct. Order filed Oct. 6, 2008) and Rule 71.1(d), SCRCP (providing for appointment of counsel only where there is a question of law or fact which necessitates a hearing). Counsel did not amend the application.

At the evidentiary hearing Applicant proceeded forward on the grounds as set forth in his *pro se* application.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged he is entitled to post-conviction relief based on ineffective assistance of plea counsel for three specific grounds: that counsel gave him bad advice that induced his plea; that counsel failed to move to suppress witness statements based on later inconsistent statements; and that counsel failed to move for a dismissal of the indictments based on an insufficient investigation by law enforcement including raising issues with chain of custody. This Court finds these claims to be without merit and that Applicant has failed to meet his burden of proof.

Standard of Review

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

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;

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

S.C. Code Ann. § 17-27-20(A).

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

Standard for Evaluating Claims of Ineffective Assistance of Counsel

Applicant asserts that he is entitled to a new trial based on constitutionally ineffective assistance of counsel for three specific claims.

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, post-conviction relief allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in post-conviction relief actions). The allegation of denial of such representation sets forth a prima facie violation of this

constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so ineffective as to require reversal" of the applicant's conviction or sentence. 466 U.S. at 687. First, the applicant must show that counsel's performance was deficient; and second, that the deficient performance prejudiced the applicant. Id. at 668; Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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

Strickland, however, "does not guarantee perfect representation[—]only a 'reasonably competent attorney.'" Harrington v. Richter, 562 U.S. 86, 110 (2011) (quoting Strickland, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel's conduct "so undermined the proper functioning of the adversarial process" that the defendant was denied a fair proceeding. Strickland, 466 U.S. at 686. Just as there is "no expectation that competent counsel

will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities.” Harrington, 562 U.S. at 110.

Accordingly, “[j]udicial scrutiny of counsel’s performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel’s assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” Strickland, 466 U.S. at 689; see also Yarborough v. Gentry, 540 U.S. 1, 6 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney’s representation amounted to incompetence under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690).

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

Reviewing courts “must judge the reasonableness of counsel’s challenged conduct on the

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

The Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690; see also Harrington, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial). Even under *de novo* review, the standard for judging counsel's representation is a most deferential one. Harrington, 562 U.S. at 105. Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690) (emphasis added).

The second, or "prejudice" prong of Strickland is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. Id. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable

probability is a probability “sufficient to undermine confidence in the outcome.” Strickland, 466 U.S. at 694. Thus, it is not enough “to show the errors had some conceivable effect” on the outcome of the proceeding—counsel’s errors must be “so serious as to deprive the defendant of a fair trial.” Id. at 687 (emphasis added).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel.” Hill, 474 U.S. 52; cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). A claim of ineffective assistance of guilty plea counsel requires the applicant present evidence satisfying two prongs: first, evidence that counsel’s performance was deficient; and second, evidence that counsel’s deficient performance prejudiced the defendant by causing him to plead guilty rather than go to trial. Hill, 474 U.S. 52.

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

The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” Id. at 58–59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he

would not have pleaded guilty and would have insisted on going to trial.” Id. at 59. This inquiry “focuses on a defendant’s decisionmaking” and does not turn on the outcome of a defendant’s actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. ___, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

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

The performance and prejudice standards, however, “do not establish mechanical rules;

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

Findings as to Specific Claims Raised

Applicant has alleged ineffective assistance of plea counsel and asserts that as a result of these purported errors, he is entitled to have his guilty plea undone. This Court finds has failed to meet his requisite burden of proof as to each allegation. Each allegation is addressed below:

Allegation #1: Counsel was ineffective for giving him bad advice to plead guilty

Applicant first asserts counsel was constitutionally ineffective for giving him bad advice to plead guilty. At the evidentiary hearing, Applicant presented this claim as counsel coercing him to accept the State’s plea offer by exerting undue pressure to plea with the use of his family and threat of a harsher sentence if he went to trial and was convicted. (PCR Tr. 6-9). Applicant elaborated that he informed counsel that there was an inconsistency in the State’s case based on two different calls to 9-1-1 for assistance on the night of the shooting (the first call asking for law enforcement and the second call only asking for medical attention) and that he asked counsel to obtain a copy of these tapes but counsel failed to do so, which he stated put pressure on him to plead guilty. (PCR Tr. 9-10). He testified it took him a day-and-a-half to decide to plead guilty and he felt like counsel was not

ready to try his case. (PCR TR. 10-11). However, on cross-examination, Applicant admitted he and counsel had discussed possible defenses to use at trial and Applicant acknowledged that counsel had attempted to speak with witnesses he provided. (PCR Tr. 12-13).

In contrast, plea counsel Robinson testified he thoroughly investigated the case to the best of his ability, including the use of a private investigator, but no witnesses were willing to speak with the defense team. (PCR Tr. 24-27). He elaborated that when the State called the case to trial, the witnesses that Applicant has asked him to speak with came to trial and sat with the victim's family as a show of support and solidarity with the victim. (PCR Tr. 26-27). Counsel testified he alerted Applicant to their presence, the likelihood that Applicant would not be successful at trial, and that accepting the State's plea offer was in his best interest. (PCR Tr. 26-27). Counsel elaborated that he gave Applicant honest advice regarding the discovery, his chances of success at trial, and the likely sentence he would receive if convicted of murder at trial, but that he did not coerce Applicant to plead guilty and he would have been ready for trial had Applicant elected to proceed forward with trial. (PCR Tr. 27-36, 38). On cross-examination, counsel adamantly rejected the assertion that he coerced Applicant to plead guilty and insisted Applicant elected to plead guilty after frank discussions about the case following the selection of the jury. (PRC Tr. 39-40).

This Court finds Applicant cannot establish any deficiency of counsel. Counsel's credible testimony establishes he provided Applicant with competent advice that it was in Applicant's best interest to accept an extremely favorable plea offer from the State for a sentence of ten years of active imprisonment rather than risk a likely conviction at trial for murder and face a mandatory minimum sentence of thirty years of imprisonment up to a maximum of life imprisonment. This advice was based on counsel's investigation and review of the evidence presented, as well as discussions with

Applicant. The record reflects that Applicant entered a knowing, intelligent, and voluntary plea with the advice of competent, diligent counsel who properly represented Applicant. Applicant has failed to establish that he was coerced by counsel to enter his plea or that counsel performed in any other deficient manner. Accordingly, this Court DENIES and DISMISSES this allegation with prejudice.

Allegation #2: Counsel was ineffective for failing to move to suppress witness statements

Next, Applicant asserts that counsel was ineffective for failing to move to suppress witness statements based on inconsistencies in later statements. In support of this allegation, Applicant cites to the discrepancies in the 9-1-1 calls in the aftermath of the shooting. (PCR Tr. 10). Applicant acknowledged that he and counsel discussed discrepancies in the various witnesses' statements and the possibility of challenge this at a trial but that they could not challenge the statements if Applicant elected to plead guilty. (PCR Tr. 19).

Counsel testified regarding the inconsistencies in the witnesses' statements, elaborating that numerous witnesses present at the crime scene originally told law enforcement they did not seem ~~to~~ know what happened or know who the shooter was but then changed their statements to identify Applicant as the shooter. (PCR Tr. 29). Counsel speculated this was likely due to influence of the victim's family, which he explained to Applicant and discussed trying to argue this to the jury at trial should Applicant elect to proceed to trial. (PCR Tr. 31-32, 34-36).

This Court finds Applicant cannot establish any deficiency of counsel. The uncontroverted testimony before this Court from counsel and Applicant is that Applicant and counsel discussed the various inconsistencies in witness statements, that counsel could attempt to discredit the witnesses based on these discrepancies if Applicant elected to proceed to trial, but that if Applicant elected to plead guilty, he would not be able to challenge these statements. Applicant made a knowing,

intelligent, and voluntary decision to forgo his right to challenge the evidence against him (including these witness statements) at trial to accept an extremely advantageous plea offer from the State. Applicant has failed to establish that counsel performed in any deficient manner regarding his handling of the witness statements. Accordingly, this Court DENIES and DISMISSES this allegation with prejudice.

Allegation #3: Counsel was ineffective for failing to move for dismissal based on insufficient investigation by law enforcement

Finally, Applicant asserts that counsel was ineffective for failing to move for dismissal of his indictments based on an insufficient investigation by law enforcement, including issues with the chain of custody. This Court finds this claim patently lacks merit, as Applicant has failed to provide any evidence that the chain of custody was insufficient for any evidence that would have been used against him at trial. Moreover, counsel credibly testified that there were no issues he could raise regarding the chain of custody because there simply was no physical evidence the State intended to introduce at trial requiring a chain of custody as the entire case was built ^{upon D.S.G.} ~~around~~ witness statements. (PCR Tr. 29-31). This is supported by the record from Applicant's plea, where the State informs the plea court, "[i]n all candor, the sheriff's office did not find a weapon, never able to find a weapon. There ' s no scientific evidence in the case. It's just the witness testimony." (Plea Tr. 8). Counsel elaborated that he would have highlighted the poor quality of law enforcement's investigation had the case proceeded to trial but that Applicant elected to plead guilty. (PCR Tr. 31-32).

This Court finds Applicant cannot establish any deficiency of counsel. The uncontroverted testimony before this Court is that Applicant and counsel discussed the various inadequacies with the law enforcement investigation of the case, that counsel could attempt to discredit the State's case based on this poor investigation if Applicant elected to proceed to trial, but that if Applicant elected

to plead guilty, he would not be able to challenge the State's case based on a poor investigation. Applicant made a knowing, intelligent, and voluntary decision to forgo his right to challenge the evidence against him (including any purported issues with the investigation performed by law enforcement) at trial to accept an extremely advantageous plea offer from the State. Applicant has failed to establish that counsel performed in any deficient manner regarding his handling of the witness statements. Accordingly, this Court DENIES and DISMISSES this allegation with prejudice.

CONCLUSION

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

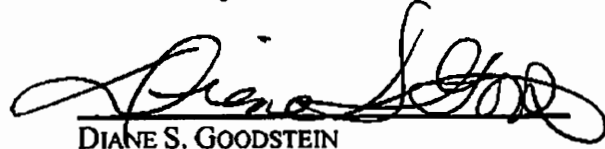
This Court notes that if Applicant wishes to appeal this order, Applicant, though his counsel of record, must file and serve a notice of appeal within thirty days from the receipt of this Order. See Rule 203 and 243, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. This application for post-conviction relief is denied and dismissed with prejudice; and

- 2. Applicant Isaac Wright shall remain remanded to the custody of the State of South Carolina.

AND IT IS SO ORDERED this 26 day of September, 2022.



DIANE S. GOODSTEIN
Presiding Judge
Third Judicial Circuit

Orangeburg South Carolina

WITNESSES

Mikkos Newman Lee County
Sheriff

Mikkos Newman Lee County
Sheriff

ARREST WARRANT NUMBER

2017A3110100368 2017DIR310022

ACTION OF GRAND JURY

True Bill

Michael B. Perry
Foreperson of Grand Jury
Date: 12-7-17

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-31-0179

The State of South Carolina

County of LEE

COURT OF GENERAL SESSIONS

December TERM 2017

THE STATE

vs.

ISAAC ARMADAIS WRIGHT

Indictment for

Murder / Murder
Possession of Weapon during Violent Crime

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)

INDICTMENT FOR
Murder / Murder
Possession of Weapon during Violent Crime

At a Court of General Sessions, convened on December 7, 2017 the Grand Jurors of
LEE County present upon their oath:

COUNT ONE

MURDER

CDR: 0116 16-03-0010,0020

That Isaac Armadais Wright did in Lee County, on or about October 28, 2017, willfully, feloniously, and intentionally kill the victim, Fabian Wright, with malice aforethought, either express or implied, by means of shooting him with a pistol, and the victim did die as a proximate result thereof on or about October 28, 2017 in Lee County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

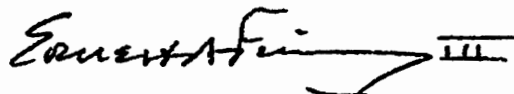
COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

That Isaac Armadais Wright did in Lee County, on or about October 28, 2017, possess a firearm, or visibly display what appeared to be a firearm, during the commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

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

Solicitor



STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lee VS. Isaac Armadais Wright

INDICTMENT/CASE#: 2017-GS-31-0179
A/W#: 2017DIR310022
Date of Offense: 10/28/2017
S.C. Code § : 16-23-0490
CDR Code #: 0549

AKA:
Race: Black Sex: M Age: 31
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:
*CDL Yes No CMV Yes No Hazmat Yes No

SENTENCE SHEET

15 swap to 10y followed by 5 yrs Probation

In disposition of the said indictment comes now the Defendant who was TO: Voluntary Manslaughter

in violation of § 16-03-155 of the S.C. Code of Laws, bearing CDR Code # 0217
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC w/minor 1st or Lewd Act) § 17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.
ATTORNEYS: Gentry, John SC Bar# 2402 Isaac Armadais Wright SC Bar# 8051

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 15 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ - ; provided that upon the service of 10 days/months/years and/or payment
of \$ - ; plus costs and assessments as applicable*; the balance is suspended with probation for 2

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.
CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

Table with columns for description, amount, and total. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100.00, § 14-1-211(A)(2) (DUI Surcharge) \$100.00, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 61.6 (Public Def/Probation) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (DUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments) \$3.75. TOTAL \$128.75

Certified as a True Copy
Teresa A. Brown
Clerk, Court of Common Pleas
and General Sessions, Lee
County, South Carolina

Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.
Presiding Judge Judge Code: 2199 Sentence Date: 7-23-19

Clerk of Court/ Deputy Clerk Teresa Brown
Court Reporter: Keshia Reed
SCCA:217 (07/2016)