

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Charleston County

Honorable Jennifer B. McCoy, Circuit Court Judge

TE'QUAN PERRY,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2022-000175

APPENDIX

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1 Q. The posts that were being made to the
2 public in reference to this investigation which
3 pictured his co-defendant Lefty is it fair to say
4 made the public known talk to the police, negative
5 connotations, negative consequences?

6 A. That's correct.

7 Q. Okay.

8 MR. OSBORNE: No further questions.

9 THE COURT: You may follow up.

10 RECROSS-EXAMINATION

11 BY MR. APICELLA:

12 Q. Did you review all 2,900 Facebook
13 posts?

14 A. I went through the pages. I paid more
15 -- what caught my eye, but I went through them. I
16 can't say I studied every page up and down from top
17 to bottom precisely, but I went through them pretty
18 well.

19 Q. And reviewed the IP addresses of the
20 posts?

21 A. I didn't get into the IP addresses.

22 Q. You noticed that many of the IP
23 addresses were different; isn't that correct?

24 A. Yes, there are a significant amount of
25 different IP addresses.

1 Q. Can you match any of those posts to a
2 desk top computer located, connected to wi-fi that
3 would give an IP address?

4 A. Did I or can I?

5 Q. Did you?

6 A. I did not.

7 Q. Did you attempt to do that?

8 A. I did not.

9 Q. So you can't say that Mr. Middleton
10 posted any of those from a computer?

11 A. Correct.

12 Q. Were you able to identify any mobile
13 device to Mr. Middleton?

14 A. I was. Well, a mobile device, the ones
15 that we seized.

16 Q. Can you say that some of these posts
17 were posted from that mobile device that was taken
18 by the police?

19 A. There were similarities. There was
20 that picture that was a JPEG on his phone which
21 appeared to be the same picture that he uploaded as
22 his profile page. So I would draw the conclusion
23 that as yes.

24 Q. You can't say an identifying IP address
25 or any identification number of his phone that that

1 phone posted something on Facebook?

2 A. Correct.

3 Q. You have no other information about any
4 phones that Mr. Middleton had prior to the homicide
5 in this case or after the homicide, correct?

6 A. Well, there were two phones that were
7 obtained during his search warrant execution. I
8 believe we found one number to be that [REDACTED] number
9 and Brandon, the decedent, he had a different phone
10 number saved for him and both of those numbers were
11 in communication with other phone numbers that were
12 of interest in this investigation.

13 Q. I am talking about posts to Facebook.

14 A. Posts to Facebook specifically? No.

15 MR. APICELLA: No further questions.

16 THE COURT: Do you wish to ask any
17 questions in follow up?

18 MS. VAN PALA: No, Your Honor. Thank
19 you.

20 THE COURT: All right. Mr. Apicella, I
21 will hear from you.

22 MR. APICELLA: May it please the Court.
23 Just generally, Judge, is that since they can't
24 connect my client's phone to any specific posts on
25 Facebook that there is not sufficient indication to

1 indicate that he really is the author and I would
2 offer the federal case of United States v. Mann
3 which talks about the authentication of Facebook
4 posts. In that particular case they were unable to
5 connect that post in question with the author
6 because it is recognized that people who have
7 access to someone's Facebook account can post to
8 it. Or people who create a Facebook account false
9 name can post to it and without connecting of
10 course the best way is to do an IP address to show
11 that the person who is associated with that IP
12 address posts the Facebook post. So in this
13 particular case, we cannot say that, No. 1.

14 No. 2, Judge, regarding the pictures
15 and the post that accompanied it, since the
16 pictures are related to the posts, the posts are
17 related to the pictures, since we don't know the
18 date of the pictures they are remote, almost as
19 remote as a matter of law because there's no way
20 they can be authenticated to be a date that's
21 relevant to any of the issues in this particular
22 case.

23 And my third argument, Judge, is my
24 Evidence Rule 403 argument and the interpretation
25 of 403 and what is unfair prejudice. They went to

1 the federal rule and they said unfair prejudice
2 means that the evidence itself would trigger an
3 emotional response. An emotional response that's
4 not part of the judicial system.

5 Specifically, Judge, all of the
6 references in this case to people of color with the
7 "N" word, even though it was allegedly made by a
8 person of color, are offensive, all of the curse
9 words are offensive. All of the words related to
10 the court, judges and curse words are offensive.
11 And I submit, Judge, that it will allow a jury to
12 draw unfair inferences that have no basis, in fact,
13 no basis in the law based upon the posts and
14 especially the gangster rap Facebook posts.
15 Because it's a genre of music that I would submit
16 many people find offensive, especially when you get
17 to read the lyrics and see four letter words and
18 see the contents which I will describe as somewhat
19 hateful especially to the police, especially to law
20 enforcement, and that negative connotation would
21 unfairly prejudice my client. That's the nature of
22 why it's unfair and you should weigh the probative
23 value which I submit is extremely limited if at all
24 against the potential for unfair prejudice which is
25 quite significant in this case.

1 THE COURT: One of the set of -- you
2 pointed out the rhyming words, was poetry or
3 lyrics, you said might be lyrics, you said it might
4 be poetry, starts off with a reference to Lefty.

5 MR. APICELLA: Correct.

6 THE COURT: Are you aware of a gangster
7 rap song that has a reference to Lefty in it?

8 MR. APICELLA: No, but I am addressing
9 your attention to the rest of the lyrics in that
10 particular song which are offensive.

11 THE COURT: I am looking. It appears
12 to me that it's been supplemented by some other
13 information. It is not simply lyrics, I don't
14 know, quote rhyming words, people like Muhammed Ali
15 used to talk in rhyming words, was very good at it.
16 But I will just say that I notice the word Lefty
17 being in there and I just wonder if you are aware
18 of a song that refers to somebody as Lefty in it
19 that had those same words.

20 MR. APICELLA: He does mention the word
21 Lefty. But then he references the gangster rap
22 song. So he is quoting song lyrics.

23 THE COURT: In respect I guess to
24 whatever Lefty is.

25 MR. APICELLA: Correct. I would

1 submit, Judge, it's ample evidence in this case for
2 the State to be able to argue that that Lefty is
3 indeed Te'Quan Perry. So why do we need to dirty
4 this case up putting questionable evidence in like
5 this? I guess that's the essence of my argument,
6 Judge.

7 THE COURT: Okay. Thank you. Yes,
8 ma'am, you wish to be heard on this?

9 MS. VAN PALA: Thank you, Your Honor.
10 I just want to object as to Devin's Facebook being
11 used against Te'Quan and I think that this should
12 be subject to your prior ruling about redaction. I
13 think this is similar to the jail calls issue.
14 Without redaction it's going to be extraordinarily
15 prejudicial and unduly harmful under a line of
16 cases, many of which I have already cited. Thanks,
17 Judge.

18 MR. OSBORNE: Work backwards. Crawford
19 is not implicated. It is spillover evidence.
20 That's going to happen any time there's a joint
21 trial. And so now I can address that more if you
22 want.

23 THE COURT: You are saying it is not
24 testimonial in nature.

25 MR. OSBORNE: That's correct, Your

1 Honor. It doesn't need to be redacted. That's why
2 we redacted the other issue, because it was
3 testimonial.

4 THE COURT: I think she wants to argue
5 some more.

6 MS. VAN PALA: I just want to clarify
7 that --

8 THE COURT: I want you to get all your
9 arguments in at one time so we don't do this.

10 MS. VAN PALA: I apologize.

11 THE COURT: This is not a street
12 argument. This is a court argument. Finish up
13 everything you want me to listen to.

14 MS. VAN PALA: Your Honor, Brewton
15 aside, Crawford aside, there is still a
16 confrontation clause issue here. It's inherently
17 prejudicial. There's no way to disassociate my
18 client from Devin's Facebook. So that's the basis
19 of my objection. I wanted to clarify.

20 THE COURT: We went through that back
21 when we did that and we talked about the fact South
22 Carolina the case --

23 MR. OSBORNE: Whatley.

24 THE COURT: It was the case that I went
25 over with you.

1 MR. OSBORNE: Trapp.

2 THE COURT: There we go. And talked
3 about the fact that had to be testimonial in
4 nature, defined what that meant and I haven't seen
5 our courts expand on that.

6 MS. VAN PALA: Thank you, Your Honor.

7 MR. OSBORNE: Your Honor and now to
8 address Mr. Apicella's issues. The IP addresses,
9 well, that would have been very difficult to do in
10 this case because they ask Devin Middleton where he
11 lived, and he said he didn't live anywhere. He
12 wouldn't give them an address so even if they did
13 backtrack IP the addresses it wouldn't have led to
14 any address that they could have tied down to
15 Devin. Furthermore, since there were over just
16 looking at four or 500 IP addresses in there. Even
17 if they had found one out of that 500 to tie to
18 Devin obviously their argument would have been then
19 how significant is that.

20 The next and that brings me again to
21 901(b)(4). There's no cases that will say you have
22 to search for IP addresses alone. The case that he
23 cited, I looked at it briefly, but on that case
24 they were looking at a Russian website and there
25 was very limited information to tie that Defendant

1 into this Russian website. In this case we have
2 quite a bit, the photographs --

3 THE COURT: Let's go over the things
4 that you think that tie this to this Defendant.

5 MR. OSBORNE: Okay. I will go in the
6 order that's up here. There are the individuals
7 that were out there on the scene, Demarco Jones,
8 Devin Middleton, Davontay Bryant. The State would
9 contend Te'Quan Perry, and Denardo Felder.

10 Those are the five individuals that
11 have a vested interest in the outcome of this case.
12 There is a search warrant and then we have General
13 Taliban who is making comments on here.

14 Now, I'm going to make just the
15 authentication argument. We will deal with
16 relevancy later. Then we have General Taliban on
17 here after he is posting it talking about the other
18 ones say Demarco Jones voluntarily came down
19 because they hear his name was being called. He is
20 posting information about this murder and this
21 murder alone.

22 Now, I can talk about what he was
23 intending, what the State would say he was
24 intending to do with this. State's Exhibit 120.
25 West side. Detective Krasowski said that he knew

1 west side to be Back to Green. BTG. We have
2 already heard testimony from Officer Medlin that
3 stated that he had seen Devin Middleton hanging
4 out, I think Mr. Apicella brought it out, all the
5 time in Back to Green. Almost see Devin's face
6 over on the side in State's 207. Just leaving from
7 seeing this fool. Free my bruda Lefty. Bruda ties
8 back into the phone. You may not have this one,
9 Your Honor.

10 THE COURT: I have got something else
11 that caught my attention. Since you put that one
12 up there I have a question. This photo in my
13 packet that was given to me, that was the day after
14 the arrest?

15 MR. OSBORNE: It was, Your Honor.

16 THE COURT: What I understood the
17 testimony.

18 MR. OSBORNE: It is, Your Honor, and
19 this State's 101 is a screenshot that was taken
20 from Kala Seabrook's phone where she references
21 Devin Taliban GeezQueez. This is a screenshot from
22 the jail video where Justice Johnson, Mini Rat,
23 visited Te'Quan Perry.

24 THE COURT: Appears in that photo that
25 two individuals in the corner are taking pictures.

1 MR. OSBORNE: Or recording the video,
2 yes, Your Honor.

3 THE COURT: Is that the same day?

4 MR. OSBORNE: I do not believe that to
5 be the same day, Your Honor.

6 THE COURT: All right. That was my
7 question. Go ahead.

8 MR. OSBORNE: But the interesting thing
9 about 101 is that it does reference General Taliban
10 on that. Part of our reasoning to that was we were
11 going to use that once we authenticated this to
12 help authenticate the origin of that video. 207,
13 this is Te'Quan Perry in jail. Comment just
14 leaving seeing this fool. Free Bruda and Lefty.
15 Bruda is saved in the phone that was confiscated
16 from Devin Middleton and the contact number for
17 Bruda was the [REDACTED] number which we also tied back
18 into Lefty.

19 There was a litany of pictures
20 depicting both Te'Quan Perry and Devin, 208, 209,
21 210. We do not seek to introduce 208, 209 or 210,
22 but we do bring it to the Court's attention so that
23 you can consider this for authentication.

24 Going to State's 120, again, we have an
25 association between Lefty and Devin. He says free

1 my partner in crime. Yeah Little Lefty. He is
2 actually the originator of this post. This one I
3 found to be one of the most telling ones, 113.
4 This image was taken from the phone that was
5 confiscated from Devin's possession and it also
6 appears on the post to Taliban.

7 Your Honor, may I show one other thing?
8 You asked about State's 207. This is a post that
9 was made on a visitation from Devin to Te'Quan.
10 The post was created on June the 24th. I am
11 showing you now the visitation log on June the 24th
12 and indeed it is Devin Middleton who visited. I
13 think we have met the authentication requirement of
14 901(d)(4) showing internal pattern and consistency
15 and distinctive characteristics linking the
16 Defendant Devin Middleton to the post.

17 Now, the next issue that Mr. Apicella
18 brought up was 403. Well, there's a couple issues
19 going on here in my opinion. Mr. Apicella says and
20 I believe this to be classic witness intimidation.
21 I don't know whether you could put it that way or
22 not, but this is the State's position.

23 He is making these posts for all the
24 public to see and he is adopting these rap lyrics.
25 They are not positive in nature. Every rap lyric

1 said the same thing. Speak to the police and there
2 will be consequences. He is tying that in with
3 Te'Quan Perry. Free Lefty and the consequences
4 that if you do snitch or you do talk to the police.
5 These aren't private messages. We know that
6 because you see other people communicating back
7 with him. And they are saying it's surprising that
8 Demarco would talk. Nods coming back. I thought
9 he was good, straight. These are nothing more than
10 admissions. He's adopting those rap lyrics as
11 being his own. And the fact that he happens to be
12 cursing and using negative connotations or negative
13 words while he is doing it, that would be really no
14 different than if there were an interrogation. If
15 he is making a statement or an admission and he is
16 using those type words, that wouldn't make the
17 interrogation inadmissible subject to 403.

18 And the other thing that he mentioned
19 regarding the evidence, case law said evidence
20 would trigger an emotional response. That's
21 usually the type of verbiage that you hear when
22 you're dealing with graphic photographs from a
23 murder or crime scene. In those type of cases the
24 Court has found if there is relevant reason to
25 bring those photos in other than trying to draw

1 upon the jury's emotion that it can be brought in.

2 Each one of those exhibits, we are not
3 trying to bring them in to draw upon the emotion.
4 We are bringing them in to show guilty conscience.
5 These are witness intimidation attempts on his part
6 to either help his friend, his co-defendant or to
7 help himself.

8 THE COURT: I will let you respond, Mr.
9 Apicella.

10 MR. APICELLA: Very brief, Judge. The
11 solicitor's opinion or theory of the case is not
12 evidence. This Facebook stuff is not evidence of
13 anything, Judge. And just as Your Honor very
14 correctly pointed out, it is difficult, if not
15 impossible, for white people to know what it is
16 like to be a black person in America. This is
17 2017. I realize that, Judge, I was around when
18 things were a lot different and so we have come a
19 along way. We need to go a lot further.

20 We don't need these issues in this
21 trial because they are not relevant. They are just
22 going to raise people's prejudices and just so much
23 --

24 THE COURT: Are you talking about the
25 language?

1 MR. APICELLA: Yes, and everything that
2 matters because if Mr. Osborne is going to argue
3 that these are admonitions indicating that he is
4 going to -- he is advocating intimidating
5 witnesses, then it's only fair for us to offer our
6 interpretation which is that this is a culture.
7 This is what it meant to be black in America.

8 THE COURT: I'm not putting on -- I am
9 not ruling on whether you have to prove anything.

10 MR. APICELLA: I am saying --

11 THE COURT: I want to get as far away
12 from that as I can.

13 MR. APICELLA: Me too. I would ask
14 Your Honor to think about the case. You now know
15 what the case is about. I submit, Judge, there is
16 ample evidence to get this case to a jury. Real
17 testimony hasn't come in, but there's ample
18 evidence. This evidence will dirty this case up.
19 It will open up doors that shouldn't be opened and
20 require the lawyers in order to counter act and to
21 raise issues that really have no business being in
22 this case.

23 I say, Judge, you should exercise your
24 discretion and solely your discretion and you have
25 a lot of discretion in this case. Simplify it.

1 Keep this offensive evidence out. It's just going
2 to open doors that don't need to be opened. Let's
3 just concentrate on the evidence or lack of
4 evidence.

5 THE COURT: Thank you, sir.

6 MR. OSBORNE: One last thing in
7 response to that. Either there are rap lyrics and
8 they don't mean anything or they are hateful
9 language and they mean something. He is arguing
10 both sides. Our position is this is clear witness
11 intimidation and that's why we seek to admit it.
12 He has adopted those words once he posted them.

13 THE COURT: Again, I'm required to view
14 the evidence as presented in total. All of the
15 factors that were cited by the State I take in the
16 light most favorable to them as far as that's
17 concerned. I do find that there are sufficient
18 indicia to tie the Facebook pages to that
19 Defendant. And I will allow it to come in. Motion
20 is denied.

21 Now, I'm a little concerned with the
22 shocking language that appears in that. I am
23 considering asking that you just put the first
24 letter as opposed to a whole statement. I just ask
25 you to consider doing that. I won't make that

1 ruling. I may get back to that later on. There's
2 so much of it that at some point in time it's how
3 many times do we have to have that in there?

4 MR. OSBORNE: I would agree. I find
5 that word obviously to be offensive as well. I'm
6 not opposed to just leaving the letter in and then
7 redacting the letters after that every time it is
8 mentioned.

9 THE COURT: That's what I would prefer.

10 MR. OSBORNE: Yes, Your Honor.

11 THE COURT: All right. To that extent
12 I agree with you.

13 MR. APICELLA: I need to think about
14 that, Judge. If you are making that ruling without
15 my input then --

16 THE COURT: You raised that issue.

17 MR. APICELLA: Well, I did, Judge.

18 THE COURT: You don't want me to
19 consider that?

20 MR. APICELLA: Well, would the State
21 stipulate that many of those posts are rap lyrics
22 taken from songs?

23 THE COURT: I am not asking them to do
24 that. You raised the issue about the shocking
25 nature of the language. And I am trying to do

1 something to lessen that shock because I agree that
2 language really is not probative of anything and so
3 I was agreeing with you I thought, but if you don't
4 want me to go there I certainly will not go there.
5 Your call.

6 MR. APICELLA: Can you give me over the
7 night think about that?

8 THE COURT: Will that affect you being
9 able to present your case tomorrow?

10 MR. APICELLA: Give me ten minutes,
11 Judge.

12 THE COURT: I will give you ten
13 minutes. We will take a ten-minute break. I will
14 stay on the bench.

15 (A recess transpired.)

16 MR. APICELLA: Your Honor, my argument
17 was to redact everything. I lost that argument.
18 So the next best thing to do is redact the words
19 that would inflame unfair passions among our
20 jurors.

21 THE COURT: Specifically referring to
22 the "N" word, I want that just a letter and that's
23 it.

24 MR. OSBORNE: Yes, Your Honor.

25 THE COURT: All right. Any other

1 matters that we need to take up pretrial from the
2 State's perspective?

3 MR. OSBORNE: No, Your Honor.

4 THE COURT: Mr. Apicella, anything from
5 your perspective?

6 MR. APICELLA: I think Your Honor
7 denied my jail call motion. I know that you
8 considered the argument that I made by submitting
9 that New York case. I just want to make sure the
10 record reflects that.

11 THE COURT: Thank you. I think it was
12 on the record when I did that.

13 MR. APICELLA: It was. I was unsure
14 because so much happened this afternoon.

15 THE COURT: I am looking at South
16 Carolina authority, and I don't see a case that is
17 similar.

18 MR. APICELLA: There is none. I know
19 you would be constrained.

20 THE COURT: Or even similar to that.

21 MR. APICELLA: Not yet. But the point
22 of that case is we need to raise that.

23 THE COURT: The law is an ever evolving
24 thing.

25 MS. VAN PALA: Thank you, Your Honor.

1 Just for the benefit of the record, to the extent
2 that they are not contradicting my client's motions
3 I would join Mr. Apicella's motion.

4 And we did file a motion to exclude the
5 pepper spray. And I had talked to the prosecutor
6 about how I thought that an in camera hearing to
7 determine the admissibility of that evidence and --

8 THE COURT: We will take that up when
9 that witness is presented.

10 MR. OSBORNE: Yes, Your Honor.

11 MR. CORVEY: If we could address, I am
12 still unclear exactly why we need an in camera
13 hearing. We will have an agent from SLED who will
14 testify that he received evidence in this case. He
15 tested it. His results were that it was OC
16 capsicum. It was on the clothing which is an
17 active ingredient in pepper spray. They are more
18 than entitled to voir dire the expert. It's my
19 understanding they have to bring in their own
20 expert. I don't understand what the grounds for a
21 suppression keeping that testimony out would be.

22 MS. VAN PALA: Our expert would contend
23 that the evidence propounded by the State by their
24 analyst is so unreliable I would argue that it
25 shouldn't be admitted. That is why we are asking

1 for an in camera hearing.

2 THE COURT: I will take that up when
3 that witness is presented.

4 MS. VAN PALA: And I will just ask for
5 the State to let us know a general idea when this
6 would be so that I can arrange.

7 THE COURT: When you are going to put
8 the SLED agents on?

9 MR. OSBORNE: I will do the best I can,
10 Your Honor. Our witnesses have been yo-yo'd ever
11 since this started.

12 THE COURT: I understand. I will ask
13 that you inform the jury to be here at 9:30 in the
14 morning. We will resume at that time with the
15 State calling its next witness. We are in recess
16 until then.

17 (Proceedings adjourned at 4:53 p.m. on
18 June 15, 2017.)
19
20
21
22
23
24
25

1 (The following proceedings were held
2 June 16, 2017, Charleston County, South Carolina, @
3 9:40 a.m.)

4 MR. OSBORNE: Your Honor, I want to
5 make it abundantly clear for the record this is a
6 joint effort.

7 THE COURT: We will take the pleas
8 together. We will take a plea at this time. Come
9 forward, please. Why don't we do it from counsel
10 table since there is so many people over there.
11 State may call the case.

12 MR. OSBORNE: Thank you, Your Honor.
13 The State calls the case against Te'Quan Perry and
14 Devin Middleton. We are proceeding forward with
15 pleas. Te'Quan is pleading to voluntary
16 manslaughter. I will reduce the murder charge. He
17 is also pleading to conspiracy. We will be
18 dismissing all remaining charges, even unrelated
19 charges to this incident.

20 Devin Middleton is pleading to
21 voluntary manslaughter and conspiracy. I don't
22 believe he has any other pending charges.

23 MR. APICELLA: No.

24 THE COURT: I will ask the clerk to
25 please place both Defendants under oath.

1 (Defendants sworn by clerk.)

2 THE COURT: Now, Mr. Perry, you are in
3 front of me today and I have received indictments
4 for murder and for criminal conspiracy. Those
5 indictments were issued by the Charleston County
6 grand jury so they are properly in front of the
7 Court.

8 My understanding from what I have heard
9 from the solicitor is your intention today is to
10 offer a plea of guilty to voluntary manslaughter
11 and criminal conspiracy. I will inform you that
12 those charges are lesser included offenses. I
13 notice that is not marked on your voluntary
14 manslaughter sentencing sheet. Counsel, is there
15 any objection to my marking this is a lesser
16 included offense?

17 MS. VAN PALA: No, Your Honor. Thank
18 you.

19 THE COURT: Now, Mr. Perry, my question
20 to you is do you understand the original charges
21 that were lodged against you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You have to answer me
24 verbally and loud enough for this lady over here to
25 hear you.

1 THE DEFENDANT: Yeah.

2 THE COURT: Thank you. And so you
3 understand the original charges. Do you understand
4 the lesser included offenses?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: The offense is voluntary
7 manslaughter. Has your attorney explained that
8 charge to you?

9 THE DEFENDANT: Yes, she did.

10 THE COURT: All right. And she I
11 suppose has explained to you that that carries a
12 possible sentence of up to 30 years. Do you
13 understand that?

14 THE DEFENDANT: I understand.

15 THE COURT: Now, I will tell you that
16 that particular charge -- just one second. Let me
17 get over here so I'm sure I tell you correctly.
18 That particular charge is classified as a violent
19 and most serious offense. As such it would qualify
20 for what is commonly known as a strike against you.
21 That means that in the future if you were to be
22 found guilty of other similarly classified crimes
23 such as violent serious or most serious offenses
24 your plea in this case could be used in those
25 future cases if they happen to increase the

1 sentences in those future cases.

2 Depending on the circumstances and what
3 crimes we're talking about it could result in a
4 sentence of life imprisonment without ever getting
5 a parole. That is, of course, if you were
6 convicted of those future crimes.

7 So do you understand that this carries
8 an enhancement feature later on if you were to be
9 involved in similar crimes in the future?

10 THE DEFENDANT: Yes, I understand.

11 THE COURT: All right. Now, the
12 criminal conspiracy charge -- well, my
13 understanding is that you have negotiated a
14 sentence with the State through your lawyers for
15 this of 30 years; is that correct?

16 THE DEFENDANT: Correct.

17 THE COURT: Sir?

18 THE DEFENDANT: Correct.

19 THE COURT: All right. And the
20 criminal conspiracy charge sentence will be
21 included in that 30 years to run currently; is that
22 also correct?

23 THE DEFENDANT: That's correct.

24 THE COURT: All right. Now, let me
25 explain to you about a negotiated sentence. What I

1 will do is I will consider the situation. I will
2 go over it. I'm not required to accept the
3 negotiated sentence. If I decide later that I will
4 not accept that I will advise you of that fact at
5 that time and at that time if you would -- if you
6 then want to withdraw your plea, I will let you
7 withdraw your plea at that time if I decided not to
8 accept it. Do you understand how I'm going to
9 handle the plea?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Is that how you would
12 expect me to do that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay. Now, you are here
15 with your lawyers. Are you satisfied with your
16 lawyers?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you need to consult with
19 them any further about either the charges or the
20 negotiation that has gone on with the State?

21 THE DEFENDANT: No, sir.

22 THE COURT: Is there anything else you
23 feel that they ought to do for you that they have
24 not yet done for you?

25 THE DEFENDANT: No, sir.

1 THE COURT: I take it you are satisfied
2 with your lawyers up to this point in time?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. Let me talk for
5 just a minute with Mr. Middleton. Mr. Middleton,
6 you are also in front of me on two charges. The
7 charges are voluntary manslaughter that you are
8 pleading to and criminal conspiracy just like Mr.
9 Perry.

10 Now, both of those charges were
11 presented to the grand jury. They did issue a --
12 but not the voluntary manslaughter, it was
13 presented as murder and the grand jury issued a
14 true bill as to both of these indictments. So they
15 have been considered by a grand jury. Do you
16 understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And my understanding is
19 that you here to offer a plea today to the lesser
20 included offense of voluntary manslaughter. Is
21 that true?

22 THE DEFENDANT: Yes.

23 THE COURT: Now, I explained to your
24 co-defendant, I will explain to you, that that is a
25 violent and a most serious offense and as such it

1 would qualify for what is commonly known as a
2 strike against you. In the future if you were to
3 be involved in other similarly classified crimes
4 and be convicted of those crimes this plea could be
5 used in sentencing on those future crimes to
6 enhance those sentences. And as I indicated,
7 depending on what the charge was and what the
8 conviction was, it could result in a sentence as
9 severe as life imprisonment without any parole. So
10 do you understand that this would qualify as a
11 strike against you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: That's been explained to
14 you I would assume.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You shook your head yes.
17 You got to speak up, got to be on the tape. Thank
18 you, sir. Now, you have negotiated a sentence of
19 20 years; is that true?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now, I will tell you that
22 just as I told your co-defendant I'll consider that
23 negotiation. I'm not required to follow it. And
24 if I chose not to follow it I will explain that to
25 you, tell you my decision and at that time I will

1 give you an opportunity to withdraw your plea. Do
2 you understand that is how I am going to handle
3 this?

4 THE DEFENDANT: Yes.

5 THE COURT: Is that how you would
6 expect me to do that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now, you are here today
9 with Mr. Apicella. Have you had a chance to fully
10 discuss both the negotiations and the charges with
11 him?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, are you satisfied with
14 what he has done so far?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Is there anything else that
17 you feel that you need to consult with your lawyer
18 about at this time?

19 THE DEFENDANT: No, sir.

20 THE COURT: Is there anything else you
21 feel he ought to do for you that he has not yet
22 done for you at this time?

23 THE DEFENDANT: No, sir.

24 THE COURT: So you are fully satisfied
25 and I assume you're ready to go forward in this

1 matter, am I correct?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Now, I'm going
4 to go back. I will ask you some questions jointly
5 for just a moment. Mr. Perry, do you suffer from
6 any conditions either mental, physical, nervous
7 problems, any conditions that would affect your
8 ability to be able to understand what we are doing
9 or to be able to make good decisions today?

10 THE DEFENDANT: No, sir.

11 THE COURT: Have you taken or used any
12 drugs, medicines or any other substance that would
13 in any way adversely affect your reasoning
14 abilities today?

15 THE DEFENDANT: No, sir.

16 THE COURT: Same for you, Mr.
17 Middleton. Do you suffer from any mental, physical
18 or nervous conditions that would adversely affect
19 your ability to be able to reason or to make good
20 decisions today?

21 THE DEFENDANT: No, sir.

22 THE COURT: Have you taken or used any
23 drugs, medicines or any other substances that would
24 in any way affect your reasoning abilities today?

25 THE DEFENDANT: No.

1 THE COURT: So do you know what you're
2 doing; is that right?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And you are able to go
5 forward; is that also true?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Now, Mr. Perry,
8 you have the right to given the negotiated sentence
9 to plea either guilty or not guilty to the crimes
10 of voluntary manslaughter and criminal conspiracy.
11 How are you pleading this morning?

12 THE DEFENDANT: Guilty, sir.

13 THE COURT: And, Mr. Middleton, you
14 have the right to plead either guilty or not guilty
15 to either voluntary manslaughter or criminal
16 conspiracy. How are you pleading this morning?

17 THE DEFENDANT: Guilty.

18 THE COURT: Now, I'm going to start
19 with counsel. Ma'am, have you had an opportunity
20 to fully discuss this matter with Mr. Perry?

21 MS. VAN PALA: Yes, Your Honor.

22 THE COURT: And are you satisfied that
23 he's been able to understand the discussions you
24 have had with him?

25 MS. VAN PALA: Yes, Your Honor.

1 THE COURT: Now, he tells me that he
2 has reached a decision. His decision is to accept
3 the negotiated sentence, offer a plea of guilty and
4 is that your understanding of his decision as well?

5 MS. VAN PALA: Yes, Your Honor.

6 THE COURT: Based on what you know
7 about his case and the discovery you have reviewed,
8 the laws that you have reviewed, are you in
9 agreement with the decision that he has made?

10 MS. VAN PALA: Yes, Your Honor.

11 THE COURT: Now, has he been able
12 throughout the process to be able to fully assist
13 you in the defense of his case?

14 MS. VAN PALA: Yes, Your Honor.

15 THE COURT: Counsel, would you answer
16 the questions the same way as your co-counsel?

17 MS. NORRIS: Yes, sir.

18 THE COURT: All right. Mr. Apicella, I
19 assume you have consulted with your client about
20 this matter as well as the charge, am I right?

21 MR. APICELLA: Yes, Judge, I have.

22 THE COURT: Do you feel certain that he
23 has understood the advice and the consultation you
24 have had with him?

25 MR. APICELLA: I am.

1 THE COURT: He tells me he has made the
2 decision to enter a guilty plea given the
3 negotiated sentences and based on what you're aware
4 of in his case, the discovery you have reviewed,
5 the statutes you have reviewed and the matters that
6 you are aware of are you in agreement with his
7 decision?

8 MR. APICELLA: I am, Judge. And he's
9 taking a plea pursuant to Alford.

10 THE COURT: Okay. I will need to talk
11 to him about that a little more in just a moment.
12 And has he been able to assist you in his defense
13 in this matter?

14 MR. APICELLA: He has, Judge,
15 admirably.

16 THE COURT: Mr. Middleton, your lawyer
17 has made me aware of the fact that you are offering
18 a plea under Alford. That's why probably you
19 hesitated just a minute ago when I asked you about
20 your plea. I'm going to make that note on the
21 sentencing sheet that it is an Alford plea.

22 MR. APICELLA: Thank you, Judge.

23 THE COURT: Thank you. Let me tell you
24 what that means to me, Mr. Middleton. Listen
25 carefully because I am going to ask you if it means

1 the same thing to you. My understanding of the
2 plea -- are you pleading guilty under Alford?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, sir, what that means
5 to me is that you and your lawyer have reviewed the
6 evidence that the State has in its possession and
7 after review of that evidence it is your belief
8 that if that evidence were presented to the jury
9 during the trial that it would more than likely
10 result in a conviction. And so while you do not
11 admit to those facts, you have decided that it
12 would not be in your best interest to contest the
13 case. So in effect you are pleading no contest.
14 Is that, in fact, how you view this?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Are you pleading no contest
17 in this matter?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Now, Mr. Perry,
20 has anyone done anything to you such as threaten
21 you, put pressure on you, tried to intimidate you,
22 done anything in an effort to try to force you or
23 make you give me this plea?

24 THE DEFENDANT: No, sir.

25 THE COURT: Mr. Middleton, has anyone

1 done anything like that to you to try to force you
2 to give me this plea?

3 THE DEFENDANT: No, sir.

4 THE COURT: So, Mr. Perry, are you
5 doing this of your own free will?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Mr. Middleton, is this of
8 your own free will?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Now, have you had
11 sufficient time to discuss this with your lawyer
12 and/or anyone else you want to talk it over with,
13 Mr. Perry?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Middleton, have you had
16 sufficient time to talk to your lawyer about this
17 or anyone else you want to talk to?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now, has anyone made any
20 promises, guarantees or assurances to you other
21 than the negotiated sentence in this case about any
22 matter such as pardon, parole, probation, early
23 release, length of sentences, again other than the
24 negotiated sentences? Anyone made a promise or a
25 guarantee to you about any results of such matters?

1 First of all, Mr. Perry, has there been any
2 promises or guarantee?

3 THE DEFENDANT: No, sir.

4 THE COURT: Mr. Middleton, have you
5 gotten any promise or guarantee about such matters?

6 THE DEFENDANT: No, sir.

7 THE COURT: Now, I will advise both of
8 you if I later decide to accept these pleas at the
9 time I accept the pleas you will be giving up your
10 constitutional rights as they relate to these
11 charges. One of my responsibilities in taking the
12 plea is to be sure that you understand these
13 Constitutional rights before I accept the pleas.
14 So at this time I'm going to go over your rights
15 with you. When I finish if you want to ask
16 questions of me you have the right to do so. But
17 you also would have the right to consult with your
18 lawyer about these rights if you think that's
19 necessary. So, Mr. Perry, do you understand what I
20 am doing now?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Mr. Middleton, do you
23 understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. First of all,

1 you have a Constitutional right to have the charges
2 against you presented to a grand jury. I have gone
3 over that already. They were presented to the
4 grand jury, true bills were issued. You are
5 pleading to a lesser included offense to those
6 charges. You have a Constitutional right to a
7 lawyer. You have indicated you're satisfied with
8 your legal advice. Your lawyer remains available
9 to you if you need to consult with your lawyer.

10 As you're aware, since we have begun a
11 jury trial in your case you are entitled to a trial
12 by jury. In that trial you would be presumed to be
13 innocent. That presumption would continue until
14 such time as the State proved your guilt to the
15 jury to the level of proof beyond a reasonable
16 doubt. You would not have any requirement to prove
17 anything at that trial because you're presumed to
18 be innocent at the trial. The State's obligation
19 of proof is to prove every element of the crime to
20 the jury by proof beyond a reasonable doubt.

21 Now, Mr. Perry, has your lawyer gone
22 over with you what we call the elements of the
23 crimes? In other words, the things the State would
24 have to prove for you to be found guilty? Are you
25 aware of those elements?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. And, Mr.
3 Middleton, are you also aware of the things the
4 State would have to prove in order for you to be
5 found guilty of these charges?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Now, do you
8 waive your right to a trial by jury, Mr. Perry?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And, Mr. Middleton, do you
11 understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, at the trial you have
14 additional Constitutional rights. You have the
15 right to have the clerk issue a subpoena to any
16 witness you feel would be important to your case
17 that needs to be present. That would require them
18 to be present. You would have the right to
19 question or confront anyone who testifies against
20 you. You would have the right at the trial to
21 present any defense that you chose to present and
22 you can be given the opportunity to try to suppress
23 any and all evidence the State might have against
24 you, that includes statements you might have
25 previously made.

1 Now, at all times and in every
2 circumstance you have an absolute right to remain
3 silent. And if you chose to remain silent at the
4 trial the judge handling that trial is required to
5 instruct the jury that your silence cannot be used
6 against you in any manner whatsoever.

7 Now, Mr. Perry, do you understand the
8 rights I just went over with you?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Mr. Middleton, do you
11 understand those rights?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, I will again point out
14 to you that if I accept these pleas you give up
15 those rights as they relate to these two charges
16 before me. Do you understand that, Mr. Perry?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Mr. Middleton?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Mr. Perry, does the fact
21 that you are giving up those rights, does that
22 cause you to want to change your plea at this time?

23 THE DEFENDANT: I don't understand.

24 THE COURT: Does the fact that you are
25 going to be giving up your Constitutional rights,

1 does that cause you to want to either withdraw or
2 change your plea?

3 THE DEFENDANT: No, sir.

4 THE COURT: Mr. Middleton, does that
5 fact cause you to want to change or amend your plea
6 or withdraw it?

7 THE DEFENDANT: No, sir.

8 THE COURT: All right. Now, Mr. Perry,
9 have you been truthful with me in answering my
10 questions?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Is there anything that you
13 have told me today that you would like to go back
14 and change or amend in any fashion?

15 THE DEFENDANT: No, sir.

16 THE COURT: So you are still pleading
17 guilty at this time?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Mr. Middleton, have you
20 been truthful with me in our discussion?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Is there any part of what
23 you told me that you would like to go back and
24 change or amend any statements you have made in
25 this plea?

1 THE DEFENDANT: No, sir.

2 THE COURT: So you are still pleading
3 no contest -- guilty, but no contest; is that true?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. Now, Mr. Perry, I'm
6 going to accept your plea. I find that it's been
7 freely and voluntarily given, you're aware of the
8 charges, the penalties, you have had the advice of
9 counsel, you are satisfied with the legal advice
10 you have received, and there is a factual basis for
11 the plea.

12 Mr. Middleton, I also am accepting your
13 plea. I find that it's been freely and voluntarily
14 given, you're aware of the charges, you have had
15 the advice of counsel, you are satisfied with that
16 advice and there also is a factual basis for you to
17 offer that plea.

18 I will now consider acceptance of the
19 negotiated sentence. I will hear from your
20 lawyers. I will give you a chance to speak if you
21 would like to speak. I will be hearing from the
22 State, though, before I decide how to do that.

23 Yes, ma'am. Ms. Van Pala.

24 MS. VAN PALA: Thank you, Your Honor.

25 May it please the Court, Te'Quan has been in our

1 county detention center for according to my
2 calculations 813 days.

3 THE COURT: Does the State have any
4 objection to my giving credit for 813 days?

5 MR. OSBORNE: No, Your Honor.

6 THE COURT: I intend to give that
7 credit.

8 MS. VAN PALA: Thank you, Your Honor.
9 If you are inclined to accept the negotiation then
10 I don't have anything to say.

11 THE COURT: All right. Mr. Perry, is
12 there anything that you would like to say to the
13 Court?

14 THE DEFENDANT: No, sir.

15 THE COURT: Mr. Apicella, I will hear
16 from you on behalf of Mr. Middleton.

17 MR. APICELLA: Yes, Your Honor. May it
18 please the Court, my client is 24 years old. He
19 has been in detention since the day he was arrested
20 on August 1st, 2015. My calculation is 675 days.

21 THE COURT: Any objection to a credit
22 of that?

23 MR. OSBORNE: No, Your Honor.

24 THE COURT: You may proceed.

25 MR. APICELLA: Your Honor, this is a

1 negotiated plea. We thank the State for its offer
2 knowing that he faced more time if he was
3 convicted. He has accepted the offer. We
4 negotiated a plea. I won't say anything further.

5 THE COURT: Anything the State would
6 like to make me aware of?

7 MR. OSBORNE: No, Your Honor. Only
8 that we had tried to notify the mother. We have
9 spoke about these numbers with her before. She was
10 in agreement with resolution. She has a job so I
11 told her this morning it might not be crucial
12 testimony, if she had to get to work that's fine,
13 to come back later. She's trying to get here now.

14 I told her, I said we are going to go
15 ahead with the plea. If she does make it here I
16 don't know if she wanted to address the Court or
17 not. In regards to a factual summation --

18 THE COURT: She is aware of this to
19 your knowledge and has she no difficulties.

20 MR. OSBORNE: She does not. In fact,
21 she was glad that this was going to be put behind
22 her. I don't know if I need to give any factual
23 summation.

24 THE COURT: I think I have heard a good
25 bit of facts unless there is something I haven't

1 heard.

2 MR. OSBORNE: Well, we had not even
3 begun our case was our position, Your Honor.

4 THE COURT: I understand.

5 MR. OSBORNE: But I think there is more
6 than enough on the record already, Your Honor.

7 THE COURT: Okay. Just one second
8 while I look at one thing. You can be seated. I
9 will get back to you just as soon as I am ready.

10 (Brief pause.)

11 THE COURT: Mr. Perry, if you would
12 stand, please. First of all, counsel, I'm sure you
13 advised your client, I want to be sure you are
14 aware of this, in my accepting the plea, that
15 voluntary manslaughter, I explained it was a
16 violent and most serious. It also is what is
17 referred to as a no parolable offense, but it
18 carries a very limited possibility of parole. In
19 other words, he would have to serve the vast
20 majority of his sentence before he would be parole
21 eligible. Did you explain that to him?

22 MS. VAN PALA: Yes.

23 THE COURT: Mr. Perry, did she go over
24 that with you?

25 THE DEFENDANT: Yes.

1 THE COURT: So you were aware of that
2 in offering the plea?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. Now, also
5 according to my information that if I make a
6 finding that the crime did not involve criminal
7 sexual conduct or any additional violent crimes
8 then he would be eligible for some type of work
9 release within three years of the end of the
10 sentence. That's true today, it may not be true
11 when he gets to that point. But I have made a
12 finding that the crime did not involve sexual
13 misconduct. Maybe that will be of some assistance
14 in the future.

15 Mr. Perry, the sentence of the Court --
16 I have accepted the negotiated sentence that you
17 have reached with the State -- is that you will be
18 confined to the State Department of Corrections for
19 voluntary manslaughter for the term of 30 years
20 with 813 days of credit. On the criminal
21 conspiracy five years with 813 days of credit.
22 Those sentences are to run concurrently. Thank
23 you, sir. Good luck to you. You can be seated.

24 Mr. Middleton, if you will stand,
25 please. Mr. Middleton, I want to be sure that your

1 lawyer did make you aware that this is a sentence
2 for which you would have to serve the majority --
3 vast majority of the sentence, right now it means
4 85 percent. Parole changes from time to time. I
5 can't say what that might be later on. Did you go
6 over that with him, Mr. Apicella?

7 MR. APICELLA: I did, Your Honor.

8 THE COURT: Mr. Middleton, you were
9 aware of that when you gave me that plea; is that
10 right?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. I will also make the
13 same finding on this case that this case did not
14 involve sexual misconduct of any kind. The
15 sentence -- I have accepted the negotiation -- is
16 that you be confined to the State Department of
17 Corrections for a period of 20 years. I gave
18 credit for the 675 days that you claimed credit
19 for. On conspiracy five years, run concurrent.
20 Good luck to you, Mr. Middleton.

21 That concludes the cases. Thank you
22 very much. As soon as the Defendants have left the
23 courtroom I want to bring the jury in.

24 (Thereupon, the Defendants exited the
25 courtroom.)

1 (Whereupon the jury entered the
2 courtroom at 10:10 a.m.)

3 THE COURT: The record will reflect
4 that the jury has returned to the courtroom and
5 once again, I will apologize to you for having you
6 come and sit and wait for a period of time, but I
7 am pleased to be able to tell you that this case
8 has now been resolved by my accepting guilty pleas
9 from the two Defendants to lesser included charges,
10 but to substantial charges. And I have already
11 issued the sentence in this matter.

12 So, therefore, your responsibilities as
13 jurors will end. We no longer are going to require
14 you to hear the case. So while I had you hurry up
15 and wait a lot this week, probably had the case
16 been tried it would have gone next week and maybe
17 even a little further. I don't know.

18 So it saved us a great deal of time in
19 the long run. Your presence is appreciated. Your
20 being here puts us in a position to get resolutions
21 such as we got in this case so I want to thank you
22 very much for your appearance and your assistance
23 in what we are doing. Obviously this is Friday so
24 you were summoned for a one-week term of court and
25 so we are going to release you at this time from

1 any further responsibilities. There aren't any
2 other cases we will start today. We wouldn't get
3 them finished by Saturday so we will be releasing
4 you at this time.

5 Throughout the case I told you several
6 times not to talk about it. You have the right to
7 talk about it, but you also as a citizen have the
8 right not to do so. You see, a citizen owes no one
9 an explanation for whatever they did on a jury. So
10 you are not required to discuss this unless you
11 choose to discuss it. And should anyone try to
12 harass you or bother you, I don't think that will
13 happen, but if something like that were to happen
14 concerning your service on this jury, please advise
15 the clerk's office. We will take the appropriate
16 action should that happen.

17 Now, the bailiffs will check you out.
18 If you need any excuse for your job they will
19 assist you in getting you a statement as to what we
20 required you to do this week. And next week or
21 thereabouts you are going to get a voucher in the
22 mail from the clerk's office for your jury pay.
23 Don't plan to retire on that. It's not going to be
24 as much as you had hoped, but it's certainly all
25 the law allows us to pay you and certainly not

1 enough money for the time you spent. So I thank
2 you for your service. We appreciate your having
3 been here and at this time you are free to go.

4 You can step out and the bailiffs will
5 take care of you.

6 (These proceedings were concluded at
7 10:13 a.m., June 16, 2017, Charleston County, South
8 Carolina.)
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1 CERTIFICATE OF REPORTER

2
3 I, Ruth C. Weese, Registered Diplomat
4 Reporter for the State of South Carolina at Large,
5 do hereby certify that the foregoing transcript is
6 a true, accurate, and complete record.

7 I further certify that I am neither related
8 to nor counsel for any party to the cause pending
9 or interested in the events thereof.

10 Witness my hand, I have hereunto affixed my
11 official seal this 10th day of July, 2019.

12
13 *Ruth C. Weese*

14
15 _____
16 Ruth C. Weese

17 Registered Diplomat

18 Reporter
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STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON CASE NO. 2016-GS-10-01058
CASE NO. 2017-GS-10-01410

STATE OF SOUTH)
CAROLINA)
PLAINTIFF,) TRANSCRIPT OF RECORD
vs.)
TE'QUAN PERRY,) JUNE 16, 2017
DEFENDANT.) CHARLESTON, SC

B E F O R E:

HONORABLE ROGER COUCH, JUDGE.

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

DAVID OSBORNE, ESQUIRE
Attorney for the State

JOHN APICELLA, ESQUIRE
TAMARA VAN PALA, ESQUIRE
THERESA NORRIS, ESQUIRE
Attorneys for the Defendants

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

MR. OSBORNE: Your Honor, I want to make it abundantly clear for the record this is a joint effort.

MR. OSBORNE: Thank you, Your Honor.

The State calls the case against Te'Quan Perry and Devin Middleton. We are proceeding forward with pleas. Te'Quan is pleading to voluntary manslaughter. I will reduce the murder charge. He is also pleading to conspiracy. We will be dismissing all remaining charges, even unrelated charges to this incident.

Devin Middleton is pleading to voluntary manslaughter and conspiracy. I don't believe he has any other pending charges.

MR. APICELLA: No.

THE COURT: I will ask the clerk to please place both Defendants under oath.

1 (Defendants sworn by clerk.)

2 THE COURT: Now, Mr. Perry, you are in
3 front of me today and I have received indictments
4 for murder and for criminal conspiracy. Those
5 indictments were issued by the Charleston County
6 grand jury so they are properly in front of the
7 Court.

8 My understanding from what I have heard
9 from the solicitor is your intention today is to
10 offer a plea of guilty to voluntary manslaughter
11 and criminal conspiracy. I will inform you that
12 those charges are lesser included offenses. I
13 notice that is not marked on your voluntary
14 manslaughter sentencing sheet. Counsel, is there
15 any objection to my marking this is a lesser
16 included offense?

17 MS. VAN PALA: No, Your Honor. Thank
18 you.

19 THE COURT: Now, Mr. Perry, my question
20 to you is do you understand the original charges
21 that were lodged against you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You have to answer me
24 verbally and loud enough for this lady over here to
25 hear you.

1 THE DEFENDANT: Yeah.

2 THE COURT: Thank you. And so you
3 understand the original charges. Do you understand
4 the lesser included offenses?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: The offense is voluntary
7 manslaughter. Has your attorney explained that
8 charge to you?

9 THE DEFENDANT: Yes, she did.

10 THE COURT: All right. And she I
11 suppose has explained to you that that carries a
12 possible sentence of up to 30 years. Do you
13 understand that?

14 THE DEFENDANT: I understand.

15 THE COURT: Now, I will tell you that
16 that particular charge -- just one second. Let me
17 get over here so I'm sure I tell you correctly.
18 That particular charge is classified as a violent
19 and most serious offense. As such it would qualify
20 for what is commonly known as a strike against you.
21 That means that in the future if you were to be
22 found guilty of other similarly classified crimes
23 such as violent serious or most serious offenses
24 your plea in this case could be used in those
25 future cases if they happen to increase the

1 sentences in those future cases.

2 Depending on the circumstances and what
3 crimes we're talking about it could result in a
4 sentence of life imprisonment without ever getting
5 a parole. That is, of course, if you were
6 convicted of those future crimes.

7 So do you understand that this carries
8 an enhancement feature later on if you were to be
9 involved in similar crimes in the future?

10 THE DEFENDANT: Yes, I understand.

11 THE COURT: All right. Now, the
12 criminal conspiracy charge -- well, my
13 understanding is that you have negotiated a
14 sentence with the State through your lawyers for
15 this of 30 years; is that correct?

16 THE DEFENDANT: Correct.

17 THE COURT: Sir?

18 THE DEFENDANT: Correct.

19 THE COURT: All right. And the
20 criminal conspiracy charge sentence will be
21 included in that 30 years to run currently; is that
22 also correct?

23 THE DEFENDANT: That's correct.

24 THE COURT: All right. Now, let me
25 explain to you about a negotiated sentence. What I

1 will do is I will consider the situation. I will
2 go over it. I'm not required to accept the
3 negotiated sentence. If I decide later that I will
4 not accept that I will advise you of that fact at
5 that time and at that time if you would -- if you
6 then want to withdraw your plea, I will let you
7 withdraw your plea at that time if I decided not to
8 accept it. Do you understand how I'm going to
9 handle the plea?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Is that how you would
12 expect me to do that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay. Now, you are here
15 with your lawyers. Are you satisfied with your
16 lawyers?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you need to consult with
19 them any further about either the charges or the
20 negotiation that has gone on with the State?

21 THE DEFENDANT: No, sir.

22 THE COURT: Is there anything else you
23 feel that they ought to do for you that they have
24 not yet done for you?

25 THE DEFENDANT: No, sir.

1 THE COURT: I take it you are satisfied
2 with your lawyers up to this point in time?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. Let me talk for
5 just a minute with Mr. Middleton. Mr. Middleton,
6 you are also in front of me on two charges. The
7 charges are voluntary manslaughter that you are
8 pleading to and criminal conspiracy just like Mr.
9 Perry.

10 Now, both of those charges were
11 presented to the grand jury. They did issue a --
12 but not the voluntary manslaughter, it was
13 presented as murder and the grand jury issued a
14 true bill as to both of these indictments. So they
15 have been considered by a grand jury. Do you
16 understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And my understanding is
19 that you here to offer a plea today to the lesser
20 included offense of voluntary manslaughter. Is
21 that true?

22 THE DEFENDANT: Yes.

23 THE COURT: Now, I explained to your
24 co-defendant, I will explain to you, that that is a
25 violent and a most serious offense and as such it

1 would qualify for what is commonly known as a
2 strike against you. In the future if you were to
3 be involved in other similarly classified crimes
4 and be convicted of those crimes this plea could be
5 used in sentencing on those future crimes to
6 enhance those sentences. And as I indicated,
7 depending on what the charge was and what the
8 conviction was, it could result in a sentence as
9 severe as life imprisonment without any parole. So
10 do you understand that this would qualify as a
11 strike against you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: That's been explained to
14 you I would assume.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You shook your head yes.
17 You got to speak up, got to be on the tape. Thank
18 you, sir. Now, you have negotiated a sentence of
19 20 years; is that true?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now, I will tell you that
22 just as I told your co-defendant I'll consider that
23 negotiation. I'm not required to follow it. And
24 if I chose not to follow it I will explain that to
25 you, tell you my decision and at that time I will

1 give you an opportunity to withdraw your plea. Do
2 you understand that is how I am going to handle
3 this?

4 THE DEFENDANT: Yes.

5 THE COURT: Is that how you would
6 expect me to do that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now, you are here today
9 with Mr. Apicella. Have you had a chance to fully
10 discuss both the negotiations and the charges with
11 him?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, are you satisfied with
14 what he has done so far?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Is there anything else that
17 you feel that you need to consult with your lawyer
18 about at this time?

19 THE DEFENDANT: No, sir.

20 THE COURT: Is there anything else you
21 feel he ought to do for you that he has not yet
22 done for you at this time?

23 THE DEFENDANT: No, sir.

24 THE COURT: So you are fully satisfied
25 and I assume you're ready to go forward in this

1 matter, am I correct?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: All right. Now, I'm going
4 to go back. I will ask you some questions jointly
5 for just a moment. Mr. Perry, do you suffer from
6 any conditions either mental, physical, nervous
7 problems, any conditions that would affect your
8 ability to be able to understand what we are doing
9 or to be able to make good decisions today?

10 THE DEFENDANT: No, sir.

11 THE COURT: Have you taken or used any
12 drugs, medicines or any other substance that would
13 in any way adversely affect your reasoning
14 abilities today?

15 THE DEFENDANT: No, sir.

16 THE COURT: Same for you, Mr.
17 Middleton. Do you suffer from any mental, physical
18 or nervous conditions that would adversely affect
19 your ability to be able to reason or to make good
20 decisions today?

21 THE DEFENDANT: No, sir.

22 THE COURT: Have you taken or used any
23 drugs, medicines or any other substances that would
24 in any way affect your reasoning abilities today?

25 THE DEFENDANT: No.

1 THE COURT: So do you know what you're
2 doing; is that right?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And you are able to go
5 forward; is that also true?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Now, Mr. Perry,
8 you have the right to given the negotiated sentence
9 to plea either guilty or not guilty to the crimes
10 of voluntary manslaughter and criminal conspiracy.
11 How are you pleading this morning?

12 THE DEFENDANT: Guilty, sir.

13 THE COURT: And, Mr. Middleton, you
14 have the right to plead either guilty or not guilty
15 to either voluntary manslaughter or criminal
16 conspiracy. How are you pleading this morning?

17 THE DEFENDANT: Guilty.

18 THE COURT: Now, I'm going to start
19 with counsel. Ma'am, have you had an opportunity
20 to fully discuss this matter with Mr. Perry?

21 MS. VAN PALA: Yes, Your Honor.

22 THE COURT: And are you satisfied that
23 he's been able to understand the discussions you
24 have had with him?

25 MS. VAN PALA: Yes, Your Honor.

1 THE COURT: Now, he tells me that he
2 has reached a decision. His decision is to accept
3 the negotiated sentence, offer a plea of guilty and
4 is that your understanding of his decision as well?

5 MS. VAN PALA: Yes, Your Honor.

6 THE COURT: Based on what you know
7 about his case and the discovery you have reviewed,
8 the laws that you have reviewed, are you in
9 agreement with the decision that he has made?

10 MS. VAN PALA: Yes, Your Honor.

11 THE COURT: Now, has he been able
12 throughout the process to be able to fully assist
13 you in the defense of his case?

14 MS. VAN PALA: Yes, Your Honor.

15 THE COURT: Counsel, would you answer
16 the questions the same way as your co-counsel?

17 MS. NORRIS: Yes, sir.

18 THE COURT: All right. Mr. Apicella, I
19 assume you have consulted with your client about
20 this matter as well as the charge, am I right?

21 MR. APICELLA: Yes, Judge, I have.

22 THE COURT: Do you feel certain that he
23 has understood the advice and the consultation you
24 have had with him?

25 MR. APICELLA: I am.

1 THE COURT: He tells me he has made the
2 decision to enter a guilty plea given the
3 negotiated sentences and based on what you're aware
4 of in his case, the discovery you have reviewed,
5 the statutes you have reviewed and the matters that
6 you are aware of are you in agreement with his
7 decision?

8 MR. APICELLA: I am, Judge. And he's
9 taking a plea pursuant to Alford.

10 THE COURT: Okay. I will need to talk
11 to him about that a little more in just a moment.
12 And has he been able to assist you in his defense
13 in this matter?

14 MR. APICELLA: He has, Judge,
15 admirably.

16 THE COURT: Mr. Middleton, your lawyer
17 has made me aware of the fact that you are offering
18 a plea under Alford. That's why probably you
19 hesitated just a minute ago when I asked you about
20 your plea. I'm going to make that note on the
21 sentencing sheet that it is an Alford plea.

22 MR. APICELLA: Thank you, Judge.

23 THE COURT: Thank you. Let me tell you
24 what that means to me, Mr. Middleton. Listen
25 carefully because I am going to ask you if it means

1 the same thing to you. My understanding of the
2 plea -- are you pleading guilty under Alford?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Now, sir, what that means
5 to me is that you and your lawyer have reviewed the
6 evidence that the State has in its possession and
7 after review of that evidence it is your belief
8 that if that evidence were presented to the jury
9 during the trial that it would more than likely
10 result in a conviction. And so while you do not
11 admit to those facts, you have decided that it
12 would not be in your best interest to contest the
13 case. So in effect you are pleading no contest.
14 Is that, in fact, how you view this?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Are you pleading no contest
17 in this matter?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Now, Mr. Perry,
20 has anyone done anything to you such as threaten
21 you, put pressure on you, tried to intimidate you,
22 done anything in an effort to try to force you or
23 make you give me this plea?

24 THE DEFENDANT: No, sir.

25 THE COURT: Mr. Middleton, has anyone

1 done anything like that to you to try to force you
2 to give me this plea?

3 THE DEFENDANT: No, sir.

4 THE COURT: So, Mr. Perry, are you
5 doing this of your own free will?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Mr. Middleton, is this of
8 your own free will?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Now, have you had
11 sufficient time to discuss this with your lawyer
12 and/or anyone else you want to talk it over with,
13 Mr. Perry?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Mr. Middleton, have you had
16 sufficient time to talk to your lawyer about this
17 or anyone else you want to talk to?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Now, has anyone made any
20 promises, guarantees or assurances to you other
21 than the negotiated sentence in this case about any
22 matter such as pardon, parole, probation, early
23 release, length of sentences, again other than the
24 negotiated sentences? Anyone made a promise or a
25 guarantee to you about any results of such matters?

1 First of all, Mr. Perry, has there been any
2 promises or guarantee?

3 THE DEFENDANT: No, sir.

4 THE COURT: Mr. Middleton, have you
5 gotten any promise or guarantee about such matters?

6 THE DEFENDANT: No, sir.

7 THE COURT: Now, I will advise both of
8 you if I later decide to accept these pleas at the
9 time I accept the pleas you will be giving up your
10 constitutional rights as they relate to these
11 charges. One of my responsibilities in taking the
12 plea is to be sure that you understand these
13 Constitutional rights before I accept the pleas.
14 So at this time I'm going to go over your rights
15 with you. When I finish if you want to ask
16 questions of me you have the right to do so. But
17 you also would have the right to consult with your
18 lawyer about these rights if you think that's
19 necessary. So, Mr. Perry, do you understand what I
20 am doing now?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Mr. Middleton, do you
23 understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. First of all,

1 you have a Constitutional right to have the charges
2 against you presented to a grand jury. I have gone
3 over that already. They were presented to the
4 grand jury, true bills were issued. You are
5 pleading to a lesser included offense to those
6 charges. You have a Constitutional right to a
7 lawyer. You have indicated you're satisfied with
8 your legal advice. Your lawyer remains available
9 to you if you need to consult with your lawyer.

10 As you're aware, since we have begun a
11 jury trial in your case you are entitled to a trial
12 by jury. In that trial you would be presumed to be
13 innocent. That presumption would continue until
14 such time as the State proved your guilt to the
15 jury to the level of proof beyond a reasonable
16 doubt. You would not have any requirement to prove
17 anything at that trial because you're presumed to
18 be innocent at the trial. The State's obligation
19 of proof is to prove every element of the crime to
20 the jury by proof beyond a reasonable doubt.

21 Now, Mr. Perry, has your lawyer gone
22 over with you what we call the elements of the
23 crimes? In other words, the things the State would
24 have to prove for you to be found guilty? Are you
25 aware of those elements?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. And, Mr.
3 Middleton, are you also aware of the things the
4 State would have to prove in order for you to be
5 found guilty of these charges?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: All right. Now, do you
8 waive your right to a trial by jury, Mr. Perry?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And, Mr. Middleton, do you
11 understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, at the trial you have
14 additional Constitutional rights. You have the
15 right to have the clerk issue a subpoena to any
16 witness you feel would be important to your case
17 that needs to be present. That would require them
18 to be present. You would have the right to
19 question or confront anyone who testifies against
20 you. You would have the right at the trial to
21 present any defense that you chose to present and
22 you can be given the opportunity to try to suppress
23 any and all evidence the State might have against
24 you, that includes statements you might have
25 previously made.

1 Now, at all times and in every
2 circumstance you have an absolute right to remain
3 silent. And if you chose to remain silent at the
4 trial the judge handling that trial is required to
5 instruct the jury that your silence cannot be used
6 against you in any manner whatsoever.

7 Now, Mr. Perry, do you understand the
8 rights I just went over with you?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Mr. Middleton, do you
11 understand those rights?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Now, I will again point out
14 to you that if I accept these pleas you give up
15 those rights as they relate to these two charges
16 before me. Do you understand that, Mr. Perry?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Mr. Middleton?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Mr. Perry, does the fact
21 that you are giving up those rights, does that
22 cause you to want to change your plea at this time?

23 THE DEFENDANT: I don't understand.

24 THE COURT: Does the fact that you are
25 going to be giving up your Constitutional rights,

1 does that cause you to want to either withdraw or
2 change your plea?

3 THE DEFENDANT: No, sir.

4 THE COURT: Mr. Middleton, does that
5 fact cause you to want to change or amend your plea
6 or withdraw it?

7 THE DEFENDANT: No, sir.

8 THE COURT: All right. Now, Mr. Perry,
9 have you been truthful with me in answering my
10 questions?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Is there anything that you
13 have told me today that you would like to go back
14 and change or amend in any fashion?

15 THE DEFENDANT: No, sir.

16 THE COURT: So you are still pleading
17 guilty at this time?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Mr. Middleton, have you
20 been truthful with me in our discussion?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Is there any part of what
23 you told me that you would like to go back and
24 change or amend any statements you have made in
25 this plea?

1 THE DEFENDANT: No, sir.

2 THE COURT: So you are still pleading
3 no contest -- guilty, but no contest; is that true?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Okay. Now, Mr. Perry, I'm
6 going to accept your plea. I find that it's been
7 freely and voluntarily given, you're aware of the
8 charges, the penalties, you have had the advice of
9 counsel, you are satisfied with the legal advice
10 you have received, and there is a factual basis for
11 the plea.

12 Mr. Middleton, I also am accepting your
13 plea. I find that it's been freely and voluntarily
14 given, you're aware of the charges, you have had
15 the advice of counsel, you are satisfied with that
16 advice and there also is a factual basis for you to
17 offer that plea.

18 I will now consider acceptance of the
19 negotiated sentence. I will hear from your
20 lawyers. I will give you a chance to speak if you
21 would like to speak. I will be hearing from the
22 State, though, before I decide how to do that.

23 Yes, ma'am. Ms. Van Pala.

24 MS. VAN PALA: Thank you, Your Honor.

25 May it please the Court, Te'Quan has been in our

1 county detention center for according to my
2 calculations 813 days.

3 THE COURT: Does the State have any
4 objection to my giving credit for 813 days?

5 MR. OSBORNE: No, Your Honor.

6 THE COURT: I intend to give that
7 credit.

8 MS. VAN PALA: Thank you, Your Honor.
9 If you are inclined to accept the negotiation then
10 I don't have anything to say.

11 THE COURT: All right. Mr. Perry, is
12 there anything that you would like to say to the
13 Court?

14 THE DEFENDANT: No, sir.

15 THE COURT: Mr. Apicella, I will hear
16 from you on behalf of Mr. Middleton.

17 MR. APICELLA: Yes, Your Honor. May it
18 please the Court, my client is 24 years old. He
19 has been in detention since the day he was arrested
20 on August 1st, 2015. My calculation is 675 days.

21 THE COURT: Any objection to a credit
22 of that?

23 MR. OSBORNE: No, Your Honor.

24 THE COURT: You may proceed.

25 MR. APICELLA: Your Honor, this is a

1 negotiated plea. We thank the State for its offer
2 knowing that he faced more time if he was
3 convicted. He has accepted the offer. We
4 negotiated a plea. 'I won't say anything further.

5 THE COURT: Anything the State would
6 like to make me aware of?

7 MR. OSBORNE: No, Your Honor. Only
8 that we had tried to notify the mother. We have
9 spoke about these numbers with her before. She was
10 in agreement with resolution. She has a job so I
11 told her this morning it might not be crucial
12 testimony, if she had to get to work that's fine,
13 to come back later. She's trying to get here now.

14 I told her, I said we are going to go
15 ahead with the plea. If she does make it here I
16 don't know if she wanted to address the Court or
17 not. In regards to a factual summation --

18 THE COURT: She is aware of this to
19 your knowledge and has she no difficulties.

20 MR. OSBORNE: She does not. In fact,
21 she was glad that this was going to be put behind
22 her. I don't know if I need to give any factual
23 summation.

24 THE COURT: I think I have heard a good
25 bit of facts unless there is something I haven't

1 heard.

2 MR. OSBORNE: Well, we had not even
3 begun our case was our position, Your Honor.

4 THE COURT: I understand.

5 MR. OSBORNE: But I think there is more
6 than enough on the record already, Your Honor.

7 THE COURT: Okay. Just one second
8 while I look at one thing. You can be seated. I
9 will get back to you just as soon as I am ready.

10 (Brief pause.)

11 THE COURT: Mr. Perry, if you would
12 stand, please. First of all, counsel, I'm sure you
13 advised your client, I want to be sure you are
14 aware of this, in my accepting the plea, that
15 voluntary manslaughter, I explained it was a
16 violent and most serious. It also is what is
17 referred to as a no parolable offense, but it
18 carries a very limited possibility of parole. In
19 other words, he would have to serve the vast
20 majority of his sentence before he would be parole
21 eligible. Did you explain that to him?

22 MS. VAN PALA: Yes.

23 THE COURT: Mr. Perry, did she go over
24 that with you?

25 THE DEFENDANT: Yes.

1 THE COURT: So you were aware of that
2 in offering the plea?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right. Now, also
5 according to my information that if I make a
6 finding that the crime did not involve criminal
7 sexual conduct or any additional violent crimes
8 then he would be eligible for some type of work
9 release within three years of the end of the
10 sentence. That's true today, it may not be true
11 when he gets to that point. But I have made a
12 finding that the crime did not involve sexual
13 misconduct. Maybe that will be of some assistance
14 in the future.

15 Mr. Perry, the sentence of the Court --
16 I have accepted the negotiated sentence that you
17 have reached with the State -- is that you be
18 confined to the State Department of Corrections for
19 voluntary manslaughter for the term of 30 years
20 with 813 days of credit. On the criminal
21 conspiracy five years with 813 days of credit.
22 Those sentences are to run concurrently. Thank
23 you, sir. Good luck to you. You can be seated.

24 Mr. Middleton, if you will stand,
25 please. Mr. Middleton, I want to be sure that your

1 lawyer did make you aware that this is a sentence
2 for which you would have to serve the majority --
3 vast majority of the sentence, right now it means
4 85 percent. Parole changes from time to time. I
5 can't say what that might be later on. Did you go
6 over that with him, Mr. Apicella?

7 MR. APICELLA: I did, Your Honor.

8 THE COURT: Mr. Middleton, you were
9 aware of that when you gave me that plea; is that
10 right?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. I will also make the
13 same finding on this case that this case did not
14 involve sexual misconduct of any kind. The
15 sentence -- I have accepted the negotiation -- is
16 that you be confined to the State Department of
17 Corrections for a period of 20 years. I gave
18 credit for the 675 days that you claimed credit
19 for. On conspiracy five years, run concurrent.
20 Good luck to you, Mr. Middleton.

21 That concludes the cases. Thank you
22 very much. As soon as the Defendants have left the
23 courtroom I want to bring the jury in.

24 (Thereupon, the Defendants exited the
25 courtroom.)

1 (Whereupon the jury entered the
2 courtroom at 10:10 a.m.)

3 THE COURT: The record will reflect
4 that the jury has returned to the courtroom and
5 once again, I will apologize to you for having you
6 come and sit and wait for a period of time, but I
7 am pleased to be able to tell you that this case
8 has now been resolved by my accepting guilty pleas
9 from the two Defendants to lesser included charges,
10 but to substantial charges. And I have already
11 issued the sentence in this matter.

12 So, therefore, your responsibilities as
13 jurors will end. We no longer are going to require
14 you to hear the case. So while I had you hurry up
15 and wait a lot this week, probably had the case
16 been tried it would have gone next week and maybe
17 even a little further. I don't know.

18 So it saved us a great deal of time in
19 the long run. Your presence is appreciated. Your
20 being here puts us in a position to get resolutions
21 such as we got in this case so I want to thank you
22 very much for your appearance and your assistance
23 in what we are doing. Obviously this is Friday so
24 you were summoned for a one-week term of court and
25 so we are going to release you at this time from

1 any further responsibilities. There aren't any
2 other cases we will start today. We wouldn't get
3 them finished by Saturday so we will be releasing
4 you at this time.

5 Throughout the case I told you several
6 times not to talk about it. You have the right to
7 talk about it, but you also as a citizen have the
8 right not to do so. You see, a citizen owes no one
9 an explanation for whatever they did on a jury. So
10 you are not required to discuss this unless you
11 choose to discuss it. And should anyone try to
12 harass you or bother you, I don't think that will
13 happen, but if something like that were to happen
14 concerning your service on this jury, please advise
15 the clerk's office. We will take the appropriate
16 action should that happen.

17 Now, the bailiffs will check you out.
18 If you need any excuse for your job they will
19 assist you in getting you a statement as to what we
20 required you to do this week. And next week or
21 thereabouts you are going to get a voucher in the
22 mail from the clerk's office for your jury pay.
23 Don't plan to retire on that. It's not going to be
24 as much as you had hoped, but it's certainly all
25 the law allows us to pay you and certainly not

1 enough money for the time you spent. So I thank
2 you for your service. We appreciate your having
3 been here and at this time you are free to go.

4 You can step out and the bailiffs will
5 take care of you.

6 (These proceedings were concluded at
7 10:13 a.m., June 16, 2017, Charleston County, South
8 Carolina.)

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1 CERTIFICATE OF REPORTER

2
3 I, Ruth C. Weese, Registered Diplome
4 Reporter for the State of South Carolina at Large,
5 do hereby certify that the foregoing transcript is
6 a true, accurate, and complete record.

7 I further certify that I am neither related
8 to nor counsel for any party to the cause pending
9 or interested in the events thereof.

10 Witness my hand, I have hereunto affixed my
11 official seal this 27th day of February, 2018 at
12 Charleston, Charleston County, South Carolina.

13
14 *Ruth C Weese*

15
16 _____
17 Ruth C. Weese

18 Registered Diplome

19 Reporter
20
21
22
23
24
25

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF

TeQuan Perry

Full name and prison number (if any) of Applicant.

v.

State of South Carolina

2018-CP-10-602
IN THE COURT OF COMMON PLEASAPPLICATION FOR
POST-CONVICTION RELIEF2018 FEB -7 AM 10:31
JULY 11 2018
CLERK OF COURT**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 Lieber Carr. Inst
2. Name and location of Court which imposed sentence Chas. County
3. Name(s) of co-defendant(s) (if any) Devontay C Bryant, Devin Middleton
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2016 A1010204173
 - (b) 2015 A1020100134
 - (c)
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) June 16, 2017
 - (b) 30 years 85%

...cu 12.01

Clerk added: 2017-05-10-1410, 2015A1020100135

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty X

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

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

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

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) _____ Counsel did not file for appeal after being
(b) _____ asked by Me.

(c) _____ Ineffective Counsel for failing to file appeal of sentence

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: Counsel ~~was~~ forced me into taking a plea with out any evidence of guilty, Counsel didn't have a defense for trial reason for counsel wanted me to plea.

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

1 1. State concisely and in the same order the facts which support each of the grounds set out

in (10):

- (a) _____ Once Sentence and sent to Kirkland My Counsel
 did a phone visit statin I would need to file
 (b) _____ for per being that she didn't do what was needed/shouldve
 been done as being my counsel
 (c) _____

1 2. 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

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

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

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
NO

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

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

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

(a) _____ No Counsel since day of sentence

(b) _____

(c) _____

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

- (a) your arraignment and plea? yes
 (b) your trial, if any? yes
 (c) your sentencing? _____
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

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. Tamara Van Pala Chas : county Public D office
 ii. _____ 101 Meeting St
 iii. _____ Chas. SC 29401
 (b) the proceedings at which each such attorney represented you:
 i. Trial
 ii. Plea
 iii. _____

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

Retrial / Overturn
 20. Are you now under sentence from any other court that you have not challenged?
NO

STATE OF SOUTH CAROLINA

County of

VERIFICATION

I, Te'Quan Perry, 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.

Te'Quan Perry 2-2-18

S WORN to and subscribed before me this 2nd
day of FEBRUARY, 2018.

Quita K. B. (L.S.)
Notary Public

My Commission Expires: 6-20-26

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

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

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

Te'Quan Perry 2-2-18
Applicant

SWORN or affirmed to and subscribed before me this
2nd day of February, 2018.

[Signature]
Notary Public

My Commission Expires: 6-20-26

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Te'Quan Perry, #361380,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

2018-CP-10-0602

RETURN

Respondent, making its Return to the application for post-conviction relief ("PCR") filed on February 7, 2018 by Te'Quan Perry ("Applicant"), would respectfully show this Court:

I.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. Applicant was indicted at the April 2017 term of the Charleston County Grand Jury for murder (2016-GS-10-1058), and criminal conspiracy (2018-GS-10-1410). On June 16, 2017, Applicant pleaded guilty before the Honorable Roger L. Couch to the lesser included offense of voluntary manslaughter and criminal conspiracy. Judge Couch sentenced Applicant to imprisonment for a period of thirty years for voluntary manslaughter and five years for criminal conspiracy. He was represented by Tamara Van Pala, Esquire. David Osborne, Esquire, prosecuted the case. The sentences were to run concurrent. Applicant did not appeal his convictions or sentences.

II.

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

1. Ineffective assistance of counsel.

a. "Counsel did not file an appeal after being asked by me."

2. Involuntary guilty plea.

a. "Counsel forced me into taking a plea without any evidence of guilt. Counsel did didn't have a defense for trial reason for counsel [sic] wanting me to plea."

Attached and incorporated herein are the records of the Charleston County Clerk of Court regarding the subject convictions, applicant's records from the South Carolina Department of Corrections, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant information.

III.

Respondent submits Applicant's allegations of ineffective assistance of trial counsel are without merit. In a post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove counsel's performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at

442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel's deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 (1985).

Respondent submits Applicant cannot satisfy either requirement of the Strickland test. Respondent notes Applicant advised the plea court he was fully satisfied with counsel's performance. 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).

IV.

Applicant further alleges that his plea was not voluntarily made. Respondent submits that this allegation is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A

defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

Additionally, Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRPC. 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. See Rule 11, SCRPC. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRPC.

VI.

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

VII.

WHEREFORE, the State requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

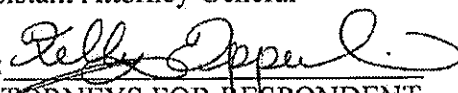
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

RASHEEDA CLEVELAND
Assistant Attorney General

By:  for RC
ATTORNEYS FOR RESPONDENT

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

April 18, 2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
	)	2018-CP-10-602
TE'QUAN PERRY, #361380	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent,	)	
_____	)	

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

Christopher L. Murphy, Esquire
Murphy Law Offices, LLC
234 Seven Farms Drive, Suite 128
Charleston, SC 29492

DATED this the 18th day of April, 2018.


Jennifer Jennison, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHARLESTON) COURT OF COMMON PLEAS NONJURY

3
4 TE'QUAN J. PERRY,) TRANSCRIPT
5 APPLICANT,) OF
6 VS.) RECORD
7 THE STATE OF SOUTH CAROLINA,) 2018-CP-10-602
8 RESPONDENT.)

9
10 December 9th, 2021
11 Charleston, South Carolina

12 B E F O R E:

13 THE HONORABLE JENNIFER B. MCCOY, Judge.

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

15 TOMMY A. THOMAS
16 ESQ.
17 Attorney for the Applicant

18 SAMANTHA J. WEIDAUER
19 ASSISTANT ATTORNEY GENERAL
20 Attorney for the State

21
22 Transcribed by Pamela E. Green, from
23 DCRP, Digital Courtroom Recorder Project
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I N D E X

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Certificate 45

P R O C E E D I N G S

THE COURT: All right. We are here bringing in the
Petitioner right now. This is Te'Quan Perry.

Is that your name?

MR. PERRY: Yes, ma'am.

THE COURT: All right. Mr. Perry, we are here for the
purpose of your PCR. We have you at counsel table with your
attorney, Mr. Thomas, and we also have some representatives
from the Attorney General's Office joining us in the
courtroom, and, by WebEx here, I have a witness, Ms. Tamara
Skrobacki, and shortly here momentarily what I'll do is just
turn this laptop around from the bench. That way, when the
attorneys want to ask you questions, they can actually be
looking at you on the screen, and we'll, we'll go ahead and
get started.

Happy to hear from the State by way of a brief
background and I do believe -- is this the case file?

I have the case file. So, go ahead.

MS. WEIDAUER: May it please the Court?

THE COURT: Uh-huh. (Affirmative).

MS. WEIDAUER: This is --

THE COURT: Yes.

MS. WEIDAUER: -- the Post-Conviction Relief matter of
Te'Quan Perry versus The State.

1 In his underlying General Sessions case, Mr. Blake, or
2 excuse me, Mr. Perry was indicted for murder and criminal
3 conspiracy. On June 12th through the 15th of 2017
4 Applicant proceeded to a jury trial before the Honorable
5 Judge Roger Couch. Applicant was represented by Tamara Van
6 Pala who is present in the courtroom today via WebEx.

7 During Applicant's trial on June 16th of 2017
8 Applicant pled guilty to the lesser included charge of
9 voluntary manslaughter and criminal conspiracy. A
10 negotiated sentence of 30 years for voluntary manslaughter
11 and five years for criminal conspiracy. These sentences
12 were run concurrently. Applicant did not appeal his -- from
13 his conviction or sentence since Applicant filed this
14 Application for Post-Conviction Relief on February 7th of
15 2018 and this hearing follows.

16 At this time we would ask Applicant's counsel to place
17 the allegations he intends to proceed with on the record.

18 MR. THOMAS: Your Honor, if it please the Court.

19 Basically this is a case of involuntary guilty plea.
20 Mr. Perry did stop the trial at a point and did end up
21 entering a plea, and, as such, we would call Ms. Van Pala
22 first.

23 THE COURT: Okay. I'll allow you to come up a little
24 closer to the microphone and --.

25 MR. THOMAS: Yes, ma'am.

1 THE COURT: And I'll just set it right here.

2 MS. VAN PALA: Your Honor, I can't hear the attorneys.

3 THE COURT: Yeah, you -- we're gonna get him close up
4 now so that you can, so that you can and we'll make sure I
5 get this microphone.

6 All right. Can you make -- let's do a sound check real
7 quick.

8 MS. VAN PALA: Okay.

9 MR. THOMAS: Good morning.

10 MS. VAN PALA: Good morning.

11 MR. THOMAS: Can you hear me?

12 MS. VAN PALA: Yes, I can.

13 MR. THOMAS: Okay.

14 MS. VAN PALA: Thank you.

15 THE COURT: All right. Good.

16 DIRECT EXAMINATION

17 BY MR. THOMAS:

18 Q Ms. Van Pala, you've had an opportunity to represent
19 Te'Quan Perry?

20 A Yes.

21 Q And, if you don't mind, I know that I'm -- I've got the
22 file from the Public Defender's Office, which is huge.

23 Can you just basically summarize this case?

24 I mean how -- what happened?

25 A Sure. Te'Quan and two codefendants were indicted and

Tamara Van Pala Skrobicki - Direct examination
By Mr. Thomas

1 tried for murder and conspiracy and the general allegation
2 of the State was that Te'Quan was the gunman and the other
3 two men were involved in the case under the hand of one
4 theory and they conspired to murder Brandon Washington, who
5 was a friend of theirs. That's just very basically briefly
6 the basis of the State's allegation in this.

7 Q Okay. And could you kind of basically summarize --
8 what evidence did they have against Mr. Perry?

9 A Sure. This case was mostly about eye witness
10 identification. So the issue was whether Te'Quan could be
11 identified as the gunman based on what eye witnesses in the
12 neighborhood saw and also what was on the surveillance
13 cameras. That was the, the biggest part of the State's case
14 against Te'Quan. There was also some physical evidence of
15 pepper spray but that was more in locating his codefendant,
16 and another big part of the State's case against Te'Quan
17 were jail phonecalls and Facebook records.

18 Q Okay. And actually the codefendant with the pepper
19 spray, when you ended up going to trial, it was originally
20 gonna be three codefendants?

21 A That's right.

22 Q And he was actually -- his case was continued?

23 A Yes.

24 Q And why was that?

25 A I believe his attorney filed a continuance -- my

Tamara Van Pala Skrobacki - Direct examination
By Mr. Thomas

1 recollection is that it was because the witness -- one of
2 the eye witnesses was not available.

3 Q Uh-huh. (Affirmative).

4 A I believe it was Louie Johnson who was not available
5 and the Court ruled in court the defendant, you know, that's
6 the (indiscernible).

7 Q Okay. And I know it's been a long time but did Louie
8 Johnson have any play in Te'Quan's case?

9 A Yes, he was going to be one of the eye witnesses who
10 was apparently in the area and heard the codef -- the
11 codefendants talking about the murder.

12 Q Right.

13 And so in -- so his absence actually benefit --
14 benefited Mr. Perry?

15 A Yes.

16 Q Okay. And there was, in my review of the file, there
17 was a video of the alleyway. This gentleman, the victim in
18 this case, was killed in the alleyway.

19 And was that the most damaging evidence or what, what
20 was the weight of that evidence?

21 A Yeah, there was video of the surrounding area and the
22 most important part to our defense was that, when the camera
23 pans, you can't see what happened in that alley. So that
24 was our defense was that you couldn't say -- the State could
25 not prove definitively, based on the video, that Te'Quan was

Tamara Van Pala Skrobicki - Direct examination
By Mr. Thomas

1 the gunman. And also, based on the camera evidence, you
2 couldn't tell -- identify by, by facial features or
3 (indiscernible) features that it was Te'Quan. So that was
4 also part of our defense.

5 But the biggest part of this case argument -- their
6 case was that, based on the clothing that the gunman was
7 wearing, the alleged suspect was wearing, that was how they
8 identified the alleged suspect to be Te'Quan.

9 Q Okay. And was that by the raincoat?

10 was there some sort of mention of a raincoat or---

11 A Yes.

12 Q Okay. All right. And was there some discrepancy in
13 the, the description of this -- the -- of whoever it was
14 coming out of the alleyway?

15 A Yes, the -- there was -- there -- a couple different
16 ways to describe the raincoat, tan, camo, green. But the
17 biggest one that we were looking at, as far as Te'Quan's
18 defense, was the pants, what color pants was the---

19 Q Right.

20 A ---suspect wearing.

21 were -- was the suspect wearing khaki pants or track
22 pants, like Adidas or Nike track pants with a stripe down
23 the side.

24 Q Was the State able to physically, I guess, identify or,
25 or connect those pants in the video with those of Te'Quan?

Tamara Van Pala Skrobacki - Direct examination
By Mr. Thomas

1 A I don't think so, no.

2 Q Okay. All right. How about the gentleman who was
3 the -- allegedly stopped on the highway?

4 A Yeah.

5 Q What was -- was his, was his testimony credible or how
6 did you assess -- how did you assess that?

7 A He was assessed to be a credible witness except for
8 what we would have cross-examined him on. The problems with
9 that witness' test -- testimony is the vantage point where
10 he was. He stopped at a red light across town and our
11 argument was going to be that you couldn't see, that
12 there -- it was not feasible for him to see the assailant,
13 and, therefore, is it how (indiscernible) of what he
14 witnessed wasn't credible.

15 Q Okay. So, there really -- there were a number of
16 witnesses but there was really no eye witness.

17 That's---

18 A Yes.

19 Q That's correct.

20 Okay. And so this was a case that had a defense?

21 A Yes.

22 Q Okay. And I looked at -- you did an excellent job
23 actually. I looked at your pretrial motions and you argued
24 a number of motions. To me, it seemed like the most
25 important were, one, the motion to, to sever and---

Tamara Van Pala Skrobicki - Direct examination
By Mr. Thomas

1 A Yes.

2 Q ---were you, as far as trial strategy, it was -- you
3 felt like it was more in Te'Quan's or Te'Quan's interest to
4 sever these trials?

5 A Yes. Because the -- it was the interaction of the
6 codefendant's Facebook records and jail phonecalls and the
7 law that I argued that was the, the biggest part of---

8 Q Right.

9 A --- (indiscernible) on the severance motion.

10 Q So, the codefendant was the one who was associated with
11 the Facebook and the, and the jail calls?

12 The one---

13 A I believe there was---

14 Q ---entered in the trial?

15 Ma'am?

16 A Yeah, the codefendant went to trial, Devin, and Te'Quan
17 were there.

18 Q Okay. All right. And the, the Facebook situation was
19 what?

20 A So the Facebook records were voluminous and they were
21 messages and posts and photos, and the big issue were
22 Te'Quan's case that we argued is that it seemed to be
23 unprejudiced -- prejudicial to introduce those against
24 Te'Quan to prove that he committed this murder and conspired
25 to commit this murder. And we also argued that it was

Tamara Van Pala Skrobacki - Direct examination
By Mr. Thomas

1 highly prejudicial again related to evidence, and that the,
2 the State was going to try to argue that Te'Quan and the
3 codefendants were members of a gang, which would be
4 inflammatory.

5 Q Right.

6 And then I guess the last or one of the last important
7 motions was the, the motion to exclude the, the phone record
8 from the jail?

9 A Yes.

10 Q Okay. And were you successful on any of these motions?

11 A No.

12 Q All right. And then you did file a motion to exclude
13 the defendant's statement.

14 Was there a statement made that you were -- where
15 you -- and, and, if so, were you concerned about it?

16 A I can't recall but I don't think so.

17 Q Okay.

18 A I don't think that the major --

19 Q All right.

20 A -- a major thing.

21 Q How about the video?

22 You did file a motion to exclude the video?

23 A Yeah, the video was -- the video was one of the big
24 items of evidence that we spent a lot of time on and where
25 the defense was focused on and our argument was that the

Tamara Van Pala Skrobacki - Direct examination
By Mr. Thomas

1 video was not reliable because we couldn't tell the time,
2 based on the timestamps, when the assailant in the raincoat
3 was first seen in the area, and there, there was some video
4 that was from McDonald's in that area from across town that
5 showed the assailant on the video.

6 So, it was not reliable to put the assailant in the
7 raincoat there at the time of the shooting --

8 Q Okay.

9 A -- and the State would pin, pin him down based on the
10 times.

11 Q Did you actually follow -- did you actually give notice
12 of alibi?

13 A No, we didn't. I think that was because we determined
14 that the video did not (indiscernible) Te'Quan.

15 Q Okay. And that was the video from McDonald's?

16 A Yes.

17 Q Okay. In this case, were there plea offers?

18 were there any offers -- plea offers pretrial?

19 A I believe that Te'Quan had a plea offer that preceded
20 me as his attorney. He had an attorney -- he had another
21 attorney from the Public Defender's Office before me, and I
22 believe he might of gotten the offer through his prior
23 attorney who was representing him. I can't recall. But I
24 don't remember any other plea offers until the last day of
25 trial.

Tamara Van Pala Skrobacki - Direct examination
By Mr. Thomas

1 Q Okay. And so Te'Quan had indicated to me that there
2 was a plea offer of five to 18 but that's not something that
3 you would have knowledge about?

4 A I can't remember.

5 Q Okay. All right. And so the other plea offer was
6 arranged at trial?

7 A Yes.

8 Q And what was that plea offer?

9 A A negotiated 30 to voluntary manslaughter.

10 MR. THOMAS: Your Honor, if I can beg the Court's
11 indulgence just for a second?

12 THE COURT: Uh-huh. (Affirmative).

13 (Pause.)

14 Q How often were you able to meet with Mr. Perry?

15 A Very frequently. I represented Te'Quan and we were
16 getting ready for trial. I think it was a year, maybe two,
17 close to two.

18 Q Uh-huh. (Affirmative).

19 A And so we had a lot of correspondents. We had video
20 calls but mostly I came to the jail and visited him and went
21 over records, discovery.

22 Q Okay.

23 A So we had those big meetings.

24 Q All right. Did you -- do you remember what his
25 educational kind of standard is or how far he got in school?

Tamara Van Pala Skrobacki - Direct examination
By Mr. Thomas

1 A I don't, I don't recall. I want to say high school.

2 Q Uh-huh. (Affirmative).

3 Were there ever any, any circumstances which gave you
4 concern that his educational level may of caused some
5 difficulty in understanding what was going on?

6 A No.

7 Q Okay. So he, he appeared to you to, to understand?

8 A Yes, I, I thought Te'Quan was, was very smart.

9 Q Okay. All right.

10 Your Honor, I don't believe we have any further
11 questions.

12 THE COURT: All right. Any from the State?

13 MS. WEIDAUER: Yes, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. WEIDAUER:

16 Q Good morning.

17 would you prefer me to call you Ms. Skrobacki or Ms.
18 Van Pala?

19 I think it's Van Pala.

20 A Skrobacki's fine.

21 Q Okay.

22 A Van Pala's my maiden name.

23 Q Okay. Okay. So, we went a lot into the motions and I
24 would actually like to skip to when those discussions
25 started about pleading guilty.

Tamara Van Pala Skrobacki - Cross-examination
By Ms. Weidauer

1 So, you went to trial for how many days?

2 Do you remember?

3 A A week.

4 Q A week.

5 Okay. And do you remember the turning point where you
6 started discussing wanting to take the plea or when
7 Mr. Perry started discussing wanting to take the plea?

8 A I -- yeah. But the judge had indicated to the
9 attorneys that he wanted us to try to work it out and we
10 pretty much talk about it, and I think that was one of the
11 reasons why the State ultimately did extend the offer to
12 Te'Quan. And then an important turning point for the
13 defense was that the State informed us that they were gonna
14 call two witnesses the next day who were gonna testify that
15 the murder weapon was found in Te'Quan's house and that
16 Te'Quan had instructed his family to hide it.

17 So, that was the big turning point for, for us and then
18 my -- me advising Te'Quan to take the plea, to take the plea
19 offer.

20 Q Okay. At that time you would have discussed all of
21 Te'Quan's options and let him know that he did have the
22 option to proceed with trial all the way through and to see
23 it through or he had the option to plead, correct?

24 A That's right.

25 Q And you would of told him that that was his ultimate

Tamara Van Pala Skrobacki - Cross-examination
By Ms. Weidauer

1 decision, correct?

2 A Yes.

3 Q At anytime did he indicate that he was unsatisfied with
4 your representation or indicate that there was more that he
5 wished you would of done for him?

6 A Not that I can recall.

7 Q Okay.

8 A And the judge did ask him that (indiscernible).

9 Q Right.

10 Beg the Court's indulgence for one moment.

11 (Pause.)

12 Q So you felt fully prepared to proceed with trial, to go
13 to trial?

14 A Yes.

15 Q Okay. So there was no pressure from you to Mr. Perry
16 about pleading guilty?

17 You were already in the midst of trial. You were
18 already deep in the midst of trial.

19 So, either way would have been fine with you?

20 A Yes.

21 Q Did you have any conversations or give Mr. Perry any
22 suggestions on what you think was, you know, better for him
23 to do, whether it was to plead guilty or go to trial?

24 Did you have that conversation?

25 A Yeah, I would of -- I, I, I recall the conversation

Tamara Van Pala Skrobacki - Cross-examination
By Ms. Weidauer

1 that I had with Te'Quan that morning that he pled guilty
2 stressing to him that this was gonna be the best case
3 scenario for him, that how the trial was developing,
4 especially with this new motion about the gun, that the plea
5 offer that he got was the best that he's gonna get. I
6 stressed to him how I, I felt that -- and, and I was
7 advising him that he should take the plea offer -- the, the
8 plea.

9 Q And you stand that -- by that decision today?

10 A Yes.

11 Q Okay. Before pleading guilty, you would of under --
12 you would of told him what rights he was waiving, correct?

13 A Yes.

14 Q And at -- the Court did that on the record as well,
15 correct?

16 A Correct.

17 Q Okay. And this was a negotiated sentence you said?

18 A Yes.

19 MS. WEIDAUER: Okay. No further questions, Your Honor.
20 Thank you.

21 THE COURT: Okay. Any redirect?

22 MR. THOMAS: Yes, ma'am, if I could.

23 REDIRECT EXAMINATION

24 BY MR. THOMAS:

25 Q Counsel, you indicated that there were two witnesses

Tamara Van Pala Skrobacki - Redirect examination
By Mr. Thomas

1 who were going to come the next day to testify about the
2 gun?

3 A Yes.

4 Q And did they actually find the gun?

5 Do you remember?

6 A No. Not to my knowledge, no.

7 Q They did not find the gun?

8 A No, this case was not about a murder weapon.

9 Q Okay. Okay. But they were going to -- so what were
10 they gonna testify to?

11 A My recollection was that it was Te'Quan's mom and
12 girlfriend were going to testify that, when Te'Quan was
13 arrested, he called them and told them that there was a gun
14 hidden under the toilet bowl lid in their house and to hide
15 it.

16 Q Okay. But, but there was never a gun retrieved?

17 A That's correct.

18 MR. THOMAS: Okay. Thank you, Your Honor.

19 THE COURT: Okay. Any other witnesses or any questions
20 for this witness?

21 MS. WEIDAUER: No, Your Honor.

22 THE COURT: Any objection to her being released for the
23 remaining proceeding?

24 MR. THOMAS: No, Your Honor.

25 THE COURT: All right.

1 All right. Ms. -- there you go.

2 All right. Ms. Skrobacki, I appreciate your attendance
3 today and you are free to leave. We'll actually just shut
4 off the WebEx at this moment. So thank you.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: You may call your next witness.

7 MR. THOMAS: Your Honor, please the Court.

8 We'd call Mr. Te'Quan Perry.

9 THE COURT: All right.

10 MR. THOMAS: Okay.

11 THE COURT: He can just remain where he is. Stay right
12 where you are. Just make sure we can -- maybe talk toward
13 the microphone when you speak.

14 Okay. And we're gonna swear you in. There you go.

15 TE'QUAN PERRY, being first duly
16 sworn, testified as follows:

17 THE CLERK: Thank you.

18 Can you please state your name for the record?

19 THE WITNESS: Te'Quan Perry.

20 MR. THOMAS: If it please the Court?

21 THE COURT: Yes.

22 DIRECT EXAMINATION

23 BY MR. THOMAS:

24 Q Mr. Perry, you are in -- incarcerated in the South
25 Carolina Department of Corrections?

Te'Quan Perry - Direct examination
By Mr. Thomas

- 1 A Yes, sir.
- 2 Q And what are you serving time for?
- 3 A Involuntary manslaughter and criminal conspiracy.
- 4 Q Okay. What's your total sentence?
- 5 A Thirty years.
- 6 Q All right, sir. And you went to trial?
- 7 A Yes, sir.
- 8 Q Okay. And that was in June of 2017?
- 9 A Yes, sir.
- 10 Q All right. And you were represented by who?
- 11 A Ms. Tamara Van Pala, Van Pala.
- 12 Q All right. And she was in the Public Defender's
- 13 office?
- 14 A Yes, sir.
- 15 Q Okay. You have filed a Post-Conviction Relief Action?
- 16 A Yes, sir.
- 17 Q And you're here today for that action.
- 18 You and I have talked about it.
- 19 You understand there's certain risks?
- 20 A Yes, sir.
- 21 Q And you understand that, if you were to go or if the
- 22 Court were to grant your Application for Post-Conviction,
- 23 that, that you could be taken back and tried again?
- 24 A Yes, sir.
- 25 Q Okay. And you understand those risks?

Te'Quan Perry - Direct examination
By Mr. Thomas

- 1 A Yes, sir.
- 2 Q And do you want to go forward with that?
- 3 A Yes, sir.
- 4 Q Okay. Te'Quan, how far did you go in school?
- 5 A Ninth grade.
- 6 Q Okay. Can you read or write?
- 7 A (WHEREUPON, there was no audible response.)
- 8 Q Could you read and write well?
- 9 A I mean kind of -- yeah.
- 10 Q Okay. Do you have a little trouble?
- 11 A Yeah, a little bit.
- 12 Q Okay. All right. And this case was pretty
- 13 complicated, wasn't it?
- 14 A Yes, sir.
- 15 Q And so you met with your attorney often and discussed
- 16 things?
- 17 A I couldn't speak while she was speaking but that's not
- 18 true. She don't -- she came to see me maybe two times --
- 19 Q Okay.
- 20 A -- and a couple of times some of the disks wasn't even
- 21 working.
- 22 Q Some of the what weren't -- wasn't working?
- 23 A The disks of the interrogation of witnesses.
- 24 Q Right.
- 25 A I didn't even get to see all the witness statements or

Te'Quan Perry - Direct examination
By Mr. Thomas

1 nothing.

2 Q Okay. And did somebody else -- did the clerk or
3 somebody come over from the Public Defender's Office?

4 A No, sir.

5 Q Okay. And did you see all the witness statements, what
6 they had to say about you?

7 A No, sir.

8 Q Okay. And -- but you entrusted her or did, did you
9 trust her?

10 A I did.

11 Q Okay. She was the only person you could trust?

12 A Yeah.

13 Q Okay. All right. And as far as all the video
14 evidence, did you get to speak to her about that?

15 A Yeah, I talked to her about it.

16 Q Did you see the videos?

17 A Yes, sir.

18 Q And was that you in the videos?

19 A It was not.

20 Q Okay. Were you able to try to help her to, to prove
21 that that wasn't you in the video?

22 A Yes, sir.

23 Q Okay. Now, I got the file from the public defender and
24 it is huge.

25 So, did you get an opportunity to -- I show you what

Te'Quan Perry - Direct examination
By Mr. Thomas

1 I've got and I know we're not going through all this piece
2 by piece. But I'm just curious as to the amount of
3 documents, which physically is 5 or 6-inches notebook. This
4 one is probably another 7, 8-inches thick.

5 Did you go through all this with her?

6 A No, sir.

7 Q Okay. So, I'm curious, you know this seems to be a
8 simple Post-Conviction Relief case but I think it's a -- I,
9 I think it's a complicated fact situation.

10 A It is.

11 Q How did you make these decisions?

12 How did you make the decisions as to what you were
13 gonna do?

14 A Honestly, like she did say as she's telling the truth
15 about she said they had witnesses about the fact of -- the
16 witnesses being my mother, that wasn't true. It was my
17 ex-girlfriend. She's, she's told the solicitor something
18 from what she heard from -- like that wasn't true about my
19 mother's testifying. None of that.

20 Q Okay.

21 A That was---

22 Q So they weren't -- so they weren't gonna testify?

23 A They was not.

24 Q Okay.

25 A Not that me saying -- not that -- they don't got no

Te'Quan Perry - Direct examination
By Mr. Thomas

1 record of me on the phone saying none of those things.

2 Q Did they find the gun?

3 A They never found the gun. Like that's the reason she
4 telling me to plead and I was confused and I'm asking her.
5 She telling me that's my best interest because of these
6 witnesses but I'm telling her ma'am, if we continue with the
7 trial, it will be proven that that's -- that's hearsay like
8 the whole case was.

9 Q Right.

10 So why did you want to go to trial?

11 A Because I'm innocent and I didn't do it and I told her
12 this even when she told the -- telling me that's my best
13 option. I just kept telling her she got emotional and
14 started crying.

15 So, I'm like that's my attorney and you not like you --
16 like she's trying to fight for me and she crying and saying
17 that this my best option. I'm like ma'am, I, I didn't do
18 this.

19 Q Yeah.

20 well, did you hear the -- we went through the
21 pretrial -- some of the pretrial motions. There were
22 numbers of them and you heard me ask her about those
23 pretrial motions.

24 were you there when she made those motions --

25 A See---

Te'Quan Perry - Direct examination
By Mr. Thomas

1 Q -- in the courtroom?

2 A Yeah. We had pretrial and trial at the same time
3 because she -- it was suppose to be a two week trial to be
4 exact.

5 Q Right.

6 A Mr. Couch said that be that -- due to the fact that she
7 had a lot of motions and her -- my codefendant's attorneys
8 had a lot of motions. But like he denied all of her
9 motions. We didn't even get to do all of them.

10 Q Right.

11 A Yes, sir.

12 Q Okay. And so the judge did not sever your case?

13 A And that's another thing. Like while I was
14 incarcerated, I was incarcerated first and my codefendants
15 got the criminal conspiracy charge cause they're free
16 posting things on social media. I'm incarcerated. I have
17 no control over someone else's Facebook page who's tagging
18 me using my Facebook works. Anyone can tag you and it
19 automatically goes on your page.

20 I don't have nothing to do with that and that's -- and
21 that -- that kind of made -- it was prejudice to me because
22 it looks like I'm involved with it when I have no control
23 over that.

24 Q Right.

25 You had no control of that?

Te'Quan Perry - Direct examination
By Mr. Thomas

1 A I had no control over what, what he posts on his
2 Facebook. Anyone can tag you and it goes into their page.

3 Q All right.

4 A That's how Facebook works.

5 Q Okay. And did you understand what was going on with
6 the pretrial motions?

7 A I didn't. I didn't. Only thing I knew is she was
8 telling me, if I didn't get a severance, that it wouldn't
9 look good for me.

10 Q Okay. And---

11 A So I guess we went to severance.

12 Q Did you, did you understand what was going on about the
13 Facebook situation?

14 A No, cause, honestly, I'm incarcerated. I have no
15 knowledge or no -- I can't see, I can't see what's going on
16 on the Facebook.

17 Q Have you seen the Facebook pages?

18 A I saw it at trial. I'm like wow, I didn't know he said
19 all these things.

20 Q Okay. Did you -- were you, were you able to see the
21 Facebook pages while you were in the detention center?

22 A No, sir, I had no knowledge. I know I got a, a warrant
23 saying I got another charge, criminal conspiracy, and I
24 don't even know how.

25 Q Okay. What was the conspiracy about?

Te'Quan Perry - Direct examination
By Mr. Thomas

1 A They was saying that the guy, Louis Johnson, the
2 witness who never came to trial --

3 Q Right.

4 A -- but who he was -- I guess he said that he heard my
5 codefendants and them put out on the day before that
6 something was suppose to happen to the guy who died.

7 Q So this was a lot about somebody heard this and heard
8 that---

9 A Heard that, yes, sir.

10 Q ---about somebody heard this?

11 A That's all it was.

12 Q All right.

13 A Heard this and heard this and --.

14 Q So, the purpose of you going to trial again was what?

15 A To prove my innocence in me, that I had nothing to do
16 with it, and that's what, and that's what -- and she -- the
17 morning -- like she told the truth. She did talk to me that
18 morning.

19 Like I say, she started crying cause I was telling her
20 that ma'am, I'm innocent. I'm not pleading guilty. She's
21 like that's, that's, that's the best choice you got.

22 So, I'm like um. She telling me about the witnesses
23 but I'm telling her that my mother's gonna get on the stand
24 and prove my innocence that that never happened.

25 Q Right. Right.

Te'Quan Perry - Direct examination
By Mr. Thomas

1 So let me ask you about -- I asked her about plea
2 offers and she said that somebody else in the Public
3 Defender's Office---

4 A That's not true.

5 Q ---may have---

6 A Oh -- she was my attorney and we went in front of Judge
7 Dennis. Tamara Van Pala was my attorney. They done offered
8 me five to 18 and she, she -- I told her I was innocent.
9 She told me not to take the plea and we would go to trial.

10 we didn't -- if I didn't take the plea, we'd have to
11 start a trial by June 14th or we would get PR bonds and
12 that's how my codefendant, Devonta, got a PR bond cause they
13 didn't have the witness, the witness to try him. So, he had
14 to automatically get a PR bond.

15 Q Okay. And she said she didn't remember that.

16 A I don't know how. She was my attorney.

17 Q Okay. Okay. And so you stopped the trial---

18 A No, she---

19 Q ---and you entered into a plea?

20 A Like she said, the judge talked to her and her and my
21 codefendant's lawyer about making us plead guilty that
22 morning. I really go to trial and continue. She's coming,
23 like, like I say, emotional like I don't -- you should -- I
24 think you should take the plea. I'm like ma'am, why I'm
25 pleading guilty to something I didn't do, you know.

Te'Quan Perry - Direct examination
By Mr. Thomas

1 She's like I think that's the best option for you. I
2 guess the judge talked to our lawyers to, to get us to, I
3 guess, to not continue the trial. I don't know but --.

4 Q Okay. Were you there when the judge was talking to
5 your---

6 A No.

7 Q ---your lawyer?

8 A No, sir, I was not there.

9 Q So you -- okay. So you were not in the courtroom with
10 the judge?

11 A No, sir.

12 Can---

13 Q Okay.

14 A Can I say something on the record?

15 Q Yeah.

16 A Every witness of, of -- you at the trial to every
17 witness that was on the stand, the witness that they tried
18 to say saw me with a gun cause they said that the camera and
19 the audio were down at the -- he got on the stand and said
20 he never saw me with a gun ever and he say he was pleading
21 for my victim's mother before or after to go to the station
22 with me and that was -- he said that on the stand and I'm
23 saying why you want me to plead, Ms. Van -- Ms. Van Pala and
24 that man's telling you that it's he said she said like --.

25 Q Right.

Te'Quan Perry - Direct examination
By Mr. Thomas

1 A Like I didn't, I didn't understand it.

2 Q Now, Te'Quan, based upon, you know, everything we've
3 been talking about, were you able to really make a decision
4 in regards to whether -- to, to continue this trial or enter
5 into this plea?

6 A I really wanted to continue the trial. She told me --
7 she -- she says she try everything she can and witnesses.
8 But I'm telling her, Ms. Van Pala, ma'am, these witnesses
9 are not gonna say or validate what the St -- what the --
10 they trying to say like. They -- I never told nobody no gun
11 was scrapped and no -- we had -- we -- we -- what like sense
12 is that?

13 Q So why'd you take the plea?

14 A I in the county jail -- cause she telling me to take
15 the plea. She telling me that's the only option I got and
16 that's the best -- I guess to convince her and my
17 defendant's attorney that talked to us and they say it was a
18 joint trial. They would not give me a severance and it was
19 a joint plea. He said a -- one plea, both got to plea. If
20 one go to trial, both got to go to trial. I can't -- and I
21 wanted to go to trial.

22 And her so she got -- her attorney got my attorney to,
23 I guess, make me accept the plea cause he was trying to
24 accept the plea. I guess that was the motive --

25 Q okay.

Te'Quan Perry - Direct examination
By Mr. Thomas

1 A -- for the judge, yes, sir.

2 Q Matter of fact, did y'all enter your pleas together or
3 did he---

4 A They made us---

5 Q ---enter his---

6 A They made us enter it together. It was a joint plea or
7 a joint trial.

8 Q Right.

9 A I couldn't get a severance.

10 Q Yeah.

11 A And it was because of my codefendant why I got criminal
12 conspiracy about something that I have no control over,
13 Facebook.

14 Q What happened to your -- to the third codefendant, the
15 other guy?

16 A He got released that day at trial because they didn't
17 have the witness to prosecute him.

18 Q To be able to prosecute him?

19 A He was never -- his charges was dismissed.

20 Q Okay. So the two of you basically ended up in, in
21 jail?

22 A Yes, sir.

23 Q All right. Now, for you to have your plea, it has to
24 be freely given.

25 Do you think your plea was freely given?

Te'Quan Perry - Direct examination
By Mr. Thomas

1 A No, sir.

2 Q Okay. And voluntary?

3 I mean did you voluntarily do this?

4 A No, sir.

5 Q All right. And the, the other parts are whether you
6 knowingly, basically you had all the facts, and the
7 information, you were able to make an intelligent decision
8 about accepting this plea and not going to trial.

9 Do you believe that it was knowingly and intelligently
10 given?

11 A No, sir.

12 Q Okay. All right. Did you ever talk to your attorney
13 about your educational level?

14 And I don't mean to embarrass you about this but I
15 think it is important.

16 A No, sir. But she, she knew I didn't understand a lot
17 of things. I asked a lot of questions trying to understand
18 and I thought I had -- like I had an attorney before I had
19 her and me and that attorney had more of an understanding.
20 She more like really didn't understand the law and what's
21 going on and I explained to her the situation and then
22 later, I guess, she left the Public Defender's Office and
23 then I got Ms. Van Pala.

24 Q Okay. Did you struggle in school?

25 A Yes, sir.

Te'Quan Perry - Direct examination
By Mr. Thomas

1 Q Okay. Were you in any special classes or just a -- try
2 to help you?

3 A No, sir.

4 Q Okay. And you went how far?

5 A Ninth grade.

6 Q Ninth grade.

7 Okay. All right. Te'Quan, this is -- you know we been
8 waiting for this. You been waiting for this day for a long
9 time.

10 A Yes, sir.

11 Q I'm not saying that I forgot something and I'm not
12 saying I'm leaving something out but this is an opportunity
13 for you to kind of double-check me. If there's something
14 that you feel like that's important that the Court knows,
15 this is your opportunity.

16 Is there anything else that you'd like for the Court to
17 know about you?

18 A I just want the Court to know I'm innocent and I just
19 wished I had a chance to, to prove my innocence. I mean for
20 me to get 30 years for something I didn't do, I could of go
21 to trial and get the same time.

22 Q Right.

23 A That's all I'm saying like.

24 Q Okay.

25 All right. Your Honor, I have no further questions.

Te'Quan Perry - Cross-examination
By Ms. Weidauer

1 THE COURT: All right. Any from the State?

2 CROSS-EXAMINATION

3 BY MS. WEIDAUER:

4 Q So, you just mentioned that you wished you would of
5 gotten a chance to prove your innocence, correct?

6 A Correct.

7 Q You did have a chance.

8 You actually were at trial when you chose to take the
9 guilty plea, correct?

10 A Correct.

11 Q And you understood that, that was your chance---

12 A No.

13 Q ---to prove that you were innocent, correct?

14 You understood that's what you were at trial for --

15 A Yeah.

16 Q -- that there was gonna be a guilty or a not guilty
17 verdict, right?

18 A No. See, I understand that my lawyer's telling me that
19 it's not looking good for me and my best option is to do
20 that because---

21 Q which is why you say you ultimately pled guilty.

22 But you understand that you were at trial and you were
23 seeking a not guilty verdict, correct?

24 A No, ma'am, I didn't understand that part. That's the
25 part that I didn't understand.

Te'Quan Perry - Cross-examination
By Ms. Weidauer

1 Q You didn't understand that you wanted a verdict to come
2 back not guilty?

3 A Oh, yeah, yeah, yeah, yeah.

4 Q Okay. You did want to be found not guilty?

5 A Oh, yes, sir. Yes, ma'am.

6 Q And you understood that, by taking the plea, there was
7 no chance you were gonna be found not guilty?

8 If you pled guilty -- if you pled, you were going to be
9 found guilty?

10 A Yeah, you can say that.

11 Q Yes.

12 You understood that.

13 Okay.

14 A I didn't understand that but I mean now I understand
15 it. I was -- back then I didn't have no understanding of
16 the law. Like I tell her, see now being that I, I
17 understand, I understand now that I had the opportunity.
18 That's why I'm trying now to prove my innocence because the
19 facts are in the motions and the -- it's no guilt to me.
20 It's -- I'm innocent.

21 Q Do you remember, at the guilty plea, Judge Couch saying
22 that you could receive up to 30 years?

23 A Yeah, I remember that.

24 Q You remember that.

25 Okay. Do you remember Judge Couch asking you whether

Te'Quan Perry - Cross-examination
By Ms. Weidauer

1 you were satisfied with Ms. Van Pala?

2 A I remember that.

3 Q Okay. Do you remember Judge Perry -- Judge Couch,
4 excuse me, saying that you had the right to plead either
5 guilty or not guilty to these crimes and asking you what you
6 pled?

7 A No, I don't remember that.

8 MS. WEIDAUER: Okay. Can I pass this over, Your Honor?

9 THE COURT: Yes.

10 Q All right. Line 7 through 11 on Page 11.

11 Can you read those out loud for the Court please?

12 A I don't read that good. I can't.

13 MR. THOMAS: Huh?

14 Can you read it?

15 THE WITNESS: No.

16 MR. THOMAS: You can't read it?

17 (WHEREUPON, there was no audible response.)

18 Q So when the Court asked you all right. Now, Mr. Perry,
19 you have a right to give the negotiated sentence to plead
20 either guilty or not guilty to the crimes of voluntary
21 manslaughter and criminal conspiracy. How are you pleading
22 this morning.

23 Do you remember answering guilty, sir?

24 A I have to say guilty if I'm guilty, don't I?

25 Q And you have to say to get the guilty plea---

Te'Quan Perry - Cross-examination
By Ms. Weidauer

1 A Yes, ma'am.

2 Q ---and that's what you wanted at the time?

3 A That's what she wanted me to do. When I'm telling her
4 I'm innocent, that's what my lawyer wanted to do. Damn what
5 I wanted to do. I was telling her why I'm pleading guilty
6 of the witnesses you seen that you have -- like she got on
7 the, on the stand said that two witnesses was gonna hurt us.
8 But stow (phonetic) and to this day, there's no proof of me
9 saying about it being intent---

10 Q Do you remember---

11 A ---or none of that.

12 Q Do you remember---

13 A So, I'm confused.

14 Q ---the Court asking if you were doing that of, of --
15 pleading guilty of your free -- own free will?

16 A I was pleading guilty cause she telling me that's my
17 best option. I'm telling him I innocent.

18 Q But would you believe me if I read, the Court says, so,
19 Mr. Perry, are you doing this of your own free will and you
20 said yes, sir?

21 A Yeah, I did say that. My lawyer telling me---

22 Q Okay.

23 A ---to say yes.

24 Q Okay. Do you remember the Court saying has anybody --
25 has anyone done anything to you such as threaten you, put

Te'Quan Perry - Cross-examination
By Ms. Weidauer

1 pressure on you, tried to intimidate you, done anything in
2 an effort to try to force you or make you give me this plea.
3 You said no, sir.

4 You'd agree with that?

5 A Uh-huh. (Affirmative).

6 Q Okay.

7 THE COURT: Is that a yes?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Okay.

10 MS. WEIDAUER: Beg the Court's indulgence for one
11 moment.

12 (Pause.)

13 Q Do you remember the Court saying now, Mr. Perry, have
14 you been truthful with me in answering my questions and you
15 said yes, sir?

16 A Yes, ma'am.

17 Q Okay. So, why should the Court believe that you are
18 being truthful at that time, that you were willing to take
19 the plea, that you were satisfied with your counsel's
20 representation, that you understood everything, as you
21 testified to at then plea hearing, why should we believe you
22 today?

23 A You should believe me today because, like I tell you,
24 I, I did say all those things but -- and like how my lawyer
25 said, it was a witness suppose to be coming. But like I

Te'Quan Perry - Cross-examination
By Ms. Weidauer

1 tell -- I never once wanted to plead guilty. I was doing
2 that due to she telling me that was my best option. I ain't
3 lying about nothing.

4 Q And, at the time, you believed it was your best option,
5 correct?

6 A No, she believed that was my best option, the person
7 representing me.

8 Q But you were the person that was telling this Court
9 that you wanted to plead guilty, correct?

10 A Yeah, because before I went up and she tell me to
11 answer these questions, yes.

12 Q But Ms. Van Pala wasn't the one answering the Court.
13 You were, correct?

14 A Correct.

15 MS. WEIDAUER: Okay. Beg the Court's indulgence for
16 one moment.

17 THE COURT: Uh-huh. (Affirmative).

18 (Pause.)

19 MS. WEIDAUER: Thank you, Your Honor.

20 THE COURT: No further questions from the State.

21 All right. Any redirect?

22 MR. THOMAS: Your Honor, if I could, just---

23 THE COURT: Sure.

24 MR. THOMAS: ---one please --

25 REDIRECT EXAMINATION

Te'Quan Perry - Redirect examination
By Mr. Thomas

1 BY MR. THOMAS:

2 Q Te'Quan, you heard the attorney general ask you
3 questions about that plea. We call it the plea colloquy
4 where the, the judge asked you questions about, you know,
5 what you're doing.

6 Do you remember any of that?

7 You remember that?

8 A Repeat that. Say that one more time.

9 Q Okay. All right. Did you understand that process --
10 where the judge was asking you those questions, what of that
11 did you understand?

12 A Honestly, I, I, I, I understood like from an extent.
13 Like I didn't understand like why I had to take a plea with
14 him. Like the main thing is -- like the point I'm trying to
15 make is that I took the plea because my lawyer told me that
16 would be the best option. But only because the judge said
17 that the plea was a jointed plea or it was a jointed trial.

18 My codefendant wanted to go to trial -- I mean wanted
19 to plead guilty and I wanted to go to trial. So, the judge
20 convinced my lawyer to make me take the plea. I did not
21 want to plead guilty when I -- whenever -- early that
22 morning she asked me to take the plea. She was emotional,
23 telling me to answer yes to these questions, and I did it,
24 and I innocent. And whatever, man, for real.

25 MR. THOMAS: Your Honor, we have no, no further

Te'Quan Perry - Recross examination
By Ms. Weidauer

1 questions.

2 THE COURT: All right. Any recross?

3 MS. WEIDAUER: Just one question, Your Honor, perhaps.

4 RECROSS EXAMINATION

5 BY MS. WEIDAUER:

6 Q So, at the time that the Court asked are you doing this
7 of your own free will and you said yes, you were lying to
8 the Court at that time?

9 A I didn't understand the question but I answer no.

10 Q You didn't understand whether you were doing this of
11 your own free will?

12 A Whenever -- when you say under my own free will, like I
13 said, I ain't understand like exactly what that mean cause I
14 doing it -- my lawyer representing me. I'm thinking this
15 how it go, what your attorney say is that's what you do. I
16 had no understanding of how this worked out. That my first
17 time ever being in that situation ever. Never went to trial
18 before. Never.

19 Q Okay. But these are very direct questions that the
20 Court---

21 A Yes.

22 Q ---asked you.

23 Okay. They also asked you whether you had sufficient
24 time to discuss this with your lawyer and you said yes.

25 So, were you lying there?

Te'Quan Perry - Recross examination
By Ms. Weidauer

1 A I just told you, you when I came downstairs to---

2 Q So do you understand what that question means?

3 A She told me to answer yes. She told me to answer yes.

4 MS. WEIDAUER: Okay. Thank you, Your Honor.

5 THE COURT: Okay.

6 All right. Any other witnesses?

7 MR. THOMAS: None, Your Honor. That's the Applicant's
8 case.

9 THE COURT: Okay. All right. I'm happy to hear if you
10 want to, you know, do brief arguments orally or if you'd
11 rather submit proposed order. Either way. Obviously y'all
12 take all the record---

13 MR. THOMAS: I would -- I'll be glad just to summarize
14 it, Your Honor.

15 THE COURT: Sure. Go ahead.

16 MR. THOMAS: Your Honor, if please the Court?

17 It's a complicated case. Lots and lots of, of
18 evidence. Public Defender put together a, a big case for
19 Mr. Perry.

20 I think that all of this boils down really to a simple
21 situation where and, again, I, I don't mean to embarrass
22 Mr. Perry, my impression from talking to him through this
23 has been that he is -- he has some difficulties. I think
24 he's kind of challenged educationally. I think he has some
25 problems with understanding.

1 I'd asked him about reading and that's the first time
2 I've seen him where he says oh, I'm sorry. I just can't
3 read it.

4 But I think that he just didn't really understand. I,
5 I think, you know, he understood he was going to trial and I
6 think he understood that he was saying that he was not
7 guilty. And I don't think that it basically qualifies it as
8 his plea was freely and voluntarily and certainly not
9 knowingly and intelligently given.

10 So, I think we take a complicated case and it really
11 boils down to those simple situations that I'm not really
12 sure that he understood what he was doing at the time.

13 THE COURT: All right.

14 MR. THOMAS: Yes, ma'am.

15 THE COURT: Happy to hear from the State.

16 MS. WEIDAUER: The State would just note that counsel
17 testified that, at the time of trial, she believed that
18 Mr. Perry was very intelligent and had conversations with
19 him and he understood the charges.

20 Applicant also testified that he knew what the sentence
21 would be if he pled guilty, and that he was not, you know,
22 threatened or coerced into taking this. He just -- Ms. Van
23 Pala or Ms. Skrobacki, excuse me, advised him that he could
24 take the plea, that she would advise him to take the plea.
25 Excuse me.

1 The State would say that Applicant has not shown that
2 plea counsel's representation fell below the objective
3 standard, standard of reasonableness. Even if the Court did
4 find that plea counsel was ineffective, the State would say
5 that Applicant has not shown that, but for these errors, he
6 would of -- would not have pled guilty and he would of
7 insisted on going to trial, which is the standard to this --
8 was already at trial before this.

9 So, the State would just ask that you deny relief.

10 THE COURT: All right. Okay. Anything else by way of
11 reply or anything else?

12 MR. THOMAS: No, Your Honor.

13 THE COURT: Okay. Yeah, I'll obviously take a look at
14 the record, and pleading, and colloquy, and issue an order I
15 would say probably within the next two weeks. If I need a
16 proposed formal order, I'll request that directly from your
17 office.

18 okay?

19 MR. THOMAS: Yes, ma'am.

20 THE COURT: Thank you.

21 MR. THOMAS: All right. Thank you.

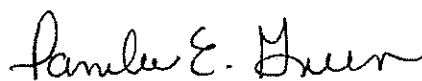
22
23 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Charleston County, South Carolina, on the 9th day of December, 2021.

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

March 6th, 2022



PAMELA E. GREEN, Court Reporter

Atty
GS
SOL
AGSTATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Te'Quan Perry, SCDC #361380,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2018-CP-10-00602

ORDER OF DISMISSALFILED
2022 FEB -9 PM 4:41
JULIE J. JEFFREY
CLERK OF COURT

This matter comes before this Court by way of post-conviction relief (PCR) action commenced by Applicant Te'Quan Perry on February 7, 2018. The State requested an evidentiary hearing through its return filed on April 23, 2018. An evidentiary hearing into the matter convened before the undersigned on December 9, 2021, at the Charleston County Courthouse. Applicant was present and represented by Tommy A. Thomas, Esquire. Assistant Attorney General Samantha J. Weidauer represented the State. Applicant testified on his own behalf at the hearing. Plea counsel, Tamara Van Pala Skrobacki, Esquire, also testified virtually via Webex.

In addition to the pleadings in this action, this Court had before it a copy of the Charleston County Clerk of Court records regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, and the trial transcript and subsequent plea transcript.

After hearing the testimony at the PCR hearing and a full review of the record, this Court finds Applicant's allegations regarding ineffective assistance of counsel and involuntary guilty plea are without merit. Therefore, for the reasons discussed below, this Court denies relief and dismisses this action with prejudice.

JBM/1

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections. Applicant was indicted at the February 2016 term of the Charleston County Grand Jury for murder (2016-GS-10-01058), and at the April 2017 term of the Charleston County Grand Jury for criminal conspiracy (2017-GS-10-01410). On June 12-15, 2017, Applicant proceeded to a jury trial before the Honorable R. Roger Couch. Tamara Van Pala Skrobacki (Counsel) and Theresa Norris, Esquire, represented Applicant. David Osborne of the Ninth Circuit Solicitor's Office prosecuted the case. After hearing testimony from several State's witnesses, Applicant elected to plead guilty. On June 16, 2017, Applicant pleaded guilty before Judge Couch to a negotiated plea for the lesser-included offense of voluntary manslaughter and to criminal conspiracy pursuant to *North Carolina v. Alford*¹.

In accordance with the parties' negotiated sentence, Judge Couch sentenced Applicant to concurrent sentences of thirty years' imprisonment for voluntary manslaughter and five years' imprisonment for criminal conspiracy. Applicant did not appeal his convictions or sentences.

II. Facts Giving Rise to the Plea

On March 23, 2015, Applicant shot and killed Brandon Washington (Victim) in the "Back to Green" neighborhood in Charleston. (Trial Tr. 425-432). As captured on one of the City of Charleston's video surveillance cameras, Victim was dropped off in the Back to Green neighborhood in front of his cousin, Demarco Jones' (Duke), house. (Trial Tr. 427, 612). Shortly after Victim's arrival to the area, Applicant is seen on surveillance footage wearing a tan jacket. (Trial Tr. 428). The surveillance footage shows Applicant and Victim speaking with each other from a distance. (Trial Tr. 428). As Victim begins walking towards Applicant, Applicant is seen coming out of an alley with multiple other persons emerging from the alley behind him. (Trial

¹ 400 U.S. 25 (1970).

Tr. 428). The footage shows Victim walk over to the group of individuals, shows Applicant and Victim walk away for a period of time, and then shows Applicant and Victim walk back to the crowd. (Trial Tr. 428-429).

Following Applicant and Victim's return to the group of individuals, co-defendant, Devin Middleton, is seen initiating an attack on Victim by "swinging" at him. (Trial Tr. 429). As seen on the surveillance footage, Victim is further attacked by multiple other individuals, including: Davontay Bryant (Smash), Denardo Felder (Nardo) and Duke. (Trial Tr. 429). Victim is then seen picking up a piece of wood and throwing it down again before he is surrounded by the individuals and they all disappear from the camera's view into an alley. (Trial Tr. 430). After the camera pans back to the entry of the alleyway, everyone in view is running from the scene². (Trial Tr. 430). The video then shows Applicant walk out of the alley with his hands in his pockets. (Trial Tr. 430). Before pleading guilty, testimony was elicited from Witness, Hugo Paredes, who testified he was driving near the Back to Green neighborhood when he stopped at a red light and heard a gunshot. (Trial Tr. 455). Mr. Paredes testified he looked around when he heard the gunshot and saw an individual wearing a khaki jacket standing between two houses "pointing down". (Trial Tr. 448-459). Mr. Paredes testified that when the light he was stopped at turned green, he drove until seeing a police patrol car, which he stopped at to inform about the gunshots he had heard. (Trial Tr. 460). When asked if Paredes saw anyone else in the alleyway, he testified he did not see anyone else standing with the man in khaki jacket, nor did he see any other individuals fleeing the area. (Trial Tr. 462, 472-473). Paredes was shown a still photo from the surveillance camera footage and identified the khaki jacket shown in that photo as the same color as the jacket worn by the individual he saw in the alleyway. (Trial Tr. 471-472).

² The City of Charleston cameras are in fixed locations. (Trial Tr. 616). The surveillance cameras rotate every 60 seconds. (Trial Tr. 616).

Thereafter, the State called multiple other witnesses including: responding officers, Jason Shepard and Jamal Medlin, and Jessica Sanford, a data integration and analysis manager employed with the City of Charleston Police Department to oversee the camera staff in charge of the aforementioned surveillance cameras. Additionally, the defense made multiple motions to suppress evidence including: a motion to suppress the search warrant, a motion to suppress an identification made in the case, a motion to suppress the surveillance video footage and still photos taken from that footage, a motion to suppress jail calls made by Applicant, and a motion to suppress Facebook records. The Court denied all above-mentioned motions made by the defense.

Before the State had opportunity to call all of their witnesses and rest the State's case, Applicant decided to plead guilty. At the guilty plea hearing, the Court stated: "I think I have heard a good bit of facts unless there is something I haven't heard". (Plea Tr. 23-24). In lieu of a reading of the State's factual summation, the State agreed with the Court that there was "more than enough on the record". (Plea Tr. 24). Importantly, this Court notes Applicant made the decision to plead guilty after multiple days of testimony from State's witnesses.

III. Issues Before This Court

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

1. Ineffective assistance of counsel
 - a. "Counsel did not file an appeal after being asked by me."
2. Involuntary guilty plea
 - a. "Counsel forced me into taking a plea without any evidence of guilt. Counsel did didn't have a defense for trial reason for counsel [sic] wanting me to plea."

To the extent the allegations set forth in Applicant's original application can be construed as separate grounds for relief from the grounds stated at the PCR hearing, the Court finds those

claims were voluntarily waived and abandoned, and those claims are therefore denied and dismissed with prejudice. S.C. Code Ann. § 17-27-90.

IV. Testimony Presented at Evidentiary Hearing

Plea Counsel Tamara Van Pala Skrobacki's Testimony

At the evidentiary hearing, Counsel testified this case involved Applicant and two co-defendants. Counsel credibly testified she met with Applicant often in preparation for his trial, went through discovery with Applicant, and discussed Applicant's rights with him. Counsel testified that the State's theory of the case was that Applicant was the gunman and Applicant and his co-defendants, Devin Middleton and Davontay Bryant³, had conspired to murder the Victim. Counsel testified the main evidence in this case involved jail phone calls and Facebook records. Counsel also testified there was video surveillance in this case. Counsel testified that part of their defense was that the camera panned away from the scene and therefore, there was no video evidence that Applicant was the shooter.

Counsel stated she argued a number of pre-trial motions including a motion to sever and motion to exclude. Counsel noted the defense was not successful on any of their pre-trial motions. Counsel additionally testified she was not aware of any plea offers until the last day of trial. When asked whether she had knowledge of a 15-18 year plea offer made prior to trial, Counsel testified she did not. When asked whether there were any concerns about Applicant's competency – specifically, whether Applicant understood what was going on – Counsel testified she had no concerns regarding Applicant's competency and believed Applicant was very smart.

³ At the outset of the trial, the State requested a continuance in its case against co-defendant Davontay Bryant. (Trial Tr. 3). The State informed the Court they had been unable to secure a crucial witness in their case against co-defendant. (Trial Tr. 3). They further noted the witness's presence did not affect the prosecution's ability to move forward with their cases against Applicant and co-defendant Middleton. After argument, the Court granted the State's request for a continuance for its case against co-defendant Bryant. (Trial Tr. 28).

Counsel testified she was fully prepared to proceed to trial when Applicant decided to plead guilty and had actually tried the case for three days prior to Applicant's decision to plead. Counsel further testified she did not pressure Applicant to plead guilty.

Applicant's Testimony

At the evidentiary hearing, Applicant testified he only went to school until ninth grade and had trouble reading and writing. When asked if he was ever enrolled in special classes as a result, Applicant testified he was not. Applicant testified Counsel did not come to see him at all, that he never saw witness statements from discovery, but conceded he did speak with Counsel regarding the video evidence the State intended to present against him. Applicant maintained at the PCR hearing it was not him in the surveillance footage.

Regarding the trial, Applicant claims he did not understand what was going on during pre-trial motions. He testified he did not have any knowledge regarding Facebook records as he was incarcerated at the time of the posts and did not see the subject Facebook pages prior to becoming incarcerated. Applicant further testified he did not think Counsel understood everything that was going on during his trial.

Regarding his guilty plea, during cross-examination by the State, Applicant testified he understood at the time of the plea he would be found guilty, but he wanted to now prove his innocence through this PCR hearing. When asked why this Court should believe him regarding the truthfulness of his statements at the evidentiary hearing, Applicant testified he did not want to plead guilty during his guilty plea. However, Applicant conceded he did feel like pleading guilty was his best option at the time.

V. Standard of Review

An applicant may seek PCR 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).

Ordinarily, PCR 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 PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in *Strickland*

to determine whether counsel's conduct "was so ineffective as to require reversal" of the applicant's conviction. *Strickland v. Washington*, 466 U.S. 668 at 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Id.* at 687–88; *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart*, 474 U.S. 52 (1985), extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. *See Padilla v. Kentucky*, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel's performance under the first prong of *Strickland* remains unchanged—the applicant must show that counsel's representation fell below an 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 guilty 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).

VI. Findings of Fact & Conclusions of Law

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. After hearing the testimony presented and considering the legal arguments by counsels, as well as the record in this action incorporated by way of the State’s return, this Court proceeds to the claims raised at the evidentiary and finds each to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.

The issue before this Court is whether Applicant received ineffective assistance of counsel, rendering his guilty plea involuntary and unintelligently entered. This Court disagrees,

and finds the combined record from the plea hearing and the evidentiary hearing establishes Applicant freely, knowingly, and voluntarily pleaded guilty.

Involuntary Guilty Plea

Applicant contends his plea was involuntary because he felt forced to take the plea, because did not understand what was going on during his trial, and because he did not want to plead guilty at the plea hearing. This Court disagrees, and finds Applicant knew the nature of the charges against him, the terms of the plea agreement, and the consequences of pleading guilty pursuant to the requirements of *Boykin* and *Pittman*. The plea transcript reflects Applicant entered his plea knowingly and voluntarily, engaged in an intelligent colloquy with the plea court, and gave appropriate responses to the court's questions.

"[I]t is the prerogative of any person to waive his rights, confess, and plead guilty, under judicially defined safeguards, which are adequately enforced." *Reed v. Becka*, 333 S.C. 676, 685, 511 S.E.2d 396, 401 (Ct. App. 1999). Accordingly, because a criminal defendant waives several constitutional rights by pleading guilty, the Due Process Clause requires that guilty pleas are entered into voluntarily, knowingly, and intelligently. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Pittman v. State*, 337 S.C. 597, 524 S.E.2d 623 (1999). To be intelligent, a plea must be made by a mentally competent defendant who understands both the charges against him and the consequences of his plea. *Brady v. United States*, 397 U.S. 742, 748 (1970). To be voluntary, a plea must be free of threats or other coercion that would impermissibly distort the defendant's choice. *Id.* at 755; *see also United States v. Smith*, 440 F.2d 521, 528–529 (7th Cir.) (Stevens, J., dissenting) (explaining that voluntariness relates to the trustworthiness of the admission of guilt and binding character of the waiver of the constitutional protections which would be available to the accused if he elected to stand trial).

Before a court can accept a guilty plea, the defendant must be advised of the constitutional rights he or she is waiving; the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. *Boykin*, 395 U.S. at 243. Additionally, the defendant "must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived." *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). The defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both." *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993); *See also Wolfe v. State*, 326 S.C. 158, 485 S.E.2d 367 (1997) (guilty plea not involuntary where the colloquy demonstrated the trial judge asked defendant twice whether he understood there were no promises and that no sentencing recommendations were binding on the judge). To ensure the defendant understands the consequences of his guilty plea, the plea judge "usually questions the defendant about the facts surrounding the crime and punishment that could be imposed." *Dover v. State*, 304 S.C. 433, 434–35, 405 S.E.2d 391, 392 (1991). However, the plea judge "does not have to direct the defendant's attention to every consequence of his plea provided the record reveals affirmative awareness of the consequences of a guilty plea." *Carter v. State*, 329 S.C. 355, 362, 495 S.E.2d 773, 776 (1998).

The test for determining the validity of a guilty plea is "whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant." *North Carolina v. Alford*, 400 U.S. 25, 31 (1970). It is "well established that a guilty plea is not rendered invalid because it represents a compromise by defendant, thrusts a difficult judgment upon him, or is motivated by fear of greater punishment." *United States v. Cox*, 464 F.2d 937,

942 (6th Cir. 1972) (citing *Brady*, 397 U.S. 742). The State may properly encourage guilty pleas either by being more lenient to those who enter such pleas, *Brady*, 397 U.S. at 750-753, or by increasing the risks of punishment on those who do not. *North Carolina v. Alford*, 400 U.S. 25, 37 (1970).

Nonetheless, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual . . . , a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed." *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); see also *Jamison v. State*, 410 S.C. 456, 469-71, 765 S.E.2d 123, 129-30 (2014) (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea"). Indeed, admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements." *Dalton*, 376 S.C. at 137-38, 654 S.E.2d at 874 (internal citations and quotation marks omitted); cf. *Blackledge*, 431 U.S. at 73-74 (pointing out that representations made by a defendant, his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a "formidable barrier in any subsequent collateral proceedings").

The voluntariness of a guilty plea, however, "is not determined by an examination of the specific inquiry made by the sentencing judge alone, but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984). An applicant who enters a plea on the advice of counsel may "only attack voluntary, knowing and intelligent character of the

plea by showing that plea counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the [applicant] would not have pled guilty, but would have insisted on going to trial." *Roscoe v. State*, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

In evaluating an allegation on PCR that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing. *Wolfe*, 326 S.C. at 165, 485 S.E.2d at 370; *cf. Rayford v. State*, 314 S.C. 46, 443 S.E.2d 805 (1994) (finding that, where the transcript of the guilty plea proceeding refuted applicant's claim that he did not understand the terms of a plea bargain, granting PCR was inappropriate notwithstanding applicant's claim his lawyer misadvised him).

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.* Thus, 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 guilty plea and the evidence presented at the PCR hearing. *Harres*, 282 S.C. at 134, 318 S.E.2d

at 361.

At the plea hearing, Counsel advised the plea court she had had adequate opportunity to fully discuss the charges with Applicant, Counsel was satisfied Applicant had understood their discussions, Applicant had been able to fully assist in his defense, and it was Applicant's decision to accept the negotiated plea. (Plea Tr. 11-12). Judge Couch explained to Applicant the constitutional rights he waived by pleading guilty, including the rights to: remain silent, challenge the State's evidence, and present a defense. (Plea Tr. 16-20). Applicant informed the court he understood both the original charges and the lesser-included offenses was pleading to and affirmed for the court Counsel had explained the charges to him (Plea Tr. 4). Applicant further indicated he was satisfied with the services provided to him by Counsel. (Plea Tr. 6-7).

Judge Couch informed Applicant that the offense is classified as violent and most serious, which could be used for enhancement purposes were Applicant to commit similarly classified crimes. (Plea Tr. 4-5). Applicant affirmed he understood and wished to proceed forward. (Plea Tr. 10). Applicant advised the court he had not been threatened, pressured, intimidated, or promised anything in exchange for his guilty plea. (Plea Tr. 9, 15-16). When questioned whether he had been truthful with the court in his answering of the Court's question, Applicant affirmed he had. (Plea Tr. 20).

The plea transcript reflects Applicant understood the proceedings, interacted intelligently with the plea court, and entered his guilty plea knowingly and voluntarily. Applicant has failed to present any valid reason why he should be able to depart from the above statements made during his guilty plea. *See Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975), *overruled on other grounds by United States v. Whitley*, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively"

established unless he makes some reasonable allegation why this should not be so).

Additionally, Counsel credibly testified at the evidentiary hearing that she met often with Applicant in preparation for his trial, discussed discovery, and discussed Applicant's constitutional rights with him. Counsel testified she had no concerns regarding Applicant's competency. Counsel further testified it was Applicant's decision to plead guilty – notably, after she had already tried the case for three days prior to him pleading guilty.

Based on the foregoing, the record contradicts Applicant's assertion he was under a misapprehension of what was happening and that his plea was involuntary as a result of ineffective assistance of counsel. Thus, based on the evidence presented at the PCR hearing and the record of the plea proceeding, this Court finds Applicant's plea was freely, knowingly, and voluntarily entered into. Accordingly, Applicant's request for relief by way of this allegation is **DENIED**.

VII. All Other Allegations

As to any and all allegations raised in the application or at the hearing in this matter and not specifically addressed in this order, this Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, this Court finds those claims were voluntarily waived and abandoned, and those claims are therefore denied and dismissed with prejudice. S.C. Code Ann. § 17-27-90.

VIII. Conclusion

Based on the evidence presented at the PCR hearing and the record of the plea proceeding, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's

representation. This Court finds Applicant freely, knowingly, and voluntarily pleaded guilty and further failed to present any justification as to why the statements he made during the guilty plea hearing should not be considered conclusive. Therefore, based on the foregoing, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of the State.

AND IT IS SO ORDERED this 9 day of Feb., 2022.

Charleston, South Carolina


 JENNIFER B. MCCOY
 Presiding Circuit Court Judge
 Ninth Judicial Circuit

DLO/0303124
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-04738

ARREST WARRANT NUMBER

2015A1020100135

DATE OF ARREST

03/26/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

DATE - 8 2016

Date:

VERDICT

DOCKET NO. 2016-GS-10-01058

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

FEBRUARY TERM 2016

THE STATE

VS.

TE'QUAN JAMAR PERRY

B/M DOB: [REDACTED]

Indictment for

MURDER

SC Code: § 16-03-0010

CDR Code: 0116

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA

INDICTMENT

COUNTY OF CHARLESTON

At a Court of General Sessions, convened February 2016, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County, South Carolina on or about March 26, 2015, the defendant, Te'quan Jamar Perry, with malice aforethought, did kill and murder Brandon James Washington by means of shooting with a firearm, and Brandon James Washington did die in Charleston County as a proximate result thereof on or about March 23, 2015; in violation of §16-3-10 of the South Carolina 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.



DAVID L. OSBORNE
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

TE'QUAN JAMAL PERRYAKA: Te'quan Jamal Perry, Tequan PerryRace: Black/African AmericanSex: MDOB: [REDACTED]SS#: [REDACTED]Address: Seacroft RoadCity, State, Zip: Charleston, SC 29412-8113DL# [REDACTED] SID# SC02005249*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Voluntary ManslaughterIn violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☐ As indicted, ☒ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☐ Without Negotiations or Recommendation,☒ Negotiated Sentence, 30 yrs☐ Recommendation by the State.

ATTEST:

[Signature]
David L. Osborne, Assistant Solicitor

101325

SC Bar #

Te'Quan Perry
Defendant[Signature]
Attorney for Defendant

101616

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 6/16/17☒ 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. 813 days☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic
Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

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

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

May serve W/E beginning _____

*Fine: _____ \$ _____

Substance Abuse Counseling ☐

§14-1-206 (Assessments 107.5%) \$ _____

Random Drug/Alcohol Testing ☐§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00

Fine may be pd. in equal consecutive weekly/monthly

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

pmts. of \$ _____ Beginning _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

\$ _____ Paid to Public Defender Fund

§56-1-286 (DUI Breath Test) \$25 \$ _____

Other: Crime did not involve

Proviso 61.6 (Public Def/Prob) \$500 \$ _____

sexual misconduct.§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(I) (Vehicle Assessment) \$40/ea \$ _____

3% to County (if paid in installments) \$ \$ 3.75☐ Appointed PD or appointed other counsel,

\$47.12 requires \$500 be paid to Clerk

during probation.

TOTAL \$ 128.75Clerk of Court/Deputy Clerk: Christine DavisPresiding Judge: [Signature]Court Reporter: Ruth WeeseJudge Code: 2135Sentence Date: 6/16/17

DOCKET NO. 2017-GS-10-01410

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

APRIL TERM 2017

THE STATE

VS.

TE'QUAN JAMAL PERRY
B/M DOB: [REDACTED]

Indictment for

CRIMINAL CONSPIRACY

SC Code: § 16-17-0410
CDR Code: 0049

DLO/0303124
WITNESSES

Charleston City Police Department

AGENCY CASE NUMBER

2015-04738

ARREST WARRANT NUMBER

2017-GS-10-01410

DATE OF ARREST

03/26/2015

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury Date: APR 10 2017

VERDICT

Foreperson of Petit Jury

Date:

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened April 2017, the Grand Jurors of Charleston County present upon their oath:

CRIMINAL CONSPIRACY

That in Charleston County, South Carolina on or about March 23, 2015, the Defendant, Te'quan Jamal Perry, did combine, conspire, confederate, agree or have tacit understanding with another or others for the purpose of accomplishing an unlawful object or a lawful object by unlawful means in violation of § 16-17-410, Code of Laws of South Carolina, (1976, as amended).

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


DAVID L. OSBORNE
ASSISTANT SOLICITOR