

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable Daniel D. Hall, Circuit Court Judge

RECEIVED

Jul 26 2023

S.C. SUPREME COURT

STEVEN C. SCRUGGS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-000471

APPENDIX

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1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF SPARTANBURG) COURT OF GENERAL SESSIONS

3
 4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
 5 PLAINTIFF,) OF
 6 VS.) RECORD
 7 STEVEN CLAYTON SCRUGGS,) 2018-GS-42-4365, 4366
 8 DEFENDANT.) 2018-GS-42-4369
 2018-GS-42-4371 - 4373

9
 10 August 27th, 2019
 11 Spartanburg, South Carolina
 12

13 B E F O R E:

14 THE HONORABLE J. MARK HAYES, II, Judge.

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

16 DERRICK BULSA
 17 DEPUTY SOLICITOR
 18 Attorney for the State

19 RICHARD W. VIETH
 20 ESQ.
 21 Attorney for the Defendant

22
 23 PAMELA E. GREEN
 24 Circuit Court Reporter
 25 Seventh Judicial Circuit

1	<u>E X H I B I T S</u>			
2	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
3	<u>State's Exhibits</u>			
4				
5	S-1	Autopsy Report		4
6	S-2	Photograph		4
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1	<u>NOS.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
2		<u>Defendant's Exhibits</u>		
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4	D-1	Presentence Report		4
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P R O C E E D I N G S

SOLICITOR BULSA: Steven Scruggs.

(WHEREUPON, an autopsy report was marked as State's Exhibit No. 1. Five photographs were marked as State's Exhibit Nos. 2 through 6. A presentence report was marked as Defendant's Exhibit No. 1. All of the above exhibits were received into evidence by agreement of the parties at this time.)

SOLICITOR BULSA: Please the Court, Your Honor.

State versus Steven Clayton Scruggs. These are true billed Indictments 2018-4373. It's an indictment for murder. He's pleading guilty to the lesser included offense of voluntary manslaughter.

MR. VIETH: It will be an Alford plea on that.
That's---

SOLICITOR BULSA: But that's an Alford plea on that one. The rest of them are admissions.

2018-4365, failure to stop for a blue light.

2018-4366, possession of a stolen vehicle between two and \$10,000.

2018-4373, it's an indictment for burglary in the first degree. He's pleading guilty to the lesser offense of burglary second nonviolent.

2018-4372, attempted grand larceny between two and

1 \$10,000.

2 2018-4369, it's indicted as distribution or possession
3 with intent to distribute methamphetamine. He's pleading
4 guilty to possession of methamphetamine.

5 (WHEREUPON, the Defendant was placed under oath at this
6 time.)

7 THE COURT: You are Mr. Scruggs?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: And it is your intent to enter a plea to
10 the charges that were just announced?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: How old are you?

13 THE DEFENDANT: Thirty-three.

14 THE COURT: How far did you go in school?

15 THE DEFENDANT: Associate's Degree.

16 THE COURT: Where did you obtain the Associate's
17 Degree?

18 THE DEFENDANT: Spartanburg Tech.

19 THE COURT: Married, single, divorced, widowed?

20 THE DEFENDANT: Divorced.

21 THE COURT: Do you have children?

22 THE DEFENDANT: No, sir.

23 THE COURT: Prior to your arrest, did you have a job
24 outside the home?

25 Prior to your arrest, did you have a job outside of the

1 home?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: what were you doing?

4 THE DEFENDANT: welding.

5 THE COURT: Ever served in the military?

6 THE DEFENDANT: No, sir.

7 THE COURT: On these charges, how long a time have you
8 been in jail?

9 THE DEFENDANT: Fourteen months.

10 THE COURT: All right. Somebody's gonna need to---

11 MR. VIETH: Judge, we -- I did calculate that
12 yesterday. I -- I'll find it for you. It's in the
13 neighborhood of 400---

14 THE COURT: All right.

15 MR. VIETH: ---and 17 days. He's been in jail since
16 June 18 of last year. 436 days.

17 THE COURT: within the last 24-hours have you consumed
18 any type of substance that's adversely affecting your
19 ability to understand what we're doing today?

20 THE DEFENDANT: No.

21 THE COURT: In the past, have you ever received any
22 type of substance abuse treatment?

23 That's for a drug or alcohol problem.

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Are you satisfied with the work that your

1 lawyer has done for you?

2 THE DEFENDANT: Yes.

3 THE COURT: Has anybody come to you and threatened you
4 in any way or perhaps made you any promises in order to get
5 you to make the decision to enter these pleas?

6 THE DEFENDANT: No.

7 THE COURT: Am I correct to conclude that your decision
8 to enter these pleas that it is a free and voluntary
9 decision on your part?

10 THE DEFENDANT: Yes.

11 THE COURT: Mr. Scruggs, if you would, you don't
12 necessarily have to respect me. But I need for you to
13 respect where you are. Add the word sir following your
14 answers if you would.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And, sir, you do understand that you are
17 presumed innocent of these charges, and that you do have a
18 right to have a jury trial on these charges, and that, at
19 any trial that would take place, it would be the State that
20 has the burden of proof, and the State would have to
21 convince all 12 members of a jury that you are, in fact,
22 guilty beyond a reasonable doubt of these charges?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand that you have a right to
25 that jury trial?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you wish to have a jury trial on any of
3 these charges?

4 THE DEFENDANT: No, sir.

5 THE COURT: Sir, I need for you to understand that
6 there are other very important Constitutional rights that
7 you are entitled to, but that you have to give up in order
8 to enter these pleas.

9 You have to give up your right to confront and
10 cross-examine the State's witnesses. You also have to give
11 up your right to present evidence which you or your lawyer
12 might feel would establish a defense, and you have to give
13 up your right of subpoena as well as your right to remain
14 silent.

15 Do you understand all those rights?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And do you wish to give up all of those
18 rights?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Mr. Scruggs, please listen to the
21 solicitor. He is going to provide us with the facts.

22 SOLICITOR BULSA: Thank you, Your Honor.

23 I understand the defense gave Your Honor a packet
24 yesterday and set out some facts. I'll dispute some of
25 those.

1 But, Your Honor, he states that -- these are unrelated
2 charges. I believe these are all related. I'll go through
3 those and connect them as we go.

4 Your Honor, the victim in this case was Jamie Lee
5 Miller who was 37-years old. He lived at [REDACTED] Parris Bridge
6 Road. He was staying there with his grandmother.

7 On June the 13th, 2018, his grandmother was taken to
8 the hospital. He continued to remain at the house. The
9 neighbor remembers an altercation happening outside of the
10 trailer the night that Ms. Thomas was taken to the hospital.
11 That's significant because it is essentially the last time
12 anybody saw Mr. Miller alive other than his assailants.

13 That was in the evening hours of June the 13th.
14 Meeting with Mr. Pressley, the neighbor, he says, on
15 June the 14th, he didn't see Mr. Miller any, anymore.
16 Mr. Miller -- there were three, three vehicles that stayed
17 at this house, Your Honor. One was a Toyota Camry that
18 belonged to the mother or the grandmother, Brenda Thomas.
19 There was a Pontiac Grand Prix that belonged to Jamie's
20 uncle, Joel Thomas, and then there was a Harley Davidson
21 motorcycle that had been left to the victim by his father.

22 Those three vehicles were at the house, according to
23 the neighbor, on June the 13th. He does not recall seeing
24 any of those vehicles at the house on June the 14th.
25 That's important because all those vehicles were found in

1 connection with the Defendant.

2 On June the 15th, Joel Thomas, Ms. Thomas' son, goes
3 by the house to check on the house knowing that his mother's
4 in the hospital. He goes to the house and he sees the door
5 broken in and the house ransacked, and his, his nephew was
6 not there. He calls the police, tries to get the police to
7 investigate the crime. The deputy says there's nothing he
8 can do at this time because of Mr. Miller's absence. He, he
9 was not sure whether Mr. Miller ransacked it himself or
10 whatever.

11 It, it upset Mr. Thomas greatly. The officer did not
12 even go in to look at the house. Mr. Thomas told the
13 officer of the two vehicle -- the two cars being missing
14 from the yard as well.

15 So, that went down as a, a missing vehicle, maybe
16 burglary. But it wasn't being investigated. But the very
17 next day, on June the 15th, or excuse me, on June 16th,
18 the Pontiac Grand Prix is located some three miles down
19 Parris Bridge Road at [REDACTED] Parris Bridge Road. I have a
20 photograph for, Your Honor, State's No. 2. It shows the
21 location of that Pontiac. It was just pulled off of the
22 road.

23 Your Honor, the, the doors weren't opened when the
24 police arrived. That was -- the, the picture was taken when
25 the police were looking in the car. The car had just

1 essentially died on the side of the road. We have
2 statements from the neighbors in that neighborhood that saw
3 a car smoking and being pulled over, and it's being driven
4 by a white man. That, that man can't get it cranked. He
5 leaves the car there. Witnesses from that neighborhood said
6 a, a man came back in a red truck with a lady trying to jump
7 off the car. That man was identified by Alex Lee to, to
8 Sergeant Guffey as being the Defendant. That was all on
9 June the 16th.

10 The police meet with Robert Pressley, the neighbor.
11 They start hearing about the altercation at the -- his -- at
12 Mr. Miller's house the two nights before. They get
13 information about Mr. Miller from the, from the neighbors
14 that -- where the car was found or, excuse me, Mr. Scruggs
15 where the car was found.

16 And, Your Honor, I'm gonna go ahead and bring it up
17 because there's a motive here that we can't substantiate.
18 But we believe it happened because of the facts of this case
19 are very similar to what that occurred a few months -- a few
20 weeks before. The victim himself was alleged to be a
21 suspect in a previous home invasion where somebody was
22 tortured and tied up. That man did not die. He did not
23 name his assailants. But we believe that the Defendant felt
24 the victim was involved in that case because the Defendant,
25 Mr. Scruggs, was a -- friends of that person.

1 I tell you that because that is the underlying current
2 which is causing the police to look for Mr. Scruggs. They
3 put out a BOLO for him. They're also looking for the Toyota
4 Camry.

5 By coincidence, Your Honor, the Highway Patrol are on
6 Rainbow Lake Road patrolling and they see the Toyota Camry.
7 They don't know of the, the BOLO. But they see the, the
8 vehicle speeding, and they notice that he was not wearing a
9 seatbelt at that time. So, they -- the officer turns around
10 and gives pursuit. They, they drive for about five miles at
11 a high rate of speed. The officer says he clocked him at
12 over a hundred miles an hour.

13 He, he drove some back roads off Rainbow Lake Road.
14 Winds up almost to Highway 11 on I believe Anderson Road.
15 What happens is it appears that he runs out of gas because
16 the car slows down tremendously. The Defendant is actually
17 on the wrong side of the road driving. You can see this
18 from the trooper's in car camera. He opens the driver's
19 door and bails out, starts running away while the car is
20 still moving.

21 In the car is Tabitha Cook. Ms. Cook is important
22 because she's the lady that was in the car or in the red
23 truck when he was trying to jump off the Pontiac the day
24 before. She tells us that. She claims she was at Robert
25 Pressley's house, the neighbor, when the assault was taking

1 place against Mr. Miller three days earlier.

2 She, she tells us that Mr. Scruggs told her part of
3 what he did. She kept saying I don't want to hear it, I
4 don't want to hear it, but she does acknowledge that he told
5 her that he, he assaulted him, tied up, and put the victim
6 in the trunk of his car.

7 So, she's left in the, in the Camry. So, the
8 connection is that way. She actually is able to stop the
9 car. It's not rolling fast, but she's able to slam the
10 brakes on and stop the car, and troopers call out the man's
11 running. So, deputies are called to the area. They're,
12 they're roaming the streets. It's almost by chance that one
13 officer actually sees him go down this little dirt road
14 called Rutherford Drive. That's off Twilight Road. The
15 officers are looking at or, excuse me, Twilight Trail.
16 They're looking at Twilight Trail for him.

17 They see him going into a -- Rutherford Drive. One
18 deputy drives down in there. They catch sight of him coming
19 out of the woods going into -- up to a house. There is this
20 house way back in the woods, two story house. Two deputies
21 are in the vehicle. They see the Defendant run up the
22 backstairs up, up off the back deck, and force his way into
23 that house off the deck door.

24 Inside the house are two teenagers. Moua -- M-O-U-A
25 are their last names. The Defendant grabs Leonardo Moua by

1 the throat with his arm, grabbing him, demanding car keys

2 We met with Leonardo and the reason this case was
3 charged as a burglary first is because the police thought he
4 was injured, and that would have been the aggravator for the
5 burglary first. We met with Leonardo. We talked to him
6 about the assault. I think he was puffing a little bit. He
7 didn't want to admit to being, being hurt. So, we could not
8 prove the injury part of the burglary first. So, we had to
9 reduce it down to the burglary second, but he clearly was
10 assaulted.

11 The Defendant -- Leonardo says he was able to just
12 shrug him off, and then the Defendant ran towards the front
13 door. They had car keys on a little hook near the front
14 door. He grabs a set of keys. They belong to a Honda
15 Odyssey van that's out -- parked out in the, the parking
16 area. He jumps in that car and the van and is trying to
17 crank it. Little does he know is that the van is not
18 operable. In fact, it is actually a -- has a log chocking
19 one of the wheels. So, he couldn't of driven it if he got
20 into it.

21 But the deputies were able to see this. He wasn't in
22 the house very long. They see him go in. Then they see him
23 run out. They're getting out to go in, then they see him.
24 They run and they drag him out of the, the van and place him
25 under arrest.

1 When they're searching him incident to arrest, they
2 find two point -- 2.46 grams of methamphetamine. The
3 vehicle that he, that he jumped out of, bailed out of, was
4 Ms. Brenda Thomas' vehicle, Your Honor, the Toyota Camry.

5 So, we have him at the Pontiac. We have him in the
6 Toyota Camry, and the Harley Davidson was found at the
7 Defendant's father's house on McSwain Road. In fact, a
8 relative actually turned him in on that. He was charged
9 with multiple charges. We've worked out this consolidated
10 plea. We believe all these charges are related, and that
11 he's fleeing from the police. He's not just merely running
12 because he has drugs on his person. He's fleeing because
13 he's in a stolen vehicle that is connected to the, to the
14 homicide victim, and then he continues to commit crimes as
15 he's fleeing.

16 He actually tried to break into some storage buildings
17 along this path. He actually wrote -- he ran about
18 three-quarters of a mile. He's unsuccessful in getting in
19 those. Then he eventually breaks into the house as I've
20 described.

21 Your Honor, I've showed you a picture of the, of the --
22 where the location of the car. I have some other pictures,
23 State's Exhibits 3, 4, 5, and 6.

24 State's 3 shows the trunk and it shows a blanket over
25 it. You don't really see much in it.

1 State's 4 shows what you see when you remove that
2 blanket.

3 When Mr. Thomas -- when the vehicle was found on -- at
4 [REDACTED] Parris Bridge Road, Your Honor, it was actually by a --
5 somebody that knows Mr. Thomas. Mr. Thomas and his wife
6 call it into the police and basically have the police meet
7 him at the location of the car. Mr. Thomas is getting the
8 car. The police are pretty much gonna turn the car back
9 over to him. He still -- until Mr. Thomas notices a smell
10 coming out of it, and he starts looking at it, and he says
11 officer, there's something going on here, and in the back
12 seat, State's 6 shows a bunch of landscaping blocks.

13 Those were taken from the yard of Mr. Miller's
14 residence and put into the car. Mr. Thomas smelled it.
15 He's the one that actually found his nephew in the trunk.
16 He was able to see through the back seat, that back seat
17 where those blocks are, through the -- into the trunk. He
18 saw that there was a body in there, and they were able to
19 pop the trunk and locate the body. That is the backside of
20 the victim to show you the full extent of how he was found.

21 So, that, that is how we -- he was found. He was, as
22 you see, hogtied and wrapped up, and there was actually an
23 object in his pants. Mr. Vieth gave you the last two pages
24 of the autopsy. I would like the Court to have the complete
25 autopsy, State's 1. It goes into further description as to

1 how the victim was found and his cause of death.

2 He was ruled -- the cause of death was ruled by
3 physician as asphyxiation with a contributing factor of
4 drugs. We do know the victim did have a drug problem. But
5 there was actually some rumor that maybe the Defendant or
6 Ms. Cook maybe shot him up with some methamphetamine.

7 We believe this is a serious case. We've reduced it
8 because, as Mr. Vieth states in his facts, we don't really
9 know what happened inside the house. We know that something
10 happened and the house was ransacked. It, it could of been
11 that -- the result of a confrontation over the previous
12 incident, and the Defendant acted out of passion and anger.
13 But he clearly -- the pictures suggest malice as well, Your
14 Honor, in how he left the victim.

15 It's the State's belief that the Defendant was
16 intending to dump this car with the body to try to dispose
17 of Mr. Miller so people couldn't find him. That's the
18 reason we believe the extra weight was added with the
19 blocks. Had that happened, this case might not have been
20 solved.

21 At -- Your Honor, at the appropriate time, the victim's
22 family would like to speak, and, lastly, the defense notes
23 the Defendant had no criminal history. That's true. But he
24 was just on bond. He had been released a week or two before
25 this from a charge out of Cherokee County. So, he was on

1 bond at the time of these crimes. That was for a receiving
2 stolen goods. I believe the defense has provided Your Honor
3 with his criminal history.

4 This is a serious case and we would ask for a penalty
5 up to the 30 years for the manslaughter, Your Honor. We
6 believe that there are multiple victims in this case. We
7 got Mr. Thomas whose vehicles were, were stolen. We've got
8 Mr. Moua who was assaulted and their house was broken into.

9 So, it's more than just Mr. Scruggs. There's many
10 other crimes that he perpetrated during this, this crime
11 spree.

12 THE COURT: You were able to hear the solicitor when he
13 informed me as to the facts?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And do you believe that, as he stated the
16 facts, that he's substantially correct?

17 MR. VIETH: Your Honor, can I address the Alford plea
18 issue on that?

19 As to what the solicitor would present at trial, yes,
20 sir, we agree that those facts are substantial in what, what
21 they would present.

22 On him admitting that, as to the voluntary
23 manslaughter, that's the Alford plea issue. But we do
24 acknowledge that's the evidence that the State would have,
25 yes, sir, and he does freely admit the incidents after that

1 event.

2 THE COURT: Do you agree with the statements just made
3 by your lawyer?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right. And, sir, do you understand
6 that, on these charges, that on a failure to stop for blue
7 light, I could sentence you between 90 days and three years?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Understand that on the possession of stolen
10 vehicle more than two but less than \$10,000, I could
11 sentence you up to five years?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: On the burglary second degree nonviolent, I
14 could sentence you up to 10 years?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: On the grand larceny value two to \$10,000,
17 I could sentence you -- on that attempt of grand larceny
18 value two to \$10,000, I could sentence you up to five years?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Do you understand that on a possession of
21 meth charge I could sentence you up to three years?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: And on the voluntary manslaughter, that I
24 could sentence you between two to 30 years?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You also understand that that voluntary
2 manslaughter charge, that is classified as both a violent
3 and also as a most serious offense under the law?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And have you been able to talk to your
6 lawyer as to the consequence and ramifications of the
7 offense being classified as both violent and most serious?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Understanding those ramifications and the
10 sentence, possible sentence I could impose, you still wish
11 to enter this plea?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: In regards to the charge of voluntary
14 manslaughter, do you believe that the State could produce
15 sufficient evidence to prove your guilt of this charge
16 beyond a reasonable doubt, and that, if you went to trial, a
17 jury would most probably find you guilty of that charge?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And are you, in fact, guilty of the
20 possession of meth charge?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Are you also guilty of the grand larceny
23 value two to \$10,000 or rather the attempted grand larceny
24 value two to \$10,00?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Are you also guilty of the burglary second
2 degree nonviolent charge?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you also guilty of the possession of
5 stolen vehicle two to \$10,000?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are you also guilty of the failure to stop
8 for blue light charge?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Have all of your answers to my questions
11 today been truthful and honest?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Discovery's been shared with the defense?

14 SOLICITOR BULSA: Yes, sir.

15 THE COURT: No prior record other than the arrest?

16 SOLICITOR BULSA: Yes, sir.

17 THE COURT: Do you have -- okay. I know you've, you've
18 stated that there were multiple victims.

19 Do you have any information from any of the victims?

20 SOLICITOR BULSA: Your Honor, the Mouas did not wish to
21 be involved anymore than they had to. So, they're not here.
22 Mr. Joel Thomas I believe wishes to address the Court.

23 THE COURT: Just come right up here and stand beside
24 the solicitor.

25 (WHEREUPON, the parties comply.)

1 THE COURT: Just need to remind you we are making a
2 recording of everything that happens here. So, when you
3 speak, please speak up loud enough so that both the court
4 reporter and I can hear you, and, when you speak, just start
5 by giving us your full name.

6 MRS. THOMAS: My name is Candace Thomas. Jamie Miller
7 was my nephew.

8 We were told to be brief and we understand the
9 restraints of the Court's time. But, however, we'd like for
10 the Court to realize that Mr. Scruggs was in no way brief
11 when he murdered and tortured our nephew. Not only did he
12 take our nephew's life, he basically took my mother-in-law's
13 who raised him and lived and owned in this house where this
14 crime began. Mr. Scruggs ruined her home, stole everything
15 in it, and also stole her car.

16 We laid her to rest on Friday. We feel like it's
17 important for you to know that her death was almost a year
18 to the day of her grandson's whom she raised. We believe,
19 in larger part, it was due to grief in losing everything she
20 owned at the hands of Mr. Scruggs.

21 We feel that if you will examine the photos of our late
22 nephew in the trunk of the car where he died, you'll have no
23 doubt Mr. Scruggs should receive the maximum sentence, and
24 it's a danger to both our family and others.

25 Thank you for your time.

1 THE COURT: Thank you, ma'am.

2 MR. THOMAS: My name is Joey Thomas. I'm Jamie's
3 nephew -- Jamie was my nephew.

4 Jamie lived with my mother, and we knew Jamie wasn't a
5 model citizen by no means. But he didn't deserve to be
6 killed in such a way as those pictures show there. He
7 also -- my mother grieved. I think she grieved herself to
8 death over this whole situation. She had nothing once he
9 got done with her house, cars. Everything inside the house
10 tore up. He stoled (sic) everything in there, TVs, anything
11 he could to get his hands on. He busted up everything else.

12 Also, there's another one involved, my little nephew,
13 who is Jamie's brother. He has spina bifida. Lives with
14 his grandmother. Jamie was gonna be his caretaker once --
15 if something happens to his other grandmother. So, we got
16 another one we gonna have to look out for because of this
17 situation to try to figure out what our family can do to, to
18 support him and take care of him.

19 And I also want you to look at those pictures real
20 well, and see if you want somebody like that out on the
21 street.

22 That's all I have to say.

23 THE COURT: Thank you, sir.

24 SOLICITOR BULSA: Your Honor, lastly, Mr. Miller had a
25 daughter, Niki Miller. We've met with her several times.

1 She has two young children. She wasn't able to be here, and
2 she also would like for the max sentence.

3 MR. THOMAS: Could I -- could I say one more thing?

4 THE COURT: Yes, sir.

5 MR. THOMAS: She, she was Jamie's daughter, and they
6 have two kids. She has two kids. So, that's two more
7 granddaughters.

8 THE COURT: Thank you, sir.

9 SOLICITOR BULSA: That's all, Your Honor.

10 THE COURT: Yes, sir.

11 MR. VIETH: Your Honor, please the Court.

12 Obviously this is one of those tough cases that a Court
13 has to listen to both sides and make a decision that the
14 Legislature gives you complete control over when they say,
15 by law, you can go two to 30, and you look and say well,
16 someone in Rock Hill can get five, someone in Myrtle Beach
17 seven, someone in Greenville 15, and you wonder how these
18 different sentences get imposed. It's because the
19 Legislature trusts the Court to consider both sides of the
20 coin, and make a decision that you think is appropriate in
21 this case. It's easy to say 30 years, slam dunk, someone's
22 deceased. But you need to know a lot about the other side
23 of the coin as well as the family and -- of Mr. Scruggs
24 himself.

25 I want to address the factual basis of a voluntary.

1 I've been involved in this case -- I said he's been in jail
2 430 something days. I've probably been involved in almost
3 400 of them, and we've met many times. I've met with the
4 family who's in the back, and we've always tried to get what
5 is a theme of this scenario, what, what caused this issue.

6 He has not denied, and I gave the Court a presentence
7 report that I know the State doesn't require, but I, I felt
8 like it was beneficial to the Court to give you something to
9 review prior to sentencing so you'd have an idea of our
10 version, what we do in Federal Court all the time.

11 He -- the fellow that got beat up was the crux of what
12 I would think the State's version is. It's a revenge issue
13 that a fellow by the name of Billy Webb gets beat up by
14 Jamie and two others, and the same device that was put into
15 his private part, his rear end, was almost what was done to
16 Jamie. It would seem very coincidental to say that it
17 happened with one, and it happened to another two weeks
18 apart, and it wasn't because of some revenge, and I can
19 appreciate that, and I'll address that.

20 Mr. Webb was a friend of his father. He wasn't a big
21 friend of Clay although there's statements in the
22 circumstantial evidence realm of discovery that Clay
23 purportedly told someone that he was like an uncle to him or
24 like a father figure to him, and Clay tells me that's not
25 true. He was friends with my dad. Of course, his dad spent

1 years in prison as I informed the Court on the presentence
2 report.

3 But it is, nonetheless, an issue because drugs took
4 over all these parties. Tabitha, I presented to you all of
5 her rap sheet. She's a co -- she's a codefendant charged
6 with accessory. Her rap sheet is filled with drug
7 violations, shopliftings, and everything else, and that's
8 who he was with. Mr. -- the deceased, which we're not
9 saying by any stretch of the imagination he deserved any
10 harm, he did not, but he had a rap sheet tremendous, one
11 that I've provided to the Court. It was all shared through
12 discovery. My client had minimal of a charge.

13 Everybody was doing drugs, however, and I will have
14 people address the Court in a minute that will tell you
15 that, when he was getting -- he was an outstanding citizen.
16 When he got the -- in 2017, he went through a divorce. His
17 mom will tell you or she's told me every time she's been in
18 my office that that put him in a down spiral with drugs,
19 depression, things she had never seen before, and he's
20 admitted that drugs were part of this whole incident, that
21 he was doing meth, Jamie was doing meth, and, I don't know,
22 I think maybe heroin. They were doing drugs.

23 They were friends. They were not enemies, and they,
24 they would be together at times. And his version of the
25 facts were that, when he went to get Tabitha, who had, I

1 think Tabitha, for lack of a better word, just enjoyed the
2 company of whoever would give her drugs, whether it be
3 Jamie, whether it be Clay, or anyone else. The discovery
4 material just goes off and on with different versions of
5 facts.

6 But I think she was, whoever gave me drugs, I wouldn't
7 mind spending the night with you. She was over there with
8 Jamie and got kicked out of the house. He goes over to pick
9 her up. His version that he'd gone to trial and been on the
10 stand was that Jamie said I hear you're coming to beat me up
11 because of what I did, and pulled a gun on Clay, and Clay
12 said they got into a fight. They were both high on drugs.
13 Got into a fight.

14 The first day I met him, I went in the jail to meet him
15 for the very first time, and he said Mr. Vieth, I did knock
16 his teeth out. I did beat him up, but I didn't kill him,
17 and he's maintained that really the whole time. He says he
18 did beat him up when that -- where he had -- when he got in
19 the altercation, that he told me that he instructed Tabitha
20 to tie him up, which they, which she did, and there was a
21 sex object in Jamie's bedroom that was there, and that was
22 what was part of what was used as potentially the revenge
23 motive against what had happened to Mr. Webb.

24 But, after that, he said they left. He don't know
25 whether Tabitha went back or something. He takes the

1 position he didn't put him in the trunk. But whether he put
2 him in the trunk, didn't put him in trunk, the issue is that
3 he has passed away, got beat up bad. I, I even, in our
4 negotiations a long time ago with Mr. Bulsa, I said, you
5 know, it almost sounds like assault and battery high and
6 aggravated nature and involuntary manslaughter. Just gross
7 negligence of you tying somebody up when the coroner could
8 not come in here, when Doctor Wren would not be able to come
9 in here and say he got stabbed, he got shot, he got blunt
10 trauma, wounds. He was gonna have to say he died of
11 asphyxiation and drug use.

12 So, I don't think there was ever an intent to kill, but
13 you don't run that gamble with the facts that are out there
14 on a murder trial when you're evaluating the totality of the
15 case. But that would be the version that we would of
16 raised. He did -- he did beat him up when he got a gun
17 pulled against him. Tabitha was there. She was a complicit
18 help in that thing. But he says, when they left, they had
19 not put him in his trunk. That may be -- I don't know what
20 the difference would be, whether he put him in it, didn't
21 put him in it, cause he still died of asphyxiation, and, and
22 the drug overdose that was raised by Doctor Wren. Not
23 bullet wounds, not stab wounds, or anything of that nature.

24 Very sad all the way around. But I don't know that the
25 max, in considering the totality of it, is something that

1 needs to be considered by the Court when you hear about him
2 as a person. I've given you some information about him. I
3 want to share a couple things to just verify what I'm saying
4 to you.

5 These are his diploma from high school, and a picture
6 of him getting his diploma. This is a picture from
7 Spartanburg -- this is a certificate from Spartanburg
8 Community College from 2010 along with a certificate showing
9 he was on the Dean's List throughout his college career.

10 His mother brought me in a picture of a golf team he
11 was on when he was at Chesnee, and one of his relatives and
12 partners that was on the golf team is in this room today.
13 He had a scholarship to go to Spartanburg Methodist,
14 certificate of, of admission to Spartanburg Methodist
15 College, and had a scholarship for golf. Mom tells me he
16 tore his ACL. He couldn't get the scholarship issue, and
17 ended up going into welding.

18 I provided the Court with that presentence report, and
19 a copy of his resume, which he did -- done back then that he
20 was in welding, and was in welding when this happened.
21 Basically -- and I handed pictures of him and his family,
22 him and his wife, them at the beach in 2017. It's all
23 handed up in the presentence report, copy to the solicitor.
24 And his mom will tell you that the picture of them at the
25 beach in 2017 was about a couple months from the day of the

1 separation of his wife and him, and that's when it spiraled
2 down to drugs.

3 So, 2018 changed his life forever. He's gonna be doing
4 some prison time. Drugs, you've seen it too many times,
5 Judge, in this courtroom, how drugs change people's lives.
6 I don't think this would of ever happened but for that.

7 I know that he's looking at a significant time. I'm
8 not trying to minimize the two to 30 by the Legislature and
9 say you ought to give him seven or eight or anything like
10 that. I'm looking at time that, when I look at it, if he
11 got out in 2030, this is past the whole 2020, it'd be a 15
12 year sentence. If you gave him 20 years, he wouldn't get
13 out until 2035. I'm probably not -- a lot of people in this
14 courtroom, they're not even gonna be alive in 2035. That's
15 a lot of time and it still gives him a chance, when he gets
16 out, to have some life in 2030, 2035 range.

17 I believe that is appropriate in this situation when
18 considering the totality of the case, everything he had
19 going for him, and the fact that everybody in this circle
20 was dealing drugs, and using drugs, and it was a, a bad, bad
21 situation.

22 I would like you to hear from a couple people right
23 quick, Judge, if you don't mind.

24 Joey Jolly, if you would come up please, sir.

25 THE COURT: Just come right up here and stand beside

1 the police officer.

2 If you would, I just need to let you know we are making
3 a recording of everything that happens. So please speak up
4 loud enough so that both the court reporter and I can hear
5 you. Just start by giving us your full name.

6 MR. JOLLY: My name's Joey Jolly.

7 MR. VIETH: Joey, give a little information about who
8 you are please, sir.

9 MR. JOLLY: Okay. I am a teacher at Boiling Springs
10 High School and Boiling Springs Junior High for 27 years. I
11 also own a peach farm up in Cooley Springs, and I've known
12 Clay since he was probably 10 years old.

13 My first meeting with Clay was at a fishing lake. He
14 was 10-years old, and I remember him because he came up and
15 I caught a fish and he wanted to wind it in and I said sure.
16 But from then on, he had called me and asked me what lakes
17 would I be at, and we became a friendship that carried on
18 over.

19 He was on the Chesnee High School golf team. I had two
20 sons that were on the golf team. So, I knew Clay from that.
21 I knew his family. He had people that cared for him. His
22 mom and step-dad cared for him. His father later made --
23 and he had a very caring uncle, and all these people was
24 there for him.

25 Clay severely injured his knee. I think it was between

1 his eleventh grade and twelfth grade year at the beach. He
2 tore an ACL. Did some meniscus damage. He was gonna get a
3 golf scholarship to Spartanburg Methodist College. Because
4 of the injuries and because he really didn't fit in with the
5 college life, he told me that he wanted to go to Tech and
6 learn welding. So, he went to Spartanburg Community
7 College.

8 Before he did that, he worked at a cabinet shop, and,
9 within a few months, he could build beautiful cabinets that
10 would be the finest, would be the finest amendment to any
11 house.

12 He went to the community college, got his degree in
13 welding. He complained all the time with his knee pain. He
14 came by my house one time to get a basket of peaches and
15 showed me his knee. To me it looked to me like it was
16 swollen three times as big as it should of been. I told
17 Clay that he needed surgery. I even recommended the doctor
18 that he should use.

19 He had the surgery. He was rehabbing. Eventually he
20 reinjured the same knee. The doctor had given him some pain
21 meds because he wouldn't go back and have it repaired again.
22 He wouldn't give him any more pain meds.

23 The -- the fact that Clay got married, he invited me to
24 his wedding. He was happy. He got a good job at a company
25 welding. He continued to try to deal with this pain with

1 his knee. It made it more and more difficult. He was
2 working third shift. His marriage began to crumble. His
3 wife left Clay. He lost his job. All these things changed
4 his life forever.

5 When I last saw him, his smile was gone. He wouldn't
6 joke. He was basically emotionless. Honestly, if all these
7 things had happened to me, I don't know what I would of
8 done. I don't know what anyone would of done.

9 Clay quit answering my phones calls. People told me
10 that he was in a bad place and hanging around a crowd that
11 was known to do hard drugs. I wished that I'd been a better
12 friend.

13 Judge Hayes, I can't believe that Clay would of killed
14 anyone. I've known him a long time. It is my hope and
15 prayer that justice be served. I hope Clay gets the help he
16 needs. Possibly even surgery on his knee.

17 In sentencing Clay, I hope that, in a reasonable time
18 period, you allow him to return to society, that heal, and a
19 rehabilitated man. The person that I know will be hard
20 working, a changed man. I would like to have my friend
21 back.

22 Thank you.

23 THE COURT: Thank you, sir.

24 MR. VIETH: Thank you, sir.

25 Rebecca, you and Mark want to come up together.

1 Your Honor, this is his mother and stepfather that will
2 address the Court, my last person to address the Court.

3 THE COURT: I need to---

4 MR. VIETH: But I---

5 THE COURT: I need to---

6 MR. VIETH: I'm sorry.

7 THE COURT: ---remind you we are making a recording of
8 everything that happens. So, please speak up loud enough so
9 that both the court reporter and I can hear, and, when you
10 begin, just give us your full name.

11 MS. CAMPFIELD: Yes, sir, Rebecca Campfield.

12 I am Clay's mother. I raised him from the time he was
13 born by myself up until the time that I married his
14 stepfather when Clay was eight. I always had a real close
15 relationship with Clay. He never gave me any trouble
16 growing up as teenage boys usually do. He always lived
17 right there with me even after he was married. He may have
18 lived at my father's house that had deceased, and they lived
19 beside me.

20 He did welding school. He got scholarships for
21 college. He loved playing golf with high school, and his
22 family, and his friends until he injured his leg.

23 His life was going really great. He got married and we
24 were all so happy for him in 2013. But the marriage didn't
25 go very well. And then, 2017, they were getting a divorce.

1 He was on vacation with us. Had went on every vacation
2 that the family ever went on even after he got married, him
3 and his wife. Got back from vacation. Got filed with
4 papers. She kind of led him on, kept wanting to see him,
5 but didn't want to live with him.

6 At that time, me and my husband was going through some
7 issues too, and I really wasn't there for Clay. Clay's
8 always depended on me. I just feel like if I had been more
9 there for him he would of had somebody maybe to help him get
10 through that. I think he didn't know how to handle it and
11 he got in.

12 He lost his job. He stopped hanging around the people
13 that he had always hang round -- hung round. He had a
14 really good friend in high school that got caught -- got
15 hooked on meth, had hurt his grandma and grandfather. Clay
16 really liked him. He never had anything else to do with him
17 after that.

18 But he got to hanging around people that we didn't
19 know. They were trash in his house, up there when he wasn't
20 up there.

21 Jamie, I, I did not know him. I do know that he was --
22 he had come to the house a couple times, Clay's house,
23 because Clay did live right beside me. Eventually Clay
24 moved back in the house with me, and that's the only two
25 places he has ever lived. He's never -- I know it has been

1 said that he lived with his daddy. He's lived with Billy
2 webb.

3 Billy Webb was a friend of his daddy's and never a
4 friend of Clay's. So, I don't really know where that come
5 into play.

6 But Clay's always been against drugs, and -- but drugs
7 is what caused Clay to get involved with this was the wrong
8 kind of people. He's soft hearted. He loves children. He
9 can't stand to see anybody get hurt. He has compassions for
10 elderly people. He helped me take care of my dad, his
11 grandfather before he passed away.

12 Everything that he has been charged with is so out of
13 character for him. Clay's family is here to show their
14 support for him today, and they're continuous support.

15 I just ask the judge to please, please give Clay
16 leniency. He's a good person who has made mistakes under
17 the influence of drugs that he was on for a short time, and
18 it does not reflect his or who the person that he really is.

19 That's all.

20 THE COURT: Thank you, ma'am.

21 MR. VIETH: Sir.

22 MR. CAMPFIELD: I'm Thomas Campfield. I'm Clay's
23 stepfather. I married his mom in 1995 when he was eight and
24 raised him just like he was one of the other kids. We had
25 three other kids too.

1 He's always been a good kid. I got, in 2015, I had
2 some surgery. I was in the hospital for a long time. When
3 I come home, Clay helped take care of me. I couldn't take,
4 I couldn't take care of myself for a while, and he was there
5 for me. That's just the kind of person you know he was, and
6 not everybody could do that, you know, for a stepfather.

7 But that's just the kind of person he was, and I just
8 wanted the Court to, you know, realize they's a lot of
9 situations is, you know, things happen that people gets
10 caught up in, and they don't have any control over it, and I
11 just like to ask for leniency for Clay cause he is -- he
12 grewed up to be one of my best friends, and I hope he always
13 will be.

14 THE COURT: Thank you, sir.

15 MR. VIETH: Thank you, sir. Y'all can have a seat.

16 I'm not gonna ask anyone to speak. But I would like
17 any family member just to stand so the Court knows that
18 there's support for him.

19 (WHEREUPON, parties in the audience stand.)

20 MR. VIETH: Thank you very much.

21 THE COURT: Mr. Scruggs, do you agree with the
22 statements made by your lawyer?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Mr. Scruggs, is there anything else that
25 you would like to say or want me to know or consider?

1 THE DEFENDANT: I would like, like to ask the Court to
2 have mercy. Just got on drugs real bad. I was in a
3 position I shouldn't of put myself in, and I'm sorry for the
4 victim's family for their loss.

5 THE COURT: Thank you, sir.

6 (Pause.)

7 THE COURT: I'll find that there is a substantial
8 factual basis for the plea, that the Defendant's decision to
9 enter the plea has been made freely, voluntarily, knowingly,
10 and intellectually by him.

11 On the voluntary manslaughter charge, it will be a 30
12 year sentence at the State Department of Corrections. He'll
13 receive credit for 436 days. I've indicated my desire is
14 that he receive the Addiction Treatment Unit while he's at
15 the Department of Corrections. That will run concurrent
16 with the three year sentence on the possession of meth
17 charge, concurrent with the five year sentence on the grand
18 larceny value two to 10,000 or the attempted grand larceny.
19 It will be a 10 year sentence on the burglary in the second
20 degree. It will be a five year sentence on the possession
21 of stolen vehicle two to ten. It will be a three year
22 sentence on the failure to stop for a blue light. All the
23 charges run concurrent with each other. All the charges
24 he'll receive credit for the 436 days.

25 Good luck to you, sir.

1 MR. VIETH: Thank you, Your Honor.

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3 * * *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 General Sessions for Spartanburg County, South Carolina, on the 27th day of August, 2019.

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

August 12th, 2020

PAMELA E. GREEN, Court Reporter

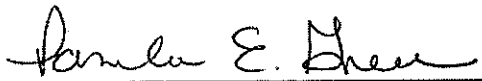
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August 12th, 2020



PAMELA E. GREEN, Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

County of SPARTANBURGSTEVEN SCRUGGS #381275

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2020CP4202241

APPLICATION FOR

POST-CONVICTION RELIEF

2020 JUL 16 PM 3:11
CLERK OF COURTS
SPARTANBURG COUNTY
AMY W. COX

FILED

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legally 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 386 - REDEMPTION WAY, McCOMB CONVENTIONAL INSTITUTION.
2. Name and location of Court which imposed sentence SPARTANBURG COURT GENERAL SESSION
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

	(3-yrs)	18-65-4204372 (5-yrs)
(a)	1st to 3rd for 18-65-42-04365	1st to 3rd for 18-65-42-04372
(b)	1st to 3rd for 18-65-42-04369	1st to 3rd for 18-65-42-04366

18-GS-4204371 (10-YRS)
 BURY 2ND DEG / N/A
 18-GS-4204373 (30-YRS)
 Vol. MANSLAUGHTER

5. The date upon which sentence was imposed and the terms of the sentence:
- (a) _____
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty Admitted Plea. AND OTHER CRIMES.
- (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. N/A
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. N/A
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) WENT TO JAIL
- (b) _____

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 SPARTANBURG COUNTY
 AMERICA, COX

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INADEQUATE ASSISTANCE OF COUNSEL.
- (b) FAILURE TO PROTECT CONSTITUTIONAL RIGHTS of Appellant.
- (c) FAILURE TO CHALLENGE THE EVIDENCE MURDER.
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE ATTACHMENT.
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

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CLERK OF COURT

Spartanburg County

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(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

N/A

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

(a) which grounds have been presented:

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

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

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

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 2020 JUL 15 PM 3:04
 CLERK OF COURT
 SPARTANBURG COUNTY
 AMY W. COX

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

(a) _____ *N* /
 (b) _____
 (c) _____ *A*

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

(a) your arraignment and plea? ☒ _____
 (b) your trial, if any? _____
 (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. VEITH, RICHARD W.

 ii. _____

 iii. _____

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

i. VEITH, RICHARD W.
Guilty Plea, on 8/27/2019
 ii. _____

 iii. _____

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 2020 JUL 16 PM 3:01
 CLERK OF COURT
 SPARTANBURG COUNTY
 AMY M. COX

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

VACATE SENTENCE AND CONVICTION.

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

No

STATE OF SOUTH CAROLINA)

County of SPARTANBURG)

VERIFICATION

I, STEVEN SCRUGGS, 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.

Steven C. Scruggs

SWORN to and subscribed before me this 29th day of June, 2020.

Lakiana D. Rix (L.S.)
Notary Public

My Commission Expires: January 13th 2030

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CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

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

I, STEVEN SCRUGGS, 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.

Steven Scruggs
Applicant

SWORN or affirmed to and subscribed before me this

24th day of June, 2020.

Leticia D. King
Notary Public

My Commission Expires: January 13th 2030

FILED

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CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Steven Scruggs, #381275,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2020-CP-42-02241

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

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter “PCR”) application filed on July 16, 2020 by Steven Scruggs (hereafter “Applicant”). Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its August 2018 term, the Spartanburg County Grand Jury indicted Applicant for failure to stop for a motor vehicle (2018-GS-42-4365), possession of a stolen vehicle (2018-GS-42-4366), distribution or possession with intent to distribute methamphetamine (2018-GS-42-4369), first degree burglary (2018-GS-42-4371), attempted grand larceny (2018-GS-42-4372), and murder (2018-GS-42-4373). Applicant was represented by Richard W. Vieth, Esquire. Deputy Solicitor Derrick Bulsa of the Seventh Circuit Solicitor’s Office prosecuted the case. On August 27, 2019, Applicant appeared before the Honorable J. Mark Hayes, II, circuit court judge, and pled pursuant to *Alford*¹ on the murder charge and pled as guilty on all other charges. As a part of plea negotiations,

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

Applicant pled to the lesser-included offense of voluntary manslaughter on the murder indictment, to the lesser-included offense of non-violent, second degree burglary on the first degree burglary indictment, and to possession of methamphetamine on the distribution or possession with intent to distribute methamphetamine. Judge Hayes sentenced Applicant to thirty years' imprisonment for voluntary manslaughter, three years' imprisonment on the meth possession charge, five years' on the grand larceny charge, ten years' on the second degree burglary charge, five years' on possession of a stolen vehicle, and three years' on failure to stop for a blue light, all sentences running concurrently. Applicant did not pursue a direct appeal.

II. Statement of Facts

On June 13, 2018, the victim, Jamie Lee Miller, was staying with his grandmother, who was taken to the hospital. (Tr. 9). The victim stayed at the house. (Tr. 9). The neighbor remembers an altercation happening outside of the trailer that night. (Tr. 9). The neighbor stated that on June 14, 2018, he did not see the victim anymore. (Tr. 9). Also on June 13, the neighbor saw three vehicles outside the trailer, belonging to the mother or grandmother, the victim's uncle, and the victim's father, respectively. (Tr. 9). The neighbor stated that he did not see the vehicles at the home June 14. (Tr. 9).

On June 15, Joel Thomas, the grandmother's son, drove by the home and saw the door broken in, the house ransacked, and two missing vehicles. (Tr. 10). The victim was not there. (Tr. 10). He called the police and the deputy said they could not do anything about the house because of the victim's absence. (Tr. 10). On June 16, one of the vehicles was located three miles down the road. (Tr. 10). Neighbors stated the car started smoking and was pulled over and was being driven by a white man. (Tr. 10-11).

Around this time, the police began pursuing the other stolen car, which was being driven

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by a driver who did not wear a seatbelt and was driving over a hundred miles an hour. (Tr. 12). The passenger, Tabitha Cook, stated they were trying to jump off the car that day before and that she observed the initial altercation, which was an assault. (Tr. 12-13). Applicant told Cook he assaulted the victim, tied him up, and put him in the trunk of the car. (Tr. 13). The car ran out of gas, Cook was left in the car, and Scruggs fled on foot. (Tr. 13). Applicant forced his way into a nearby house where there were two teenagers, one of which was grabbed by the throat by Applicant, while he demanded car keys from the teenager. (Tr. 13-14). Applicant took a set of keys for an inoperable vehicle. (Tr. 14). The officers, seeing this, went in the house, and ultimately Applicant was apprehended by officers. (Tr. 14). 2.46 grams of methamphetamine were found on Applicant. (Tr. 15). On his way to the house, Applicant attempted to break into several storage facilities. (Tr. 15). The victim was ultimately discovered based upon the smell emitting from the vehicle he was hogtied and thrown into. (Tr. 16). The cause of death was asphyxiation with a contributing factor of drugs. (Tr. 17). The victim was recognized as someone with drug problems. (Tr. 17).

III. Current Action before the Court

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

1. "Ineffective assistance of counsel."
 - a. "failure to object to the plea, once he was informed by his attorney that he would receive only (15) years."
 - b. "failure to object to the (lies) and inconsistent statements of co-defendant."
 - c. "failure to inform Applicant of any defense that [was] available to him."
 - d. "failure to discuss with the Applicant the elements of the crime charged."
 - e. "Applicant's defense attorney failed to oppose the prosecution's case with any adversarial litigation."
 - f. "because of the Applicant's defense attorney's gross neglect and his many legal errors, no defense was raised to put up an issue for him during the Court proceedings."
 - g. "Applicant's defense attorney did not do the necessary legal research."

- h. "Applicant's defense attorney failed to give him his complete loyalty."
 - i. "Applicant's defense attorney did not do the necessary factual investigations on the Applicant's behalf."
 - j. "Failure to inform the Applicant of his right to appeal."
 - k. "failure to file an appeal for the Applicant."
 - l. "failure to object to the lies and inconsistent statements of the co-defendant."
 - m. "failure to object to the plea, once Applicant was sentenced to more time than he (guilty plea attorney) told the Applicant he would receive which was (15) years."
 - n. "Failure to investigate."
 - o. "failure to object to evidence."
 - p. "failure to request a preliminary hearing."
 - q. "expert witnesses."²
 - r. "failure to object to the Solicitor's comments."
 - s. "failure to investigate the laws and charges. Applicant was charged with before he advised him to plea to the void laws and charges. (Involuntary plea)."
 - t. "failure to challenge the probable cause for the Applicant's arrest, police officers violated Fourth and Fourteenth Amendments when, without probable cause, they seized Applicant and transported him to the police station for interrogation."
 - u. "Counsel was ineffective for failing to object to his client Confrontation Clause which error occurred when Court admitted statement of a non-testifying co-defendant against petitioner."
 - v. "failure to submit exhibits."
 - w. "failure to file motion for reconsideration."
 - x. "failure to correct false and misleading testimony and file pretrial motions."
 - y. "failure to object to the State's case to adversarial testing."
2. "Failure to protect constitutional rights of Applicant."
 3. "Failure to challenge the evidence [of] murder."

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

IV. Argument

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts

² This is interpreted as a failure to call an expert witness to testify in Applicant's favor.

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

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

Second, counsel’s deficient performance must have prejudiced the applicant so that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the

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proceeding would have been different.” *Cherry*, 300 S.C. at 117-18. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694.

The court makes this determination based upon the totality of the evidence. *Id.* at 695.

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

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

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

United States, 519 F.2d 347, 350 (4th Cir. 1975)).

For a plea to be valid, the applicant must have been aware of the nature and crucial elements of the offense the maximum and minimum penalties, and the rights he is waiving by accepting the plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000). A plea is not knowing or voluntary if a defendant “lacks knowledge of material evidence in the prosecution’s possession.” *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A defendant’s knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and “may be accomplished by colloquy between the court and defendant, between the court and defendant’s counsel, or both.” *Roddy v. State*, 339 S.C. at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). “[T]he voluntariness of a guilty plea 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.” *Dalton*, 376 S.C. at 138, 654 S.E.2d at 874 (quoting *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, “guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including claims of a violation of a constitutional right prior to the plea.” *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

The plea entered was seemingly entered freely, voluntarily, knowingly, or intelligently. Applicant stated he did not consume any type of substance that would affect his ability to understand his decision to plead, that he never received treatment for substance abuse issues, that he was satisfied with Counsel’s representation of him, that he was not threatened or coerced into pleading, and that his decision to plead was free and voluntary. (Tr. 6-7). Applicant also stated that, to plead he knew he was waiving his right to a jury trial, where the State would have to

convince all twelve jurors that he was guilty beyond a reasonable doubt, that he was waiving his right to call and confront witnesses, the right to present evidence, the right to establish a defense, the right to subpoena witnesses, and the right to remain silent. (Tr. 7-8). Additionally, the plea judge laid out the sentencing ranges on every charge and that the manslaughter charge is classified as violent and most serious. (Tr. 19-20). The plea judge also confirmed Applicant knew of the ramifications of the violent and most serious distinction. (Tr. 20). Thus, the plea was seemingly entered freely, knowingly, intelligently, and voluntarily and, thus, Applicant should not be allowed to withdraw it now.

Failure to Challenge Constitutionality of Arrest

Applicant claims Counsel was ineffective for failing to challenge the constitutionality of the arrest. However, he does not state why the arrest was illegal, why Counsel was ineffective for failing to challenge the constitutionality of the arrest, or why challenging the arrest would have changed the plea recommendation or decision to plead. Thus, a more definite statement is needed.

Failure to Request a Preliminary Hearing

Applicant alleges Counsel was ineffective because he failed to request a preliminary hearing. However, he failed to state with specificity the basis of his allegation, nor provided Respondent with sufficient enough information to determine whether Applicant was prejudiced by Counsel's inaction, if the allegation proves true. Thus, Respondent respectfully requests this Court to require Applicant, through Counsel, to file an amendment with greater specificity regarding claims made in the original application.

Failure to Object to Plea

Applicant claims Counsel was ineffective for failing to object to the plea because the

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sentence imposed was higher than the fifteen year sentence allegedly promised by Counsel to Applicant. However, at the plea hearing Applicant was not promised a certain sentence and, instead, was told by the plea judge that he could sentence him between two and thirty years' imprisonment. (Tr. 19). Applicant stated he understood this. (Tr. 19). Thus, Respondent contends that this allegation likely lacks merit. Still, because there are probably questions of fact that the record does not conclusively refute, Respondent requests a hearing be set on this issue.

Failure to Object to Co-Defendant's Statements

Applicant claims Counsel was ineffective for failing to object to statements made by Applicant's co-defendant. However, he fails to state what statements he should have objected to, why Counsel was deficient for failing to object to the statements, or how effectively objecting would have changed the recommendation concerning the plea. Thus, a more definite statement is needed to ascertain whether or not this allegation has merit.

Failure to Inform of Defenses

Applicant alleges that Counsel was ineffective for failing to inform of what defenses were available to him. However, he does not state what defenses exist, if any, that he was not informed of. Additionally, Applicant does not state why Counsel was deficient for failing to tell him of the defenses, or why the recommendation or decision to plead would have changed had Applicant been informed of the defense. Thus, a more definite statement is needed for Respondent to ascertain whether or not this allegation has merit.

Failure to Present a Defense

Applicant claims Counsel was ineffective for failure to assert a defense. Applicant waived this right at the plea hearing. (Tr. 8). Thus, Respondent contends that, because the plea is seemingly valid, Applicant's allegations on this ground lack merit. However, because he has

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failed to state what defense he wished was investigated and presented, why Counsel was deficient for failing to assert a defense, or how this defense would have changed Counsel's recommendation concerning the plea. Thus, a more definite statement is needed to ascertain whether or not the allegation has merit.

Failure to Give "Complete Loyalty" to Applicant

Applicant claims Counsel was ineffective for failing to give Applicant "complete loyalty." However, he fails to state what behavior he is defining as "complete loyalty" or why Counsel's failure to give Applicant "complete loyalty" rendered him ineffective. Thus, a more definite statement is needed for Respondent to ascertain whether or not this allegation has merit.

Failure to Discuss with Applicant the Elements of the Crimes Charged

Applicant claims Counsel was ineffective for failing to discuss with Applicant the elements of the crimes charged. However, when told about the crimes, applicable sentence ranges, and violent and most serious distinction on the manslaughter charge, Applicant stated he understood. (Tr. 19-20). Thus, Respondent holds this claim likely is without merit because whatever alleged deficiency Counsel committed was seemingly resolved through the plea colloquy. Still, Respondent requests an evidentiary hearing to fully resolve this issue as well.

However, because Applicant fails to state what elements of which crimes were not fully explained, why this rendered Counsel deficient, or why further explanation would have caused Applicant to proceed to trial as opposed to taking the plea. Thus, a more definite statement is needed for Respondent to ascertain whether or not the allegation has merit.

Failure to Object to the State's Evidence/Case

Applicant raises several allegations concerning Counsel's alleged ineffectiveness for failing to object to the State's evidence and case. The rights to present a defense, object to State

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witnesses, and proceed to trial were all waived when Applicant entered the plea. (Tr. 7-8). Thus, Respondent contends this allegation is likely without merit. Still, the allegation probably raises questions of fact that the record does not conclusively refute.

However, Applicant has failed to state what Counsel should have objected to, why he was deficient for not objection, or how he was prejudiced by the deficiency. Thus, a more definite statement is needed for Respondent to ascertain whether or not the allegation has merit.

Failure to Investigate

Applicant raises several allegations concerning Counsel's alleged ineffectiveness for failure to investigate. *Strickland* makes clear that defense counsel "has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." 466 U.S. at 691. When highlighting failure to investigate as a ground for a larger ineffective assistance of counsel claim, judicial determination of this claim's validity is evaluated for "reasonableness [under] all the circumstances" with "a heavy measure of deference to counsel's judgments" applied. *Id.* At the PCR hearing, Applicant is required to present evidence or witnesses he alleges Counsel did not properly investigate. *Glover v. State*, 318 S.C. 496, 498-99, 458 S.E.2d 538, 540 (1995). Additionally, whether Applicant was prejudiced by Counsel's failure to investigate is contingent on whether the evidence presented would have led Counsel to change his recommendation regarding the plea. *Stalk v. State*, 383 S.C. 559, 562, 681 S.E.2d 592, 594 (2009).

Applicant fails to exactly state what Counsel failed to investigate, why the failure fell outside the zone of reasonableness, or why the evidence that was not initially investigated would have changed Counsel's recommendation concerning the plea. Thus, a more definite statement is needed to ascertain whether or not the allegation has merit.

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Failure to "Correct False and Misleading Testimony"

Applicant claims Counsel was ineffective for failing to correct "false and misleading testimony." This right was seemingly waived at the plea colloquy. (Tr. 7-8). Further, Applicant failed to state whose testimony he wanted objected to, what testimony was false, why Counsel was deficient for failing to "correct" the testimony, or how it would have impacted the plea proceedings. Thus, a more definite statement is needed for Respondent to ascertain whether or not the allegation has merit.

Failure to File Motions

Applicant claims Counsel failed to file motions on Applicant's behalf. However, he does not state what these motions would have been, the basis of the motions, how Counsel's failure to file fell below the standard of reasonableness, or how failure to file "proper" motions prejudiced him and forced him to enter a plea he otherwise would not have entered or how this alleged failure prejudiced him in any other way. More information on this claim is needed by Respondent to ascertain whether or not the claim has merit. Thus, Respondent requests this Court require Applicant to provide a more definite statement regarding this allegation.

Failure to Submit Exhibits

Applicant claims Counsel was ineffective for failing to submit exhibits. However, he does not state what the exhibits would have been, what impact they would had had on his decision to plead or plea proceedings, or why Counsel was deficient for failing to submit the exhibits. Thus, a more definite statement is needed for Respondent to ascertain whether or not the allegation has merit.

Failure to Call Expert Witness to Testify

Applicant claims Counsel was ineffective for failing to call an expert witness to testify.

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Applicant seemingly knowingly, intelligently, freely, and voluntarily waived this right at the plea hearing. (Tr. 7-8). Thus, Respondent contends this allegation is likely without merit. Still, because Applicant did not state who this witness would be, what they would testify to, why Counsel was deficient for failing to call them, or how calling the expert to testify would have caused Applicant to proceed to trial instead of entering the plea, a more definite statement is needed.

Failure to File Motion for Reconsideration

Applicant claims Counsel was ineffective for failing to file for a motion for reconsideration. However, Applicant does not state nor show that the motion for reconsideration was not knowingly and voluntarily waived, or why Counsel was otherwise ineffective for failing to file a motion for reconsideration. Thus, a more definite statement is needed.

Failure to Inform of his Right to Appeal and Failure to File an Appeal

Applicant claims she was denied effective assistance of counsel because his plea counsel did not inform him of his option to appeal from a guilty plea and for failure to file an appeal. However, in *White v. State*, our Supreme Court held that even if the PCR court found the applicant never voluntarily and intelligently abandoned her appeal, the court has no jurisdiction over granting a belated appeal. *White v. State*, 263 S.C. 110, 119, 108 S.E.2d 35, 39 (1974). Still, where an applicant establishes in a PCR hearing that she was unconstitutionally deprived of his statutory right to a direct appeal, upon an appeal of the PCR decision, our Supreme Court will review the trial record and pass upon all issues properly raised and argued as if the direct appeal was perfected. *Id.*

Respondent contends Applicant likely cannot prove that Counsel was ineffective on this ground, nor that he is entitled to a belated appeal. However, because this issue probably raises

questions of fact that the record does not conclusively refute Respondent respectfully requests an evidentiary hearing to fully resolve this issue.

Failure to Protect Constitutional Rights

Applicant claims Counsel was ineffective for failing to protect Applicant's constitutional rights. However, he does not state what rights Counsel failed to protect, why he was deficient for failing to protect those rights, or how it would have changed his decision to plead. Thus, a more definite statement is needed for Respondent to ascertain whether or not the allegation has merit.

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

V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding Applicant's allegations. Applicant alleges that plea counsel was constitutionally ineffective on many different grounds. However, he does not explain exactly what Counsel did that constituted ineffective assistance of counsel. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must "specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will

be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

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

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

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

VI. Other Allegations Denied

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

VII. Assertion of Rights to Notice of Amendments, Experts

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant’s court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 41(a), SCRCP and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) (“Since there is no

right to ‘hybrid representation’ that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.”).

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) (“In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases.”); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); *see also* Rules 15(a)-(b), SCRCP (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

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VIII. Conclusion

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

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHELSEY F. MARTO
Assistant Attorney General

By: Celley F. Marto
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-0386

February 9, 2022

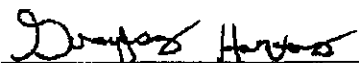
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL
	)	CIRCUIT
Steven Scruggs, #381275	)	
	)	Case No.: 2020-CP-42-02241
Applicant,	)	
	)	
v.	)	Certificate of Service
	)	
State of South Carolina	)	
	)	
Respondent,	)	
_____	)	

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

Susannah C. Ross, Esquire
 Ross & Enderlin, PA
 330 East Coffee St.
 Greenville, SC 29601

DATED this 9th day of February, 2022.


 Grayson Horton, Legal Assistant
 For Respondent

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 SOUTH CAROLINA
 FEB 10 2022

1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

IN THE COMMON PLEAS
7th JUDICIAL CIRCUIT

3 STEVEN C. SCRUGGS,
4 Applicant,

5 vs.

CASE NO. 2020-CP-42-02241

6
7 THE STATE OF SOUTH CAROLINA,
8 Respondent.

9
10 HEARING BEFORE: HONORABLE DANIEL D. HALL
11 DATE: August 8, 2022
12 TIME: 9:45 AM
13 LOCATION: Spartanburg County Judicial Center
14 180 Magnolia Street
15 Spartanburg, SC 29306

16 REPORTED BY: LORA L. McDANIEL,
17 Registered Professional Reporter

18
19 APPEARANCES:

20 ATTORNEYS FOR THE APPLICANT
21 RODNEY W. RICHEY, ESQ.

22 ATTORNEYS FOR THE RESPONDENT
23 CHELSEY F. MARTO, ESQ.
24
25

STEVEN C. SCRUGGS vs. THE STATE OF SOUTH CAROLINA

1 I N D E X

2 DIRECT CROSS

3 WITNESS/EXAMINATION

4 STEVEN C. SCRUGGS

5 BY MR. RICHEY 4 --

6 BY MS. MARTO -- 13

7 RICK VIETH

8 BY MR. RICHEY 18 --

9 BY MS. MARTO -- 20

10

11 CERTIFICATE OF REPORTER Page 24

12

13

14 E X H I B I T S

15 FOR I.D. IN EVD

16 APPLICANT EXH. 1, Various letters, emails,

17 statute excerpt 4 8

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STEVEN C. SCRUGGS vs. THE STATE OF SOUTH CAROLINA

1 THE COURT: Good morning. Y'all ready to start?

2 MS. MARTO: Yes, Your Honor.

3 THE COURT: First matter this morning is
4 2020-CP-42-02241. It's a PCR brought on behalf of Steven
5 Scruggs. Representing the State is Chelsey Marto of the
6 Attorney General's Office. Representing the Applicant is
7 Mr. Rodney Richey.

8 Ms. Marto, I'll be glad to hear from you where we
9 are.

10 MS. MARTO: Yes, Your Honor. I'll give you a brief
11 procedural history.

12 He's presently incarcerated in the South Carolina
13 Department of Corrections since the August 2018 term. He was
14 indicted for failure to stop for a motor vehicle, possession of
15 a stolen vehicle, distribution or possession with intent to
16 distribute methamphetamine, first-degree burglary, attempted
17 grand larceny, and murder. He was represented by Mr. Richard
18 Vieth, and Deputy Solicitor Derrick Bulsa prosecuted the case.

19 On August 27, 2019, he appeared before the
20 Honorable J. Mark Hayes and pled pursuant to Alford to the
21 lesser included offense of voluntary manslaughter and as guilty
22 on all other charges.

23 In addition to being dropped to a lesser included
24 of voluntary, he also pled to the lesser included of
25 non-violent, second-degree burglary, and then possession of

STEVEN SCRUGGS DIR BY MR. RICHEY

1 methamphetamine on the distribution of possession with attempt
2 to distribute charge.

3 He was sentenced to 30 years imprisonment for
4 voluntary, three for meth, five for the grand larceny, ten on
5 second-degree burglary, five years on possession of a stolen
6 vehicle, and three on failure to stop. All these sentences ran
7 concurrently. And he did not pursue a direct appeal.

8 The post-conviction relief application was filed
9 July 16, 2020 and the State's return was filed on February 9,
10 2022. With that I'll turn it over to Mr. Richey.

11 THE COURT: Mr. Richey.

12 MR. RICHEY: Thank you, Your Honor. We're going to
13 call Mr. Scruggs.

14 (APPLICANT EXH. 1, Various letters, emails, statute
15 excerpt, was marked for identification.)

16 DIRECT EXAMINATION

17 BY MR. RICHEY:

18 Q. Sir, would you state your name, please.

19 A. Steven Scruggs.

20 Q. Mr. Scruggs, are you currently in the Department of
21 Corrections?

22 A. Yes, sir.

23 Q. Are you in the Department of Corrections on the
24 charges that the Attorney General outlined to The Court?

25 A. Yes, sir.

STEVEN SCRUGGS DIR BY MR. RICHEY

1 Q. Did you have a trial, or did you plead guilty?

2 A. I plead.

3 Q. Who represented you on those cases?

4 A. Rick Vieth.

5 Q. You had filed an application for post-conviction
6 relief because it's your position that Mr. Vieth did not
7 effectively represent you; is that correct?

8 A. Yes, sir.

9 Q. How much time are you serving?

10 A. Thirty.

11 Q. The cases that you have, were there one or two
12 incidents?

13 A. Two incidents.

14 Q. And did you discuss these incidents with Mr. Vieth?

15 A. Yes, sir.

16 Q. And one in particular -- one of the issues you have
17 is the burglary charge; correct?

18 A. Yes, sir.

19 Q. When you were doing plea negotiations on this case,
20 was it your intent to plea to the voluntary charge?

21 A. No, sir.

22 Q. Were you originally charged with murder?

23 A. Yes, sir.

24 Q. Tell me about your negotiations on the burglary and
25 the murder charge.

STEVEN SCRUGGS DIR BY MR. RICHEY

1 A. I was planning on going to trial on the murder the
2 whole time, so I want to put in for fast, speedy trial. Okay.
3 And so when it was getting closer to the time to go to trial on
4 murder, Mr. Vieth was telling me about first-degree burglary
5 that I was charged with.

6 Q. Let me slow us down. You have to speak up. Is
7 that mike on? Pull up closer to that mike.

8 So at the time of the negotiations, you were
9 charged with murder on a separate incident; correct?

10 A. Yes, sir.

11 Q. And the burglary was a separate incident?

12 A. Yes, sir.

13 Q. And on the burglary, it was alleged that you went
14 into somebody's house; correct?

15 A. Yes, sir.

16 Q. So you and Mr. Vieth had discussions about whether
17 that was burglary first or burglary second; correct?

18 A. Yes, sir.

19 Q. Was it your intentions -- did you believe that case
20 was a burglary second case?

21 A. I thought it was, but I was told over and over that
22 it was a burglary first, and I would get as much time -- that I
23 was going to have to plead to a first-degree burglary after the
24 murder trial, win, lose or draw. And if I won the murder
25 trial, that I was going to have to plead 15 to life on this

STEVEN SCRUGGS DIR BY MR. RICHEY

1 first-degree burglary, and I would get as much time.

2 I got letters from Vieth and Bulsa where I was
3 going to get as much time or more time for first-degree
4 burglary after the murder trial even if I won.

5 Q. Knowing all that, you decided to do what?

6 A. Take an Alford plea.

7 Q. To what?

8 A. Two to 30.

9 Q. Alford plea on what charge?

10 A. On the murder; and drop the first-degree burglary,
11 which I never had, that I didn't realize I never had.

12 Q. You took an Alford plea on the murder charge to
13 voluntary; correct?

14 A. Yes, sir.

15 Q. And you did that based on the theory that you could
16 get 15 to life for the burglary charge; is that correct?

17 A. That I was going to get 15 to life on the burglary
18 charge because it was a slam dunk, as Vieth said, that we could
19 not beat.

20 Q. And I'm going to show you -- this is what you're
21 referring to. I'm going to give you this packet. I want you
22 to look through those.

23 (A pause transpired.)

24 BY MR. RICHEY:

25 Q. Are those the letters that you're referring to when

STEVEN SCRUGGS DIR BY MR. RICHEY

1 you testify?

2 A. Yes, sir.

3 Q. In those letters, tell me where counsel advised you
4 on the burglary charge. And you have a separate set of letters
5 up there; correct?

6 A. Yeah.

7 Q. You could use those to reference.

8 Hold on.

9 MR. RICHEY: Your Honor, we would like to offer
10 these letters as Applicant's Number 1.

11 MS. MARTO: No objection.

12 THE COURT: Applicant's Number 1 entered without
13 objection.

14 (APPLICANT'S EXH. 1, Various letters, emails,
15 statute excerpt, was entered into evidence.)

16 BY MR. RICHEY:

17 Q. When you reference the letter, will you reference
18 the date on the letter so we'll know where you're going.

19 A. July 17, 2019. It says from Vieth: I'm pretty
20 sure Mr. Bulsa will go ahead and get indictment, first-degree
21 on the case we cannot win. He was planning on -- and it says:
22 Therefore, he is leaving the manslaughter on the table and not
23 going to burglary first. He cannot do a negotiated plea
24 because the Solicitor's office -- he does not care if we get 15
25 to 20 years. This is where he's talking about --

STEVEN SCRUGGS DIR BY MR. RICHEY

1 Q. He's saying in that letter, what you're reading,
2 he's saying that you're going to get 15 to life --

3 A. On first-degree burglary.

4 Q. -- on first-degree burglary charge; correct?

5 A. Yes, sir.

6 (A pause transpired).

7 BY MR. RICHEY:

8 Q. While you're doing that, let me ask you this
9 question. On page 14 of the transcript -- let me ask you this
10 question. Page 14 of your transcript, did you read that?

11 A. Yes, sir.

12 Q. And when you read that, did that help you present
13 that this was not a burglary first?

14 A. Yes, sir; what the prosecutor said when I pled.

15 Q. Up to that time you believed that you could've been
16 convicted of burglary first?

17 A. Yes. As these letters say, he called it a slam
18 dunk on the first-degree burglary. We couldn't beat it when I
19 pled.

20 Q. Was that the inducement to get you to plea to that
21 voluntary?

22 A. Yes, sir. I would never plead to murder if I
23 didn't think that I had a first-degree burglary that I couldn't
24 beat.

25 Q. If you had known what was on this transcript at the

STEVEN SCRUGGS DIR BY MR. RICHEY

1 time of your plea, would you have plead to the voluntary under
2 Alford?

3 A. No, sir.

4 Q. You would have went to trial on the murder charge?

5 A. Yes, sir.

6 Q. The murder charge, did they have evidence in your
7 possession -- did they have evidence that proved that you
8 committed this murder?

9 A. No, sir.

10 Q. Was there any fingerprints or anything that
11 identified you with the murder?

12 A. No, sir.

13 Q. There was an incident prior to the murder where you
14 had the argument with the guy; is that correct, something to
15 that extent?

16 A. That's what they say.

17 Q. There was no direct evidence that you committed
18 this murder; correct?

19 A. Yes, sir.

20 Q. You would've went to trial on the murder charge?

21 A. Yes, sir.

22 On July 30, 2019, he says: As you know, you asked
23 me to meet with you after the bond hearing at which time you
24 told me that, if you had thought about what was in your best
25 interest, if I could get you an Alford plea to voluntary

STEVEN SCRUGGS DIR BY MR. RICHEY

1 manslaughter and get rid of the burglary first-degree, that you
2 prefer to take the Alford plea since the slam dunk case can
3 easily get you more time. As such, I went to see Derrick Bulsa
4 and the Solicitor, and have come up with what they can do to
5 resolve the case.

6 Accordingly, you can enter an Alford plea to
7 manslaughter, plea to burglary second, possession of stolen
8 vehicle, failure to stop for blue light, attempted grand
9 larceny, and had meth at the time of the incident. Obviously
10 none of these are significant as the burglary first.

11 The other charges will certainly, in my opinion,
12 run concurrent with the manslaughter charge.

13 That's where I knew and told him, if he could get
14 the first-degree burglary charged dropped, that I would take
15 the Alford plea 'cause I thought I had a first-degree burglary
16 that I couldn't beat.

17 He calls it a slam dunk. He says, if I can get the
18 Alford plea to voluntary manslaughter and get rid of the
19 first-degree burglary, that you would prefer to take the Alford
20 plea since the slam dunk cases could easily get you more time.

21 The whole time I never had a first-degree burglary,
22 as you can see on page 14 of my transcript, as the prosecutor
23 said. He said: We met with Leonardo.

24 The reason this case was charged as a burglary
25 first is because the police thought he was injured and that

STEVEN SCRUGGS DIR BY MR. RICHEY

1 would have been the aggravated for the burglary first.

2 We met Leonardo. We talked with him about this. I
3 think he was puffing a little bit. He didn't want to admit to
4 being there, so we could not prove the injury part of the
5 burglary first. So we had to reduce it down to burglary
6 second.

7 The whole time I'm thinking it's a burglary second
8 because I'm taking this Alford plead. That's not the case.

9 Q. When you're reading the letter where he says: If
10 he gets you a burglary second, you would take the voluntary.
11 He got you the burglary second; correct?

12 A. It was always a burglary second.

13 Q. Follow me. He got you burglary second; correct?

14 A. Yes.

15 Q. That's not in the context of what you believed your
16 case was at the time; correct?

17 A. No, sir.

18 Q. At that time you believed you got a slam dunk
19 burglary first?

20 A. Yes, sir, according to his letter, that's exactly
21 what I had.

22 Q. Had you known it was a second, you would not have
23 plead to that voluntary?

24 A. No, sir.

25 Q. Because the burglary, you, in fact, were going to

STEVEN C. SCRUGGS CROSS BY MS. MARTO

1 plead to that regardless?

2 A. Yes, 'cause I couldn't beat it.

3 Q. You couldn't beat it because you were in the house;
4 is that correct?

5 A. Yes. If it was a burglary first, I wouldn't be
6 able to go to trial and based on that --

7 Q. When you made the allegation that the attorney did
8 not necessarily do legal research, is that what you mean? To
9 understand the charges and the facts of the case?

10 A. Yes. I didn't understand that. I was going by
11 what my lawyer was telling me 'cause I ain't never been through
12 this; no priors. I believed it. He called it a slam dunk on
13 the first-degree burglary.

14 Q. You're asking The Court to grant you a new trial on
15 this voluntary; is that correct?

16 A. Yes, sir.

17 Q. You want to start over and have a potential trial
18 on the murder case; correct?

19 A. Yes, I want to go to trial.

20 MR. RICHEY: Thank you. Answer any questions the
21 Attorney General may have.

22 MS. MARTO: Good morning, sir.

23 CROSS-EXAMINATION

24 BY MS. MARTO:

25 Q. You plead to a global plea of everything; correct?

STEVEN C. SCRUGGS CROSS BY MS. MARTO

1 A. Yes, ma'am.

2 Q. Included in that was a second-degree burglary;
3 correct?

4 A. Yes, ma'am.

5 Q. You never plead to first-degree burglary; correct?

6 A. Never had one.

7 Q. When the Solicitor mentioned that he was going to
8 reduce it because they could not prove injury, why didn't you
9 interrupt the proceedings?

10 A. I didn't catch it. I was nervous. I didn't catch
11 it until I got my transcript and actually read it.

12 Q. Do you recall -- so you recall discussions with
13 Mr. Vieth about how he thought the case was a slam dunk;
14 correct?

15 A. He didn't say he thought. He said it was a slam
16 dunk, as I have in these letters from him.

17 Q. Do you recall the evidence that he brought, in
18 support?

19 A. He didn't bring evidence.

20 Q. Did you meet with him before the plea?

21 A. Yes.

22 Q. Did you talk about the charges before the plea?

23 A. Yes.

24 Q. Did you talk about the evidence in the case?

25 A. Not the evidence on first-degree burglary.

STEVEN C. SCRUGGS CROSS BY MS. MARTO

1 Q. You never saw any evidence?

2 A. I never seen. I got 32 videos that he never let me
3 watch 'cause he say he didn't have time to bring them up. Then
4 he brought a laptop. He showed me half a video. He couldn't
5 work it. I never seen 32 videos. I never seen most of the
6 evidence they had against me.

7 Q. Did you ever see the paper discovery in the case?

8 A. I seen some of it.

9 Q. Why would you plea if you didn't see most of the
10 discovery in the case?

11 A. Because I thought I had -- I was going by what
12 Mr. Vieth said; a slam dunk on a first-degree burglary. It's a
13 slam dunk on first-degree burglary, I'm going to have to plea
14 15 to life after a murder trial. Anybody knows two to 30 is
15 better than 15 to life. I can't plead two to 30 on something I
16 ain't doing. That's why I demanded to take an Alford plea.

17 As you can see in these letters where he was
18 e-mailing Mr. Bulsa, Mr. Bulsa at first said he wasn't going to
19 let me take an Alford plea. I was going to have to say I was
20 guilty. I would not say I was guilty. So whenever he decide
21 he would let me take an Alford plea, then I decided I would do
22 it because I didn't do the murder so I wasn't going to say I
23 was guilty.

24 A two-to-30 plea is better than a 15-to-life plea
25 if, in fact, I have to plead to 15 to life after the murder

STEVEN C. SCRUGGS CROSS BY MS. MARTO

1 trial. I took my lawyer's advice, believed that what he told
2 me was true when, in fact, it wasn't.

3 Q. You're saying you never committed the murder;
4 correct?

5 A. Never committed the murder, no, ma'am.

6 Q. Did you bring that up to Mr. Vieth?

7 A. Yes. He said when I plead it, then I said I never
8 did it.

9 Q. Yet you decided to plead to pretty serious charge
10 that you had no involvement in; is that correct?

11 A. Yes, ma'am. Two to 30 is better than 15 to life.

12 Q. You were so afraid that the evidence was so strong
13 on the first-degree burglary that you wanted to plea prior to
14 this; correct?

15 A. I thought what I did was, in fact, first-degree
16 burglary, which, in fact, it wasn't a first-degree burglary. I
17 didn't know the laws. I ain't never been in trouble. I ain't
18 had no priors. When I caught the first-degree burglary, I was
19 thinking what I did was, in fact, first-degree burglary. I
20 thought -- it was my interpretation that if I went in
21 somebody's house when they was home, it was a first-degree
22 burglary when, in fact, it wasn't.

23 Q. You do recall the record showing that the victim
24 had been assaulted; correct?

25 A. What victim?

STEVEN C. SCRUGGS CROSS BY MS. MARTO

1 Q. The victim in the burglary.

2 It's on that same page. Page 14.

3 A. It said they thought he was assaulted.

4 Q. Sir, if you look on lines nine and ten, it says he
5 clearly was assaulted. Do you recall that?

6 A. It says -- so we could not prove the injury part of
7 the burglary first. We had to reduce it down to burglary
8 second. He clearly was assaulted. That was an opinion.

9 Q. Whether he was assaulted or not was an opinion?

10 A. Had to be because line 7 and 8 says: So we could
11 not prove the injury part of the burglary first, so we had to
12 reduce it down to a burglary second. He clearly was assaulted.
13 If he was clearly assaulted, why wasn't it burglary first?

14 Q. Again, it was dropped from a first to a second when
15 you plead; correct?

16 A. According to the prosecutor when I plead, it was
17 never a first.

18 Q. You were charged with first; correct?

19 A. They charged me with a first. That's why I
20 believed I had one. They overcharged me.

21 MS. MARTO: One moment, Your Honor.

22 (A pause transpired.)

23 MS. MARTO: No further questions.

24 THE COURT: Anything else?

25 MR. RICHEY: No other questions.

RICK VIETH DIR BY MR. RICHEY

1 THE COURT: You can step down.

2 THE WITNESS: I also want to say one more thing.

3 When I pled, Mr. Vieth also said that I admitted to him to
4 knocking the victim's teeth when, in fact, if you look at the
5 autopsy, it never happened. Nobody did.

6 MR. RICHEY: Thank you.

7 We call Mr. Vieth.

8 (The witness exited the stand.)

9 DIRECT EXAMINATION

10 BY MR. RICHEY:

11 Q. Sir, would you state your name, please.

12 A. Rick Vieth.

13 Q. Mr. Vieth, did you represent Mr. Scruggs?

14 A. I did.

15 Q. You were in the courtroom when his testimony was
16 being presented?

17 A. Yes.

18 MR. RICHEY: Can I approach the witness, Your
19 Honor?

20 THE COURT: Yes, you may.

21 BY MR. RICHEY:

22 Q. I'm going to give you these letters and this is
23 page 14 of that transcript he was referring to. At the time of
24 this case, do you recall Mr. Scruggs pleading guilty?

25 A. I do.

RICK VIETH DIR BY MR. RICHEY

1 Q. And he pled guilty to voluntary and burglary and a
2 lot of other charges?

3 A. Yes, sir.

4 Q. The issue presented, could the State prove burglary
5 first against him?

6 A. Well, the evidence -- his mother wanted it years
7 ago, so I don't have it to review. Obviously, my opinion, they
8 could've but I also wrote him and said: Look, anytime you want
9 to appeal saying the judge made an error or the lawyer made an
10 error, I'm not here to throw you behind the bushes. If I tried
11 to help you the first time, I'm going to try to help you a
12 second time. If he thinks I messed up, give him a new trial.

13 Q. Go ahead.

14 A. That's it. I have no objection to that.

15 Q. In terms of this burglary second which the
16 Solicitor outlined, is that -- do you agree with the
17 proposition they couldn't prove the first based on what was
18 said in that transcript?

19 A. Well, there was a combination of things; the murder
20 case. And somebody put him in a trunk of a car. Murder was
21 out there. I know that he had asphyxiation. He could've said
22 with intent to kill him. There was no question he hit someone,
23 put him in the trunk. It was a combination of circumstantial
24 evidence cases out there that all I did is try to get the best
25 offer I can from the prosecution and let the client decide

RICK VIETH DIR BY MR. RICHEY

1 whether to take it or not.

2 Now, me saying that it's a slam dunk on murder, I
3 understand his position. Why wouldn't I take the offered plea?
4 If it's not provable, then I'm not there to keep him in jail
5 for 30 years.

6 I think the issue in my opinion was Judge Hayes
7 overkilled it. He gave him the max on voluntary. I didn't
8 expect that.

9 Q. He was pretty persistent about being innocent on
10 the murder case; is that correct? He pled to Alford. Was he
11 kind of persistent that he didn't do the murder case, the
12 murder part?

13 A. Yeah, he was.. And he could have got not guilty or
14 life in prison. That's what happens in murder cases. Excuse
15 me. I have some health issues.

16 Q. So the crux of this negotiation was get it down to
17 a burglary second and then have him plead to voluntary. That's
18 kind of the way this thing went?

19 A. Yeah, it was to get it as low as I could and,
20 hopefully, with the family -- and I even wrote them a letter
21 saying how pleased I was with their presentation to Judge
22 Hayes. They maxed him out on the voluntary.

23 MR. RICHEY: Thank you. Answer the questions the
24 Attorney General has.

25 CROSS-EXAMINATION

RICK VIETH CROSS BY MS. MARTO

1 BY MS. MARTO:

2 Q. Good morning, sir.

3 A. Morning.

4 Q. So it's fair to say that Mr. Scruggs was looking at
5 life going to trial; correct?

6 A. If he went to trial.

7 Q. At the time, did you think that the cases against
8 him were pretty strong?

9 A. I thought it was strong enough to negotiate, yes.
10 I tried federal death penalty cases, murder cases. I know the
11 gamble. You try to get the best offer you can and let the
12 client decide. I never, ever told a client what to do.

13 Q. In your professional opinion was the plea in his
14 best interest?

15 A. Well, if I said it's a slam dunk, I don't blame him
16 for accepting that.

17 Q. Were there conversations about the first-degree and
18 the murder being tried separately if he went to trial?

19 A. I don't remember seeing an e-mail between Derrick
20 and I on two separate trials.

21 Q. Did you discuss the discovery in the case with
22 Mr. Scruggs?

23 A. Yeah, there may have been some tapes that we
24 couldn't take to the jail. But everything I got I gave to the
25 family after the plea was over 'cause I knew the PCR was coming

RICK VIETH CROSS BY MS. MARTO

1 or an appeal was coming. That suited me fine.

2 Q. Did you review a lot of the evidence with
3 Mr. Scruggs before the plea as well?

4 A. Sure.

5 Q. Was that one of the reasons why y'all discussed a
6 potential plea in this case?

7 A. It was one of the reasons. I mean, any client has
8 a right to see the evidence.

9 Q. From your understanding, he pled due to both your
10 advice and viewing the evidence?

11 A. I can't say why he pled. We just get an offer and
12 let the client decide what he thinks is in his best interest.

13 Q. Y'all discussed the offers together pretty
14 thoroughly before the plea?

15 A. Yeah, he knew it was two to 30, but I just didn't
16 expect Judge Hayes to max him out. I'm real disappointed in
17 that. This wasn't a circumstantial evidence case.
18 Circumstantial evidence sometimes is stronger than direct
19 evidence.

20 MS. MARTO: One moment, Your Honor.

21 (A pause transpired.)

22 MS. MARTO: No further questions.

23 THE COURT: Mr. Vieth, you can step down.

24 Any other questions for Mr. Vieth?

25 MR. RICHEY: No, sir.

RICK VIETH CROSS BY MS. MARTO

1 THE COURT: You can step down.

2 (The witness exited the stand.)

3 THE COURT: Mr. Richey?

4 MR. RICHEY: We have no other witnesses, Your
5 Honor.

6 MS. MARTO: No witnesses, Your Honor.

7 THE COURT: I'll take all that under advisement.
8 I'll issue my ruling sometime in the next two weeks.

9 MR. RICHEY: Thank you, Your Honor.

10 MS. MARTO: Thank you, Your Honor.

11 (The hearing was concluded at 10:13 a.m.)

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RICK VIETH CROSS BY MS. MARTO

CERTIFICATE OF REPORTER

I, Lora McDaniel, Registered Professional Reporter
and Notary Public for the State of South Carolina at Large, do
hereby certify that the foregoing transcript is a true,
accurate, and complete record.

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

Witness my hand, I have hereunto affixed my official
seal this 19th day of April, 2023 at Spartanburg, Spartanburg
County, South Carolina.



Lora L. McDaniel,
Registered Professional Reporter
My Commission expires:
August 9, 2026



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January 2, 2019

Steven Clayton Scruggs #18-05246
Spartanburg County Detention Facility
950 California Ave.
Spartanburg, SC 29303

RE: State vs. Steven Clayton Scruggs

Dear Clay:

I wanted to let you know that I have been discussing your case with the Solicitor's Office. As you know, I have an ethical duty to see what, if any, negotiated sentence can be considered by the prosecution, whether it be State or Federal Court.

I fully realize that you intend to have a jury trial on the murder case and the burglary case. I anticipate the trial to come up in late spring or early summer.

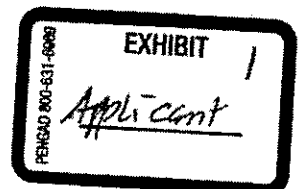
As you know, from the evidence that I left with you there are well over 500 pages of evidence in the case although a good bit of the evidence really does not help or hurt either side.

I believe it is uncontradicted from you that you did have an altercation with Jamie Lee Miller and punched him hard enough to knock his teeth out. You even told me and my secretary that the first day we met when you signed the Power of Attorney. The remaining question would be "who put him in the trunk of a car" and "what was the cause of death".

The Coroner report, as you have read, indicates cause of death was Positional Asphyxia, which is when death occurs when someone's position prevents the person from breathing adequately. Clearly, the way he found in the trunk would have caused his death. Certainly, the fact that he had drug intoxication could be brought to the Judge's attention as a potential contributing factor to his death, but the autopsy report and Dr. Wren will testify that he died as a result of the cardiorespiratory arrest secondary to Positional Asphyxia and Synergistic Drug Intoxication.

So the question of who caused the restraint of Mr. Miller in the trunk is the basic question.

I realize the Burglary 1st charge you have informed me that you do not expect the "victims" to testify. I certainly have no idea whether they will or will not, but if they do testify that you caused any physical harm when breaking into the house that sentence could result in a life sentence in and of itself. Of course, if they do not testify, the Burglary would not be a first offense, but a second offense since no one would testify they were injured or threatened with bodily harm, which is an element of first degree Burglary.



Letter to Steven Clayton Scruggs
January 2, 2019
Page two

As for witnesses, you know by reading the material that there are two "jail" witnesses who apparently will be testifying that you told them what you did. This will certainly be a jury question as to whether to believe the people who were in jail with you or whether they were making it up to try to help their own selves. Certainly, they will be cross-examined by me on what they were promised in return for their "lying under oath" during the trial.

In considering the totality of the evidence and the charges against you, I have communicated with the Solicitor's Office considerably to see what offer, if any, can be made to save a murder/burglary 1st trial.

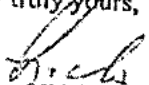
I have been able to get an offer of Voluntary Manslaughter, which would be lesser included charge of Murder and for the Burglary charge to all be wrapped up into one sentence of 30 years, which is the maximum sentence one can get on Voluntary Manslaughter, but the least one can get when pleading to Murder. Naturally, if one goes to trial and loses a murder trial, the Judge in most cases will give Life without parole.

Again, I do not care whether you have a jury trial or take the offer that has been negotiated - I simply have an ethical duty to try to get the best offer possible and let the defendant decide what he/she believes it in his/her best interest considering the totality of the evidence.

I will be planning to meet with you again very soon to get your position in the case and how to proceed.

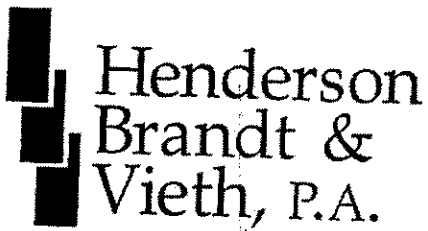
I am sending a copy of this letter to your mom to let her know the current status so it does not need to be communicated between you and her over the telephone, which is always being recorded. I trust the staff in your POD gave you all the pictures I left with the female officer late New Year's Eve afternoon. I have marked my calendar to come see you Friday afternoon January 11th.

Very truly yours,


Richard W. Vieth
Henderson, Brandt & Vieth, P.A.


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RWV/kwh

cc: Rebecca Luann Campfield



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Attorneys At Law

July 30, 2019

Steven Clayton Scruggs #18-05246
Spartanburg County Detention Facility
950 California Ave.
Spartanburg, SC 29303

RE: State vs. Steven Clayton Scruggs

Dear Clay:

I am going to try to get by to see you before you get this letter but I can't be positive about it since I will be out of town starting Wednesday, July 31st until I am back in the office on Monday, August 5th. However, I wanted to touch base with you based on two issues: 1) The Bond; 2) Your suggestion to an Alford plea on Manslaughter and Burglary.

With regards to the Bond Hearing, I am enclosing a copy of the Order which denies Bond. Certainly, I doubt if either one of us was surprised with that though I had nothing to lose by trying.

As you know, you asked me to meet with you after the Bond Hearing at which time you told me that you have thought about what is in your best interest and that if I could get you an Alford plea to Voluntary Manslaughter and get rid of the Burglary 1st Degree that you would prefer to take the Alford plea since the "slam dunk" cases could easily get you more time. As such, I went to see Derrick Bulsa and the Solicitor and have come up with what they can do to resolve the case. Accordingly, you could enter an Alford plea to Manslaughter and a plea to Burglary 2nd, Possession of a Stolen Vehicle, Failure to Stop for Blue Light, the attempted Grand Larceny and have meth at the time of the incident when you ran. Obviously, none of these are as significant as the Burglary, 1st. The other charges would certainly, in my opinion, be run concurrent with the Manslaughter charge.

The plea date has been set for August 27th either in the morning or afternoon. I know that we agreed on this date to make sure the plea went through without any problems so the September 10th trial date would either be utilized for the trial or not.



Henderson Brandt & Vieth, P.A.

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Attorneys At Law

September 3, 2019

Rebecca Luann Campfield
Nans Road
Gaffney, SC 29341

RE: State vs. Steven Clayton Scruggs

Dear Rebecca:

I wanted to let you know how much I appreciated the comments that were made by you, your husband and Joey Jolley at the Sentencing Hearing for your son. I know we all put an extraordinary amount of hours in this case and, while I was disappointed that Judge Hayes did not consider a less penalty than 30 years I also understand that it could have been much, much worse. As you indicated in my office on more than one occasion, Clay was perfectly fine until his marriage ended at which time he went into drugs and started hanging around obvious drug users and dealers, especially looking at the criminal history of Tabitha and the deceased in this case.

I left you a voice message after I left meeting with Clay on Thursday, August 29th to let you know that I did discuss with him options to try to bring the case back for a murder trial if he wanted to do so. Essentially, there are two options to consider if either one is feasible. One is to appeal the Judge. Naturally, when you appeal a Judge you are basically saying the Judge made an error in law. Of course, Judge Hayes did not make an error since he sentenced Clay to 30 years, which he had the right to do under the Voluntary Manslaughter Statute and, further, he could have run the additional sentences of Failure to Stop for a Blue Light, Possession of Meth, Burglary and Attempted Larceny of a Vehicle consecutive sentences instead of concurrent. Therefore, there is nothing to appeal the Judge's decisions. Clay understands and certainly agrees with me. Option #2 is to file a claim against the lawyer, which is called a Post Conviction Relief (PCR), which basically says his lawyer made a mistake. Instead of using the word "appeal" to say the lawyer made a mistake like you do with a Judge, you basically say the lawyer was "ineffective". I told Clay that he should go ahead and file the PCR as there will be plenty of "jailhouse lawyers" in the SC Department of Corrections who will help him fill out the form. He will basically allege that I was ineffective for doing something wrong or he would have gone to trial on Murder. I told him that there would be a hearing in about two years and he would be appointed an attorney without having to spend money on one to represent him. The Attorney General's Office represents the attorney that is accused of being ineffective. There will be a hearing before a Judge about two years or so after the filing of the PCR and the Judge will make a decision whether I did anything that was ineffective to the point that the case should be sent back

*Letter to Rebecca Campfield
September 3, 2019
Page two*

to Spartanburg for a jury trial on the Murder case. I told him he has absolutely nothing to lose by filing a PCR and I do not blame any individual for filing such a claim, whether they win or lose, as they certainly have nothing to lose by having the hearing. I told him that I tried as hard as I could to represent him in 2019 and I certainly would not try to do anything but help him at the PCR hearing. I know I have represented many defendants in PCR hearings where the lawyer who represented the defendant says how great a lawyer he/she is and did not make any mistakes, but I certainly do not take that position and want to help the defendant at the PCR hearing since I tried to help him at the trial or plea. I have never had a case reversed for being ineffective, but the defendant has absolutely nothing to lose by trying to get it sent back if he/she wants a trial, as in this case, for Murder. As he knows, if it does get sent back and there is a trial for Murder and he loses, he will get life without parole. But first, he has to show what I did wrong that, otherwise, would have resulted in a jury trial instead of an Alford plea.

I certainly hope I have set forth everything that you may not know the legal answers to, but if you have any other questions, please do not hesitate to schedule an appointment with me. As I told Clay when I met with him on August 29th I consider him and you and the whole family as friends and not just a client. I respected his life and certainly did everything we could to minimize a terrible, terrible situation. Especially, as you know, he admitted doing everything except putting Jamie in the trunk of a car.

Very truly yours,


Richard W. Vieth
Henderson, Brandt & Vieth, P.A.


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RWV/kwh

Kimberly Hyder

From: Kimberly Hyder
 Sent: Wednesday, July 17, 2019 2:43 PM
 To: Kimberly Hyder
 Subject: Scruggs case

Sent from my Verizon 4G LTE Droid

----- Forwarded message -----

From: "Bulsa, Derrick"
 Date: Jul 15, 2019 5:48 PM
 Subject: RE: Scruggs case
 To: Rick Vieth [REDACTED]
 Cc:

4

Rick,

The plea offer is meant to be a straight up plea to the charges listed in the plea letter, minus the Burglary 1st in the Miller case. As we communicated in earlier emails, I have accepted your negotiation to remove that charge for the plea. I intend to leave the sentence up to the court without a recommendation of the amount. I do not know what Mr. Miller's family will ask for. I doubt that the burglary victim (Mr. Moua) will want to appear for the plea.

From: Rick Vieth [mailto:[REDACTED]]
 Sent: Monday, July 15, 2019 4:25 PM
 To: Bulsa, Derrick
 Subject: RE: Scruggs case

3

Ok - let me ask this - will you do a straight up plea since you can't do a negotiated plea or are you asking for maximum on a plea. If your office (not victim's family) is going to tell the Judge he should be the max instead of just 'no recommendation', I need to let him know. Rick

Rick Vieth
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 Spartanburg, SC 29302
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From: Bulsa, Derrick
 Sent: Monday, July 15, 2019 4:00 PM
 To: Rick Vieth [REDACTED]
 Cc: Williams, Jesse Smith, Tom
 Subject: RE: Scruggs case

Rick,

(2)

I am sorry to see that negotiations are not going well. The plea offer extended is the best we can do. I am not comfortable negotiating a term of years. I am also not comfortable accepting a plea absent an admission by your client. I believe the crime is heinous enough to warrant a maximum sentence should he be convicted.

I am continuing to prepare the case for trial. If a plea is not accepted, then I would like to meet with you early next week to go over the discovery. There are a lot of videos, interviews, BWCs, etc. that I want to make sure we both have.

Please let me know the final position of Mr. Scruggs by the end of this week.

Thanks,

Derrick

From: Rick Vieth [mailto: [REDACTED]]
Sent: Thursday, July 11, 2019 12:06 PM
To: Balsa, Derrick
Subject: Scruggs case

(1)

Derrick, I dropped by solicitor's office earlier after a plea, but don't think you were in. Just an update - the mother wants to meet with me and she called today with bronchitis and will reschedule for next week. She is certainly distraught about case and is having tough time mentally for sure. I met briefly with Clay earlier in the week. I told him I'd try to bring some tapes over next Monday afternoon if I have a chance as he really hasn't been able to view much at all - as expected with him in jail. Clay still denies killing the guy, but I get, if I'm reading between the lines, that he would probably do an Alford plea to a negotiated 15 to 18 years. With 2 to 30 being low/high on voluntary, this may be something we could do. I have NO definitive answer, especially since I've not met with him mom and he has seen only written discovery; but in just talking with him about pros/cons trial, etc., I feel this could/should wrap it up. He has no prior, none of the parties, victim, defendant, witnesses, etc. are pristine pure by any means and I would push for something like 18 negotiated with him and his family. Think about it over weekend. Rick

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§ 16-11-311

CRIMES AND OFFENSES

§ 16-11-311. Burglary; first degree.

(A) A person is guilty of burglary in the first degree if the person enters a dwelling without consent and with intent to commit a crime in the dwelling, and either:

(1) when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime:

(a) is armed with a deadly weapon or explosive; or

(b) causes physical injury to a person who is not a participant in the crime; or

(c) uses or threatens the use of a dangerous instrument; or

(d) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; or

(2) the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or

(3) the entering or remaining occurs in the nighttime.

(B) Burglary in the first degree is a felony punishable by life imprisonment. For purposes of this section, "life" means until death. The court, in its discretion, may sentence the defendant to a term of not less than fifteen years.

History.

1985 Act No. 159, § 2; 1995 Act No. 83, § 17.

§ 16-11-312. Burglary; second degree.

(A) A person is guilty of burglary in the second degree if the person enters a dwelling without consent and with intent to commit a crime therein.

(B) A person is guilty of burglary in the second degree if the person enters a building without consent and with intent to commit a crime therein, and either:

(1) When, in effecting entry or while in the building or in immediate flight therefrom, he or another participant in the crime:

(a) Is armed with a deadly weapon or explosive; or

(b) Causes physical injury to any person who is not a participant in the crime; or

(c) Uses or threatens the use of a dangerous instrument; or

(d) Displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; or

(2) The burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both.

(3) The entering or remaining in the nighttime.

(C) (1) Burglary in the second degree pursuant to subsection (A) is a felony punishable by imprisonment for not more than ten years.

(2) Burglary in the second degree pursuant to subsection (B) is a felony punishable by imprisonment for not more than five years, provided, that no person convicted of burglary in the second degree pursuant to subsection (B) shall be eligible for parole except upon service of not less than one-third of the term of the sentence.

History.

1985 Act No. 159, § 2; 2010 Act No. 273, June 2, 2010.

§ 16-11-313. Burglary; third degree.

(A) A person is guilty of burglary in the third degree if the person enters a building without consent and with intent to commit a crime therein.

(B) Burglary in the third degree is punishable by imprisonment for not more than five years for conviction on a first offense and not more than ten years for conviction on a second offense according to the discretion of the court.

History.

1985 Act No. 159, § 2.

§ 16-11-325. Common law robbery classified as felony; penalty.

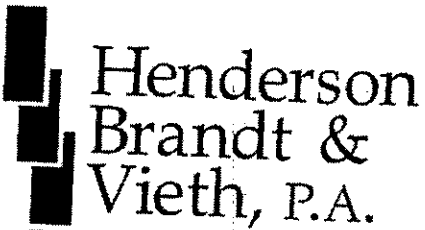
The common law offense of robbery is classified as a felony. Upon conviction, a person must be sentenced to imprisonment for not more than fifteen years.

History.

1993 Act No. 184, § 9, eff. January 1, 1994.

§ 16-11-330. Robbery and attempted robbery while armed with deadly weapon.

(A) A person who commits robbery while armed with a pistol, dirk, slingshot, knuckles, razor, or other deadly weapon, while alleging, either by action or words, armed while using a representation of a weapon or any object which a person reasonably believes to be a deadly weapon, is guilty of a felony and, upon conviction, must be sentenced to a mandatory minimum term of imprisonment for not less than ten years or more than thirty years, no part of which may be suspended or probated. A person convicted under this section is not eligible for parole until the



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July 17, 2019

Steven Clayton Scruggs #18-05246
Spartanburg County Detention Facility
950 California Ave.
Spartanburg, SC 29303

RE: State vs. Steven Clayton Scruggs

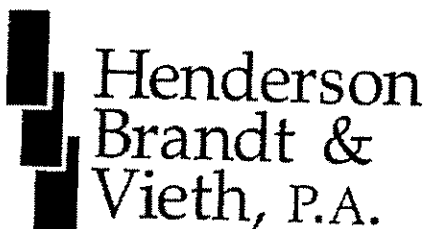
Dear Clay:

I wanted to give you an update and let you know that, as you know, I was unable to get by to see you on Monday, July 15th as I had hoped because a doctor appointment I had was much longer than I had anticipated.

Certainly, I have been doing my best regarding any negotiations and I am enclosing the latest emails regarding any settlement resolution without the necessity of a murder trial.

I am pretty sure Mr. Bulsa will go ahead and get an indictment for Burglary, first degree on the case we cannot win. He was planning on just staying with a Burglary, second degree since a Burglary, first degree carries a sentence up to life as well. I am enclosing a copy of the SC Code Section dealing with Burglary first. The provision would be that you came into their residence without permission and did make physical contact with the person or threatened the person. So, in essence, he feels he would be able to get the 30 years to life on murder or burglary - either one. Of course the burglary would be fairly simple.

Therefore, he still is leaving Manslaughter on the table and not going to a Burglary first. He cannot do a negotiated plea because of the overall Solicitor's Office position in these kinds of cases. He does not care if we get you 15 - 20 years, but he cannot negotiate it in that fashion. I was a former Solicitor for 7 years and I certainly understand the Solicitor's position. A Solicitor is an elected person and the last thing any Solicitor would want is to have the newspaper saying that they negotiated a sentence in a murder case where someone will never have anymore Christmases or birthdays with family.



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Attorneys At Law

June 25, 2019

Steven Clayton Scruggs #18-05246
Spartanburg County Detention Facility
950 California Ave.
Spartanburg, SC 29303

RE: State vs. Steven Clayton Scruggs

Dear Clay:

I wanted to let you know that the Solicitor and I have been in communication regarding your case and I can provide you with the following information:

They are obtaining an indictment for Burglary 1st for Mr. Miller's residence and for kidnaping of Mr. Miller since, whoever committed the offense, clearly seized Mr. Miller and bound him and carried him away. The State certainly believes it was you. Additionally, the theft of the Pontiac and the Harley Davidson were overlooked according to the Solicitor and they are seeking an indictment for Larceny on those vehicles. They will send me copies of the indictments when they are true billed by the Grand Jury.

More importantly, the Solicitor has acknowledged that he will reduce the Murder charge to Voluntary Manslaughter if you want to take an Alford Plea to this case. I bring this to your attention, even though I know you have told me in the past that it will be a jury trial, because I have an ethical duty to make sure you understand all of the ramifications of a trial versus a plea. I always prefer to put this in writing in the event the Defendant should later say he did not understand his options or blames an attorney for not telling him of his options. Therefore, over the years, I have easily learned it is much better to put in writing the details surrounding negotiations.

In that regard, as you know, there is no way you could go to trial on the Burglary 2nd offense and the Attempted Grand Larceny regarding the Mou family. Clearly, you acknowledge that you did enter the house without permission. So, just on the Burglary 2nd and the Attempted Grand Larceny, the Judge could give you 15 years - 10 years for the Burglary 2nd and 5 years for the Attempted Grand Larceny. This much time you know you will likely get no matter what.

Therefore, when you look at the Voluntary Manslaughter Sentencing Guidelines, a Judge could sentence a person to no less than 2 years nor more than 30 years for Manslaughter. Therefore, since it is obvious that you could already get 15 years for something we cannot win, the question is whether you want to risk a guaranteed "life" sentence if you go to trial and lose the Murder case or would it be better to know that the most you could get on a Manslaughter case is 15 more years than you could already get on the Burglary 2nd and the Attempted Grand Larceny. As you know, you do not serve "day for day" in prison, but

Letter to Steven Clayton Scruggs
June 25, 2019
Page two

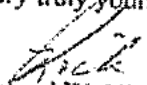
85%. There is nothing that says the Judge has to give you the maximum as you know - the Judge can give any sentence between 2 years and 30 years. That would be up to you, me, your mother and any other persons that wanted to speak on your behalf at the sentencing. So, lets say, a Judge gave you 20 years for Manslaughter or even 25 years for Manslaughter, you would only be serving about 8 more years for the death case than you would for the Burglary 2nd and the Attempted Grand Larceny. Whereas, if you go to trial and a jury convicts you of Murder, you have basically gambled the difference between the 15 years for the Burglary 2nd and Attempted Grand Larceny and the maximum you could get for Manslaughter to a life sentence, which means that you do not get out of prison until you pass away. Judges rarely give less than a life sentence when someone is convicted of Murder by a jury.

Please understand that this letter is not a letter encouraging you to go to trial or do a plea. I simply want to make it very clear that you know you are looking at 15 years even if you are found not guilty of Murder. Therefore, the most "on the line" is 15 additional years to the maximum of 30 for Manslaughter, which a Judge does not have to give a Defendant, especially for cooperation. I realize this is a tough decision and only you and your family can pray about it and make the decision you feel is in your best interest. You certainly understand the facts of the case better than anyone else since neither the Solicitor, me, nor your mom were present when Mr. Miller was killed. I do know the State feels they have an extremely good case and I do commend the Solicitor for reducing the case to Manslaughter as a result of my discussions with him. That certainly does not mean you need to take an Alford plea as I have to let the Solicitor know one way or the other by the 22nd of July so that everyone can really start spending a lot of hours in preparation.

I will make arrangements to come meet with you in the next week or so to get your answer. Judge Knie does have General Sessions toward the end of July and I will be asking for a bond at that time although my guess is that Judge Knie will probably not grant it and I will be spending a couple of days with you at the jail in late July or early August preparing for trial with you looking at tapes. Certainly, I can do a lot of work at home in preparing for a trial, but I want to spend at least two days with you preparing for your testimony as well.

I just wanted to get this to you and I will copy your mother. As such, I do not need for her to come in to meet with me unless she wants to. I wanted to schedule an appointment with her to discuss these options so that she has a clear understanding as well as you do.

Very truly yours,


Richard W. Vieth
Henderson, Brandt & Vieth, P.A.


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cc: Rebecca Luann Campfield



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Attorneys At Law

January 16, 2019

Steven Clayton Scruggs #18-05246
Spartanburg County Detention Facility
950 California Ave.
Spartanburg, SC 29303

RE: State vs. Steven Clayton Scruggs

Dear Clay:

I enjoyed having the opportunity to sit down and meet with you and get your version of the facts in your case.

This letter is simply a follow-up to make sure there are no discrepancies later on when the case comes up for trial. It is your position that you did not tie up the deceased, did not put him in the trunk of the car, thus you had nothing to do with his death. You acknowledge that while you were at his home he pulled a gun on you and that you hit him with your fist in the face in basically self-defense and then left.

Therefore, there is no need for me to spend any time working on the issue of whether he died from affixation or from drug overdose since it will be our position that it really doesn't matter how he died - we didn't do it. As I mentioned to you we certainly cannot have two separate and distinct points of view such as "I did not put him in the trunk, but if I did, he died of drug overdose." Our position is we had nothing to do with putting him in the trunk, therefore, whether he died by affixation or drug overdose is irrelevant to us since you didn't have anything to do with it.

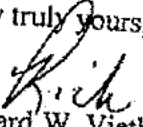
I have informed the Solicitor that the case looks like it will be going to a jury trial later this year.

As I also mentioned, I will file a Motion for Bond for you either in March or April and try to convince the Judge I need you out of jail to go over all of the interviews that we have rather than have you have to sit and watch a computer at the jail. I fully realize that a Judge may deny bond due to the "flight risk" issue, but I have nothing to lose by asking for a bond and home detention.

Letter to Steven Clayton Scruggs
January 16, 2019
Page two

I will be back in touch with you before any bond hearing. Of course, should you need to speak with me for any other particular reason just let me know.

Very truly yours,


Richard W. Vieth
Henderson, Brandt & Vieth, P.A.


www.hbvlaw.com

RWV/kwh

cc: Rebecca Luann Campfield

P.S. - I am copying your mother with this letter as well so you and she do not have to discuss any of these issues over the phone, which is recorded.

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)
) IN THE COURT OF COMMON PLEAS
) FOR THE SEVENTH JUDICIAL CIRCUIT

Steven Scruggs, #381275,)
Applicant,)
) Case No.: 2020-CP-42-02241

v.)

ORDER OF DISMISSAL

State of South Carolina,)
Respondent.)
_____)

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SPARTANBURG COUNTY
AMY W. COTT

This matter comes before this Court by way of Applicant's post-conviction relief application filed July 16, 2020. Respondent made its return filed on February 14, 2022, requesting an evidentiary hearing be convened. An evidentiary hearing was held on August 8, 2022, at the Spartanburg County Courthouse. Rodney W. Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

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

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its August 2018 term, the Spartanburg County Grand Jury indicted Applicant for failure to stop for a motor vehicle (2018-GS-42-4365), possession of a stolen vehicle (2018-GS-42-4366), distribution or possession with intent to distribute methamphetamine (2018-GS-42-4369), first degree burglary (2018-GS-42-4371), attempted grand larceny (2018-GS-42-4372), and murder (2018-GS-42-

4373). Applicant was represented by Richard W. Vieth, Esquire. Deputy Solicitor Derrick Balsa of the Seventh Circuit Solicitor's Office prosecuted the case. On August 27, 2019, Applicant appeared before the Honorable J. Mark Hayes, II, circuit court judge, and pled pursuant *Alford*¹ on the murder charge and pled as guilty on all other charges. As a part of plea negotiations, Applicant pled to the lesser-included offense of voluntary manslaughter on the murder indictment, to the lesser-included offense of non-violent, second-degree burglary on the first-degree burglary indictment, and to possession of methamphetamine on the distribution or possession with intent to distribute methamphetamine. Judge Hayes sentenced Applicant to thirty years' imprisonment for voluntary manslaughter, three years' imprisonment on the meth possession charge, five years on the grand larceny charge, ten years on the second-degree burglary charge, five years on possession of a stolen vehicle, and three years on failure to stop for a blue light, all sentences running concurrently. Applicant did not pursue a direct appeal.

Summary of Relevant Facts

On June 13, 2018, the victim, Jamie Lee Miller, was staying with his grandmother, who was taken to the hospital. (Tr. 9). The victim stayed at the house. (Tr. 9). The neighbor remembers an altercation happening outside of the trailer that night. (Tr. 9). The neighbor stated that on June 14, 2018, he did not see the victim anymore. (Tr. 9). Also on June 13, the neighbor saw three vehicles outside the trailer, belonging to the mother or grandmother, the victim's uncle, and the victim's father, respectively. (Tr. 9). The neighbor stated that he did not see the vehicles at the home June 14. (Tr. 9).

On June 15, Joel Thomas, the grandmother's son, drove by the home and saw the door broken in, the house ransacked, and two missing vehicles. (Tr. 10). The victim was not there.

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

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(Tr. 10). He called the police and the deputy said they could not do anything about the house because of the victim's absence. (Tr. 10). On June 16, one of the vehicles was located three miles down the road. (Tr. 10). Neighbors stated the car started smoking and was pulled over and was being driven by a white man. (Tr. 10-11).

Around this time, the police began pursuing the other stolen car, which was being driven by a driver who did not wear a seatbelt and was driving over a hundred miles an hour. (Tr. 12). The passenger, Tabitha Cook, stated they were trying to jump off the car that day before and that she observed the initial altercation, which was an assault. (Tr. 12-13). Applicant told Cook he assaulted the victim, tied him up, and put him in the trunk of the car. (Tr. 13). The car ran out of gas, Cook was left in the car, and Scruggs fled on foot. (Tr. 13). Applicant forced his way into a nearby house where there were two teenagers, one of which was grabbed by the throat by Applicant, while he demanded car keys from the teenager. (Tr. 13-14). Applicant took a set of keys for an inoperable vehicle. (Tr. 14). The officers, seeing this, went in the house, and ultimately Applicant was apprehended by officers. (Tr. 14). 2.46 grams of methamphetamine were found on Applicant. (Tr. 15). On his way to the house, Applicant attempted to break into several storage facilities. (Tr. 15). The victim was ultimately discovered based upon the smell emitting from the vehicle he was hogtied and thrown into. (Tr. 16). The cause of death was asphyxiation with a contributing factor of drugs. (Tr. 17). The victim was recognized as someone with drug problems. (Tr. 17).

Current Action Before this Court

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

1. "failure to object to the plea, once he was informed by his attorney that he would

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- receive only (15) years.”
2. “failure to object to the (lies) and inconsistent statements of co-defendant.”
 3. “failure to inform Applicant of any defense that [was] available to him.”
 4. “failure to discuss with the Applicant the elements of the crime charged.”
 5. “Applicant’s defense attorney failed to oppose the prosecution’s case with any adversarial litigation.”
 6. “because of the Applicant’s defense attorney’s gross neglect and his many legal errors, no defense was raised to put up an issue for him during the Court proceedings.”
 7. “Applicant’s defense attorney did do the necessary legal research.”
 8. “Applicant’s defense attorney failed to give him his complete loyalty.”
 9. “Applicant’s defense attorney did not do the necessary factual investigations on the Applicant’s behalf.”
 10. “Failure to inform the Applicant of his right to appeal.”
 11. “failure to file an appeal for the Applicant.”
 12. “failure to object to the lies and inconsistent statements of the co-defendant.”
 13. “failure to object to the plea, once Applicant was sentenced to more time than he (guilty plea attorney) told the Applicant he would receive which was (15) years.”
 14. “Failure to investigate.”
 15. “failure to object to evidence.”
 16. “failure to request a preliminary hearing.”
 17. “expert witnesses.”
 18. “failure to object to the Solicitor’s comments.”
 19. “failure to investigate the laws and charges. Applicant was charged with before he advised him to plea to the void laws and charges. (Involuntary plea).”
 20. “failure to challenge the probable cause for the Applicant’s arrest, police officers violated Fourth and Fourteenth Amendments when, without probable cause, they seized Applicant and transported him to the police station for interrogation.”
 21. “Counsel was ineffective for failing to object to his client Confrontation Clause which error occurred when Court admitted statement of a non-testifying co-defendant against petitioner.”
 22. “failure to submit exhibits.”
 23. “failure to file motion for reconsideration.”
 24. “failure to correct false and misleading testimony and file pretrial motions.”
 25. “failure to object to the State’s case to adversarial testing.”
 26. “[Counsel] failed to protect constitutional rights of Applicant”.
 27. “Failure to challenge the murder”.
 28. “Misadvising the Applicant that the State had a rock-solid case against him for Burglary First which would carry fifteen to life explaining to the Applicant that he needs to take the plea offer and plead guilty to voluntary manslaughter and burglary second to limit his exposure because he would be convicted of Burglary First and face a greater sentence if he asserted his right to trial”.
 29. “Stating during the *Alford* plea that the Applicant admitted to beating the victim up and knocking the victim’s teeth out and instructing Tabitha Cook to tie him up; See Transcript p.27, line 14”.
 30. “Failure to move to reconsider the case when requested to do so”.

31. "Failing to appeal the plea and sentence on behalf of the Applicant".

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

1. Ineffective assistance of counsel.
 - a. For erroneously telling Applicant the first-degree burglary charge was a "slam dunk."
 - b. Failure to review discovery.
2. Invalid plea.
 - a. The global plea offer was induced by erroneous advice, by counsel, concerning the strength of the State's first-degree burglary case.

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

Summary of the Testimony

Applicant Testimony

Applicant claimed he was not effectively represented by Counsel. He stated he was serving a thirty-year sentence. He stated the charges stemmed from two separate incidences and that he entered a global plea. Applicant admitted he was originally charged with murder and planned to proceed to trial. He stated he moved for a speedy trial on the murder charge. He stated he did not want to plead to voluntary manslaughter. Applicant stated that he was later informed by Counsel of his burglary charge from breaking into someone's home in a separate incident. He stated that he thought second-degree burglary was the appropriate charge, but Counsel told him it was a first-degree offense. Applicant testified that he would have plead to first-degree burglary after the murder trial even if he was not convicted at trial for murder. Based upon this information, Applicant elected to enter an *Alford* plea between two and thirty years. Applicant stated that he has letters from Counsel advising him that he would get the same amount of time for burglary as he would for murder, even if he was not convicted of murder at trial. He stated that Counsel told him he could not win at trial on the first-degree burglary charge and that that

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charge was a "slam dunk". Applicant produced an email from Counsel reflecting this. He stated that he would not have pled to voluntary if he thought he could beat the burglary conviction but would have proceeded to trial. Applicant stated that there was no direct evidence, such as fingerprints, connecting him to the murder, beyond a State's witness. Applicant stated that he agreed to enter a plea if Counsel could reduce the first-degree burglary charge. He stated that the prosecutor at the plea hearing stated that the burglary was not a first-degree burglary because officer thought someone was injured when they were not. He stated he did not interrupt the plea proceedings when the State announced they could not prove injury because he was nervous. He stated he erroneously relied on Counsel's assessment of the first-degree burglary offense when he decided to plead. Applicant stated he wants a new trial on the murder charge. Applicant stated he never saw most of the discovery against him, including the thirty-two videos. He stated he decided to plead without reviewing the evidence because Counsel told him it was a slam dunk. He stated he told Counsel he was innocent of the murder. When asked about the fact recitation section where the prosecutor stated that the victim was assaulted, Applicant reiterated that the victim was not injured and that the assault allegation was merely an opinion. Applicant claimed he was overcharged. Applicant testified that the victim's teeth were not knocked out based upon the autopsy.

Counsel Testimony

Counsel testified that Applicant pled guilty to a lot of charges. He stated that the discovery in his file was taken by Applicant's mother years ago and, accordingly, he could not review it in preparation for the PCR hearing. He stated that he thought the State could have met its burden of proof regarding the first-degree burglary charge. He also stated that he was willing to help his client in the PCR action and stated that he should have a new trial if Applicant wants

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one. Counsel testified that the evidence showed that Applicant hit someone and put them in his trunk. He stated there was circumstantial evidence supporting the convictions. Counsel testified that he tried to get the best offer he could and left the decision up to Applicant.

He stated that he did not expect that Judge Hayes would give the maximum sentence for the voluntary manslaughter charge. Counsel testified that Applicant insisted that he was not guilty of murder. Counsel stated that Applicant was facing up to life imprisonment if he was found guilty at trial. He stated that the crux of the negotiations was to get first-degree burglary reduced to second and to get murder reduced to voluntary manslaughter. He stated he tried to get as good of a deal as possible.

On cross-examination, Counsel testified that Applicant was looking at life imprisonment if he went to trial. He stated that he thought that this case was strong in plea negotiations. He stated he tried federal and death penalty cases. He stated he tried to get the best offer and to let the client decide. He stated that the decision to plead was in Applicant's best interest if it was, in fact, a slam dunk case against him. He stated he discussed discovery with Applicant but stated that he may not have been able to take the tapes to the jail. He stated he gave everything in the file to the family after the plea because he knew the appeal and PCR was coming. He stated they reviewed discovery prior to the plea. He stated that the evidence was one of the reasons why Applicant decided to plead. He stated his knowledge that every client has the right to see the evidence. He stated he could not say for sure why Applicant decided to plead. He stated that they discussed the offers together thoroughly before the plea. He stated that this case was based on circumstantial evidence, which he stated is sometimes stronger than direct evidence.

Findings of Fact and Conclusions of Law

This Court has had the opportunity to review the record in its entirety and has heard the

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

Ineffective Assistance of Counsel

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRPC. The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence. Reasonableness is determined by the "variety of circumstances faced by defense counsel on the range of legitimate decisions regarding how to best represent a criminal defendant, and the

scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment."

Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Realistically, this matters "'only in the rarest case'" because "[t]he likelihood of a different result must be substantial, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 111-12 (2011) (quoting *Strickland*, 466 U.S. at 697).

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

Invalid Plea

In the context of a guilty plea, the applicant must show there is a reasonable probability

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

For a plea to be valid, the applicant must have been aware of the nature and crucial elements of the offense the maximum and minimum penalties, and the rights he is waiving by accepting the plea. *Boykin v. Alabama*, 395 U.S. 238 (1969); *Roddy v. State*, 339 S.C. 29 (2000). A plea is not knowing or voluntary if a defendant "lacks knowledge of material evidence in the prosecution's possession." *Gibson v. State*, 334 S.C. 515, 523, 514 S.E.2d 320, 324 (1999).

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. 29, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1992)). "The voluntariness of a guilty plea 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." *Dalton*, 376 S.C. at 138,

654 S.E.2d at 874 (quoting *Harres v. Leeke*, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984)). Further, "guilty pleas, freely and voluntarily entered, act as a waiver of all non-jurisdictional defects and defenses, including claims of a violation of a constitutional right prior to the plea." *Whetsell v. State*, 276 S.C. 295, 297, 277 S.E.2d 891, 892 (1981).

The plea entered was entered freely, voluntarily, knowingly, or intelligently. Applicant stated he did not consume any type of substance that would affect his ability to understand his decision to plead, that he never received treatment for substance abuse issues, that he was satisfied with Counsel's representation of him, that he was not threatened or coerced into pleading, and that his decision to plead was free and voluntary. (Tr. 6-7). Applicant also stated that, to plead he knew he was waiving his right to a jury trial, where the State would have to convince all twelve jurors that he was guilty beyond a reasonable doubt, that he was waiving his right to call and confront witnesses, the right to present evidence, the right to establish a defense, the right to subpoena witnesses, and the right to remain silent. (Tr. 7-8). Additionally, the plea judge laid out the sentencing ranges on every charge and that the manslaughter charge is classified as violent and most serious. (Tr. 19-20). The plea judge also confirmed Applicant knew of the ramifications of the violent and most serious distinction. (Tr. 20). Thus, the plea was entered freely, knowingly, intelligently, and voluntarily and, thus, Applicant should not be allowed to withdraw it now.

Erroneous Advice/Coercion of Plea Regarding First-Degree Burglary Charge

Applicant claims Counsel was ineffective and his plea coerced due to Counsel's allegedly erroneous allegation that the first-degree burglary charge was a "slam dunk." "A person is guilty of burglary in the first degree if the person enters a dwelling without consent and with intent to commit a crime in the dwelling, and . . . when, in effecting entry or while in the dwelling [he . . .

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causes physical injury to a person who is not a participant in the crime. S.C. Code § 16-11-311 (1995).

The facts presented at the plea hearing showed that Applicant forced himself into the victim's home and grabbed him by the throat, demanding his car keys. (Tr. 13-14). The State stated that they reduced the first-degree burglary offense to a second-degree offense after meeting with the victim who denied being hurt.² Accordingly, the State reduced the charge to the lesser-included offense, while maintaining that the victim "clearly was assaulted." (Tr. 14).

This Court is not convinced that Applicant faced no risk of being found guilty of first-degree burglary, nor that Counsel was incorrect in his assertion that this was a strong first-degree burglary case. Applicant likely could have been tried for first-degree burglary and received a guilty verdict, given that the victim was assaulted. This was substantiated by Counsel's credible testimony that the State could meet their burden of proof on this charge. Thus, this Court finds Counsel was not deficient because advice given was not erroneous and, because of that, it is unlikely Applicant would have proceeded to trial.

Additionally, this Court finds Counsel credible in his assertion that Applicant was willing to plead if both the murder and first-degree burglary charges were dropped to lesser-included offenses. This further undermines Applicant's allegation that if Counsel had informed him, he could succeed at trial on the first-degree burglary charge, he would have proceeded to trial. Accordingly, relief is denied on this ground.

Failure to Review Discovery

Applicant claims Counsel was ineffective for failure to review most of his discovery with

² The State made clear at the plea hearing that this was seemingly driven more by bravado than the truth of what happened. (Tr. 14).

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him. Counsel credibly testified that he reviewed the discovery with Applicant and that the only discovery he may not have reviewed with Applicant were the videotapes, given Applicant's incarcerated status. He also credibly testified that all discovery was handed over to Applicant's family. Thus, this Court finds this claim is without merit and declines to grant relief as a result.

Conclusion

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

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this

3rd

day of

March

, 2023


DANIEL D. HALL
Presiding Judge
Seventh Judicial Circuit

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SPARTANBURG COUNTY
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York

, South Carolina.

WITNESSES

SCHP

BJ Sh...

ARREST WARRANT NUMBER

20182370500340

ACTION OF GRAND JURY

True Bill

T... AUG 24 2018

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. -

18-GS-42-4365

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018 TERM

THE STATE
vs.

Steven Clayton Scruggs

Indictment for

FAILURE TO STOP MOTOR VEHICLE

SC Code: 56-5-750
CDR Code: 0065
Class MIS/A

CLERK OF COURT
SPARTANBURG COUNTY

2018 AUG 29 PM 2:54

M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA }
COUNTY OF SPARTANBURG)

INDICTMENT

AUG 24 2018

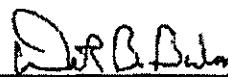
At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

FAILURE TO STOP MOTOR VEHICLE

That Steven Clayton Scruggs, did in Spartanburg County on or about
June 17, 2018, fail to stop the motor vehicle which he was driving on a
road, street, or highway of the State of South Carolina when he was
signaled by a law enforcement vehicle by means of a siren or flashing light,
in violation of §56-5-750, *THE 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.



Deputy Solicitor

WITNESSES

SCHP

BJ Sh

ARREST WARRANT NUMBER

2018A4210202355

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury
Date:

AUG 24 2018

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

18-GS-42-4366

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018

TERM

THE STATE

vs.

Steven Clayton Scruggs

Indictment for

POSSESSION OF STOLEN VEHICLE

>\$2,000 and <\$10,000

SC Code: 16-21-0080

CDR Code: 3467

Class: Fel/F

COURT OF COURT
SPARTANBURG COUNTY

2018 AUG 29 PM 2:54

M. HOPE BLACKLEY

TDI

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on AUG 24 2018 the
Grand Jurors of Spartanburg County present upon their oath:

POSSESSION OF STOLEN VEHICLE >\$2,000<\$10,000

That the defendant, Steven Clayton Scruggs did in Spartanburg County
~~on or about June 17, 2018, receive, possess, sell, conceal, or dispose of a~~
stolen vehicle, valued at more than Two Thousand Dollars, but less than
Ten Thousand Dollars, he not being entitled to the possession of a 2000
Toyota Camry belonging to Brenda Kirby Thomas, knowing it to be stolen
or converted under circumstances constituting a crime, in violation of §16-
21-80, *THE 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.

D. B. Burns
ASSISTANT SOLICITOR

WITNESSES

SPTG CO SHERIFF'S OFFICE

Kevin Poto

ARREST WARRANT NUMBER

2018A4210202357

ACTION OF GRAND JURY

True Bill

AUG 24 2018

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. -

18-GS-42- 4369

The State of South Carolina

County of Spartanburg

Barry J. Barmette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018

TERM

THE STATE

vs.

STEVEN CLAYTON SCURGGS

Indictment for

DISTRIBUTION OF METHAMPHETAMINE

SC Code: 44-53-375

COURT OF
SPARTANBURG COUNTY

2018 AUG 29 PM 2:55

M. HOPE BLACKLEY

TDD

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

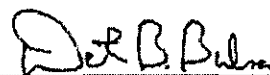
INDICTMENT

At a Court of General Sessions, convened on AUG 24 2018 the
Grand Jurors of Spartanburg County present upon their oath:

DISTRIBUTION OF METHAMPHETAMINE

That Steven Clayton Scruggs did in Spartanburg County on or about
~~June 17, 2018, manufacture, distribute, dispense, deliver, purchase, or~~
otherwise aid, abet, attempt or conspire to manufacture, distribute,
dispense, deliver or purchase, or possess with intent to manufacture,
distribute, dispense, deliver, or purchase a quantity of Methamphetamine,
a schedule II controlled substance under provisions of § 44-53-375, *THE*
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.



ASSISTANT SOLICITOR

WITNESSES

SCSO

[Signature]

ARREST WARRANT NUMBER

2018A4210101706

ACTION OF GRAND JURY

True Bill

AUG 24 2018

[Signature]

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO **18-GS-42-4371**

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018

TERM

THE STATE

vs.

Steven Clayton Scruggs

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311

CDR Code: 0079

Class: FEL/EXM (V)

COURT
SPARTANBURG COUNTY

2018 AUG 29 PM 2:55

M. HOPE BLACKLEY

(H)

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

AUG 24 2018

At a Court of General Sessions, convened on _____, the Grand Jurors of Spartanburg County present upon their oath:

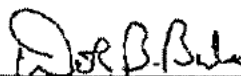
BURGLARY, FIRST DEGREE**(DWELLING)**

— That the Defendant, ~~Steven Clayton Scruggs~~, did in ~~Spartanburg County~~, on or about June 17, 2018, willfully and intentionally enter the residence located at [REDACTED] Brotherhood Dr, Inman, South Carolina without consent and with the intent to commit a crime therein, and that the defendant did enter the dwelling either:

- (1) the Defendant did enter in the nighttime and/or
- (2) armed with a deadly weapon; and/or
- (3) caused physical injury to any person who is not a participant in the crime; and/or
- (4) uses or threatens the use of a dangerous instrument; and/or
- (5) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearms

in violation of Section 16-11-311, Code of Laws of South Carolina (1976) as amended.

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


DEPUTY SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

2018A4210101708

ACTION OF GRAND JURY

True Bill

AUG 24 2018

[Signature]
Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO.

18-GS-42-4372

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018

TERM

THE STATE
vs.

Steven Clayton Scruggs

Indictment for

ATTEMPTED GRAND LARCENY

SC Code: 16-13-30(B)(1), 16-1-80

CDR Code: 3421

Class FEL/E

CLERK OF COURT
SPARTANBURG COUNTY

2018 AUG 29 PM 2:55

M. HOPE BLACKLEY

TDD

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on AUG 24 2018, the Grand
Jurors of Spartanburg County present upon their oath:

ATTEMPTED GRAND LARCENY

That Steven Clayton Scruggs did in Spartanburg County on or about June 17, 2018,
attempt feloniously to take and carry away a silver 2006 Honda Odyssey belonging to
Jesse Yer Moua, valued at more than Ten Thousand Dollars, with the intent to deprive
the owner permanently of such property, all in violation of 16-1-80 and 16-13-30 and the
Common Law of *THE 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.


ASSISTANT SOLICITOR

WITNESSES

scso

Kenneth Gots

ARREST WARRANT NUMBER

2018A4210202358

ACTION OF GRAND JURY

True Bill

AUG 24 2018

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. **18-GS-42-4373**

The State of South Carolina

County of Spartanburg

Barry Barnette, Solicitor

COURT OF GENERAL SESSIONS

AUG 27 2018

TERM

THE STATE

vs.

Steven Clayton Scruggs

Indictment for

MURDER

SC Code 16-03-0010, 0020

CDR Code 116

Class FEL-EXM

COURT OF COURT
SPARTANBURG COUNTY

2018 AUG 29 PM 2:55

M. HOPE BLACKLEY

TDD

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

AUG 24 2018

At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

MURDER

The Defendant, Steven Clayton Scruggs, did in Spartanburg County on or about
 - - - June 16, 2018, feloniously, willfully, and with malice aforethought, kill one Jamie Lee
 Miller, by beating, binding him and placing him into the trunk of the motor vehicle and the
 victim died as a proximate result thereof, all in violation of Section 16-3-0010, 0020,
 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.


 Deputy Solicitor