

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Aug 11 2023

S.C. SUPREME COURT

CERTIORARI TO RICHLAND COUNTY
Court of Common Pleas

The Honorable Courtney Clyburn Pope, Circuit Court Judge

Appellate Case No: 2023-000035
Lower Court Case No: 2021-CP-40-05321

WILLIAM OLIVER AGUILAR PINEDA,

RESPONDENT,

v.

STATE OF SOUTH CAROLINA

PETITIONER.

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) COURT OF GENERAL SESSIONS
2017-GS-40-04198

State of South Carolina,)
Plaintiff,)
vs.) TRANSCRIPT OF RECORD
William Oliver Aquilar-)
Pineda,)
Defendant.)

November 5, 2020
Columbia, South Carolina

B E F O R E:

THE HONORABLE DEANDREA G. BENJAMIN, JUDGE.

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

LAMAR J. FYALL, ASSISTANT SOLICITOR
Attorney for the Plaintiff

MEGAN A. EIGENBROT, ASSISTANT PUBLIC DEFENDER
LAURA W. YOUNG, ASSISTANT PUBLIC DEFENDER
JAMIE E. WILSON, ASSISTANT PUBLIC DEFENDER
Attorneys for the Defendant

DEBORAH M. McCURDY, RPR
Official Court Reporter

I N D E X O F W I T N E S S E S

(WHEREUPON, no witnesses were called
during these proceedings.)

E X H I B I T S

(WHEREUPON, no exhibits were introduced
during these proceedings.)

NOVEMBER 5, 2020

(WHEREUPON, the hearing began at 11:34
a.m.)

THE COURT: I will have Mr. Fyall call the
case.

MR. FYALL: The State calls William
Aguilar-Pineda.

THE CLERK: Raise your right hand.

(Defendant complies.)

THE CLERK: Do you swear or affirm that the
answers that you shall give this Court to be the
truth, the whole truth, and nothing but the truth,
so help you God?

THE WITNESS: Yes.

THE COURT: All right, thank you. You can
take your hand down.

(Defendant complies.)

THE COURT: Yes, sir?

MR. FYALL: Thank you, Your Honor.

Before you is William Aguilar-Pineda,
represented by Megan Eigenbrot, Laura Young, and
Jamie Wilson of the Public Defender's Office.

He is charged with murder, but he is being
allowed to plead guilty to voluntary manslaughter
for a negotiated term of 23 to 30 years. And I

1 will get a little bit more into that later, but
2 this trial is on the docket for Monday. The terms
3 of this negotiation is that he will be allowed to
4 begin serving his sentence on Monday, but will
5 remain on bond and ankle monitoring until that
6 time, and turn himself in by close of business on
7 Monday. If he does so, he will receive 23 years.
8 If not, he will receive a 30-year sentence.

9 I believe that is it. The victim's mother,
10 Ms. Latima Brown, is here. I talked to her a few
11 seconds ago. She said that she did not want to
12 address the Court, but if that changes I will let
13 the Court know.

14 THE COURT: All right, I need you all to stand
15 up.

16 Is that correct, Ms. Eigenbrot?

17 MS. EIGENBROT: That's correct, Your Honor.

18 THE COURT: And have you explained to your
19 client the charges contained in the indictment, the
20 possible punishment, and his constitutional rights?

21 MS. EIGENBROT: I have, Your Honor.

22 THE COURT: And how does he wish to plead?

23 MS. EIGENBROT: He wishes to plead guilty.

24 THE COURT: And do you agree with his decision
25 to plead guilty?

1 MS. EIGENBROT: I do.

2 THE COURT: All right, thank you.

3 And you are William Aguilar-Pineda, is that
4 correct?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: All right. And how old are you,
7 sir?

8 THE DEFENDANT: Thirty-one.

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

10 THE DEFENDANT: GED.

11 THE COURT: And are you currently on probation
12 or parole?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: And are you working anywhere?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Where do you work?

17 THE DEFENDANT: I'm a tattoo artist.

18 THE COURT: And are you married?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: And do you have children?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: And their ages?

23 THE DEFENDANT: Eleven, four, and two.

24 THE COURT: And within the last 24 hours, have
25 you taken any medication, drugs, or alcohol?

1 THE DEFENDANT: No, ma'am.

2 THE COURT: All right. Listen closely to the
3 Solicitor as he states the facts.

4 MR. FYALL: Thank you, Your Honor.

5 The actual incident happened on March 22nd,
6 2017. Before that, there was sort of a, I guess
7 confluence of things that led to this incident.

8 The Co-Defendant, Mr. Barry Reed, is a part of
9 an organization known as the Paid family, which is
10 a pretty expansive drug operation here in Richland
11 and Lexington counties. Mr. Reed was also a member
12 of the Bloods. He had a pre-existing feud with the
13 victim, Pierre Wilson, and was essentially
14 intending to kill him because of a beef they had.

15 Mr. Pineda is not a part of the Paid family,
16 but the evidence suggested he was a member of the
17 Bloods.

18 When this incident occurred, there were
19 several text messages on various phones that were
20 collected by law enforcement indicating that
21 Mr. Reed was looking for Pierre Wilson and that he
22 had found out that he was going to be at Club
23 Reveal the day of the 22nd. Mr. Reed arrived with
24 various Co-Defendants, some members of the Paid
25 family, some members of the Bloods.

1 Mr. Aguilar was there. Mr. Reed encountered
2 the victim, Pierre Wilson, pulled out his gun and
3 began shooting, at which time Mr. Aguilar exited
4 the green Chevy Tahoe he had arrived in and began
5 shooting with an assault style weapon.

6 Dozens of shots were fired that day, Your
7 Honor. And the fatal shot hit Mr. Wilson in the
8 neck, and that shot that hit him in the neck killed
9 him. He was essentially deceased at the scene.

10 The Co-Defendants dispersed. Some of them met
11 at an apartment later and sort of sought to get rid
12 of the items that were involved in the crime.

13 Mr. Pineda was initially ID'd by his nickname.
14 His Facebook profile was located and two of the
15 Co-Defendants picked him out of a photo line-up.

16 At some point he dropped a bandanna on the
17 scene, which was recovered, and his DNA was found
18 on that item. He was subsequently arrested.

19 THE COURT: All right.

20 MR. FYALL: I believe that covers it.

21 THE COURT: All right. Sir, do you agree with
22 the facts as stated by the Solicitor?

23 THE DEFENDANT: Yes.

24 THE COURT: And is that what you are pleading
25 guilty to?

1 THE DEFENDANT: Yes.

2 THE COURT: You understand that voluntary
3 manslaughter carries up to 30 years in jail? Do
4 you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Knowing that, do you still wish to
7 plead guilty?

8 THE DEFENDANT: Yes.

9 THE COURT: Do you understand that it is also
10 classified -- voluntary manslaughter is classified
11 as a violent, most serious offense. Most serious
12 means, under our two-strike law, if you were to get
13 another most serious offense the State can move
14 before the Court for life without parole. Do you
15 understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Also on violent, it means you will
18 have to serve 85 percent of any sentence that you
19 get. Do you understand that, sir?

20 THE DEFENDANT: Yes.

21 THE COURT: Knowing all of that, do you still
22 wish to plead guilty?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand, sir, when you
25 plead guilty you give up certain important

1 constitutional rights? You have the right to a
2 jury trial. At a jury trial, the State would have
3 to prove you guilty beyond a reasonable doubt. You
4 and your attorney/attorneys would have the
5 opportunity to cross-examine any witnesses that
6 they would present. You would not have to testify.
7 The burden would be upon the State to prove you
8 guilty beyond a reasonable doubt. If you gave any
9 incriminating statements, you'd have the right to
10 challenge the admission of those statements, sir.
11 Sir, if you had any defenses that you wished to
12 advance, you would be given an opportunity to do
13 so, although you are not required to do so. If you
14 decided to testify, you would be given an
15 opportunity to testify being advised of your
16 rights. However, sir, if you did not testify, I
17 would advise the jury that they could not hold that
18 against you in their deliberation.

19 But by pleading guilty, sir, you waive all of
20 these constitutional rights and your right to a
21 jury trial. Is that what you wish to do?

22 THE DEFENDANT: Yes.

23 THE COURT: And you have been represented by
24 Ms. Eigenbrot. Are you satisfied with her
25 representation?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you need any more time to speak
3 with her?

4 THE DEFENDANT: No.

5 THE COURT: And has she done everything for
6 you that you feel she could have done or should
7 have done?

8 THE DEFENDANT: Yes.

9 THE COURT: And have you met with her for as
10 long and as necessary for her to properly represent
11 you?

12 THE DEFENDANT: Yes.

13 THE COURT: And are you completely satisfied
14 with her representation?

15 THE DEFENDANT: Yes.

16 THE COURT: And is there anything else you
17 need to ask her today regarding anything we have
18 gone over?

19 THE DEFENDANT: No.

20 THE COURT: All right. And have you
21 understood my questions?

22 THE DEFENDANT: Yes.

23 THE COURT: Have you answered them truthfully?

24 THE DEFENDANT: Yes.

25 THE COURT: And the answers that you have

1 given to me are your answers, is that correct?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. And, sir, are you
4 entering this plea freely and voluntarily?

5 THE DEFENDANT: Yes.

6 THE COURT: Is anyone forcing you to plead
7 guilty today?

8 THE DEFENDANT: No.

9 THE COURT: And the negotiations again, for
10 the record?

11 MR. FYALL: Yes, ma'am. A range of 23 to 30
12 years. And if he turns himself in by close of
13 business on Monday, he will get the 23 years. If
14 not, a warrant will be issued for his arrest and he
15 will be sentenced to 30 years.

16 THE COURT: Sir, is that your understanding of
17 the negotiations?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. And you are in
20 agreement with that?

21 THE DEFENDANT: Yes.

22 THE COURT: And you understand they are saying
23 if you turn yourself in Monday, it is 23 years. If
24 you don't, they are going to ask for 30 years. Do
25 you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. And has anyone offered
3 you anything in exchange for your plea other than
4 the negotiations, the plea offer in this case, has
5 anyone offered you anything in exchange for your
6 plea?

7 THE DEFENDANT: No.

8 THE COURT: Has anyone threatened you, forced
9 you to plead guilty today?

10 THE DEFENDANT: No.

11 THE COURT: All right. Sir, you understand
12 you have the right to appeal the guilty plea and
13 sentence of this Court within ten days. Do you
14 understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: All right. I find that there is a
17 substantial factual basis for this plea. I also
18 find that the Defendant's decision to plead guilty
19 is freely, voluntarily, knowingly, and
20 intelligently made; that he is represented by
21 counsel to whom he has indicated to me he is
22 completely satisfied with. I will accept your
23 plea.

24 Any prior record?

25 MR. FYALL: He has a 2007 simple assault and a

1 2010 driving under suspension.

2 If I can note one thing, Your Honor?

3 Investigators Truluck and Taima Jordan, with the
4 Richland County Sheriff's Department, were
5 investigating this case. I have been in contact
6 with them, and they are in agreement with this
7 resolution.

8 THE COURT: And, Ms. Brown, she does not wish
9 to speak? Do you wish to speak?

10 MS. BROWN: Oh, no, ma'am.

11 THE COURT: Okay. I just wanted to thank you
12 for being here today, ma'am. I'm sorry that you
13 had to be here and sorry for your loss.

14 MS. BROWN: Thank you.

15 THE COURT: Thank you.

16 All right. Nothing else from the State?

17 MR. FYALL: That's it, Your Honor.

18 THE COURT: All right.

19 Yes, ma'am, Ms. Eigenbrot?

20 MS. EIGENBROT: Thank you, Your Honor. May it
21 please the Court?

22 THE COURT: Yes.

23 MS. EIGENBROT: We would ask that you accept
24 these negotiations. William does have 198 days
25 credit. As this is a negotiated plea, I will be

1 very, very brief, Your Honor.

2 I just want you to know that he is accompanied
3 today by the mother of two of his younger children,
4 Ms. Desiree Woolwine. And his mother, Your Honor.
5 His brother is also here in the courthouse in
6 support of him. And, again, he has 198 days
7 credit. He has been on the ankle monitor for three
8 years without any issues, Your Honor. I do think
9 that he will be successful.

10 THE COURT REPORTER: I'm sorry, I can't hear
11 you. You may have to take your mask down.

12 MS. EIGENBROT: He has been on the ankle
13 monitor for three years now. I don't think there
14 will be any issue with him turning himself in to
15 the Alvin S. Glenn Detention Center on Monday by
16 5:00 p.m.

17 Your Honor, I did speak to Christina Bigelow
18 with the Department of Corrections. She advised
19 the best way to handle this would be to completely
20 fill out a sentencing sheet for the 23 years with a
21 note that he turn himself in at the appropriate
22 date and time. If he fails to do so, once he is
23 then rearrested, bring him back before the Court
24 and amend his sentence to the 30. That is what she
25 advised we do.

1 THE COURT: And the bonding company has
2 agreed?

3 MS. EIGENBROT: Your Honor, I believe there is
4 still two pending charges that the State is not
5 going to dismiss until the completion of the
6 sentence.

7 THE COURT: All right. Anything else from the
8 State?

9 MR. FYALL: No, ma'am.

10 THE COURT: All right. So on
11 Indictment 2017-GS-40-4198, sir, you will be
12 sentenced to the State Department of Corrections
13 for 23 years. You will be given credit for the 198
14 days you served. He may report on Monday, November
15 9th, to Alvin S. Glenn Detention Center by
16 5:00 o'clock p.m. He must stay online and on GPS.

17 MS. EIGENBROT: Thank you, Your Honor.

18 THE COURT: All right, thank you.

19 MS. EIGENBROT: Thank you, Your Honor.

20 THE COURT: All right, thank you.

21 Good luck to you, sir.

22 All right. So who is going to hold on to --
23 who needs the sentencing sheet? Because he is not
24 going today.

25 THE CLERK: I will need to send it to the jail

1 so they will know he is expected.

2 THE COURT: Okay, to come on Monday? So if
3 you will go ahead and send it to them and they will
4 be expecting him on Monday?

5 THE CLERK: Yes, ma'am.

6 THE COURT: Okay. All right.

7 So, sir, you understand if you don't show back
8 up, then you will have 30 years. They are going to
9 issue a bench warrant and they will come get you,
10 and then you will be looking at 30 years. Do you
11 understand?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You just have to voluntarily --
14 keep the monitor on. You just have to voluntarily
15 show up. All right?

16 All right, thank you. We usually don't do it
17 that way, so don't mess it up for somebody else.

18 THE DEFENDANT: I understand.

19 THE COURT: All right, thank you.

20 (WHEREUPON, the hearing adjourned at
21 11:49 a.m.)
22
23
24

25 (END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of 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 Richland County, South Carolina, on the 5th day of November, 2020.

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

June 10, 2021

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

MR. FYALL: [8] 3/6 3/19 6/4 7/20 11/11 12/25 13/17 15/9 MS. BROWN: [2] 13/10 13/14 MS. EIGENBROT: [10] 4/17 4/21 4/23 5/1 13/20 13/23 14/12 15/3 15/17 15/19 THE CLERK: [4] 3/8 3/10 15/25 16/5 THE COURT REPORTER: [1] 14/10 THE COURT: [60] THE DEFENDANT: [37] THE WITNESS: [1] 3/14	allowed [2] 3/24 4/3 also [5] 6/11 8/9 8/17 12/17 14/5 although [1] 9/13 Alvin [2] 14/15 15/15 am [1] 17/16 amend [1] 14/24 ankle [3] 4/5 14/7 14/12 another [1] 8/13 answered [1] 10/23 answers [3] 3/11 10/25 11/1 any [10] 5/25 8/18 9/5 9/8 9/11 10/2 12/24 14/8 14/14 17/17 anyone [4] 11/6 12/2 12/5 12/8 anything [5] 10/16 10/17 12/3 12/5 15/7 anywhere [1] 5/14 apartment [1] 7/11 appeal [2] 12/12 17/13 appropriate [1] 14/21 Aguilar [1] 1/7 are [16] 5/3 5/6 5/11 5/14 5/18 7/24 9/13 9/24 10/13 11/1 11/3 11/19 11/22 11/24 13/6 16/8 arrest [1] 11/14 arrested [1] 7/18 arrived [2] 6/23 7/4 artist [1] 5/17 as [7] 6/3 6/9 7/22 8/11 10/9 10/10 13/25 ask [3] 10/17 11/24 13/23 assault [2] 7/5 12/25 ASSISTANT [4] 1/18 1/20 1/20 1/21 attorney [2] 1/19 9/4 attorney/attorneys [1] 9/4 attorneys [2] 1/21 9/4	Center [2] 14/15 15/15 certain [1] 8/25 CERTIFICATE [1] 17/1 certify [2] 17/10 17/16 challenge [1] 9/10 changes [1] 4/12 charged [1] 3/23 charges [2] 4/19 15/4 Chevy [1] 7/4 children [2] 5/20 14/3 Christina [1] 14/17 Circuit [2] 17/9 17/23 classified [2] 8/10 8/10 client [1] 4/19 close [2] 4/6 11/12 closely [1] 6/2 Club [1] 6/22 Co [4] 6/8 6/24 7/10 7/15 Co-Defendant [1] 6/8 Co-Defendants [3] 6/24 7/10 7/15 collected [1] 6/20 Columbia [1] 1/10 come [2] 16/2 16/9 company [1] 15/1 complete [1] 17/11 completely [3] 10/13 12/22 14/19 completion [1] 15/5 complies [2] 3/9 3/17 confluence [1] 6/7 constitutional [3] 4/20 9/1 9/20 contact [1] 13/5 contained [1] 4/19 correct [4] 4/16 4/17 5/4 11/1 Corrections [2] 14/18 15/12 could [2] 9/17 10/6 counsel [2] 12/21 17/17 counties [1] 6/11 COUNTY [4] 1/2 13/4 17/5 17/14 COURT [12] 1/1 1/25 3/11 4/12 4/13 8/14 12/13 13/21 14/23 17/8 17/13 17/23 courthouse [1] 14/5 covers [1] 7/20 credit [3] 13/25 14/7 15/13 crime [1] 7/12 cross [1] 9/5 cross-examine [1] 9/5 currently [1] 5/11
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EIGENBROT [5] 1/20 3/21 4/16 9/24 13/19 Eleven [1] 5/23 else [4] 10/16 13/16 15/7 16/17 encountered [1] 7/1 END [1] 16/25 enforcement [1] 6/20 entering [1] 11/4 essentially [2] 6/13 7/9 everything [1] 10/5 evidence [2] 6/16 17/12 examine [1] 9/5 exchange [2] 12/3 12/5 exhibits [1] 2/13 existing [1] 6/12 exited [1] 7/3 expansive [1] 6/10 expected [1] 16/1 expecting [1] 16/4 explained [1] 4/18	I'm [3] 5/17 13/12 14/10 ID'd [1] 7/13 important [1] 8/25 incident [3] 6/5 6/7 6/18 incriminating [1] 9/9 indicated [1] 12/21 indicating [1] 6/20 indictment [2] 4/19 15/11 Indictment 2017-GS-40-4198 [1] 15/11 initially [1] 7/13 intelligently [1] 12/20 intending [1] 6/14 interest [1] 17/17 introduced [2] 2/13 17/12 investigating [1] 13/5 Investigators [1] 13/3 involved [1] 7/12 is [36] issue [2] 14/14 16/9 issued [1] 11/14 issues [1] 14/8 it [11] 4/9 7/20 8/9 8/17 11/23 13/17 13/20 15/25 16/3 16/16 16/17 item [1] 7/18 items [1] 7/12	ma'am [12] 5/5 5/13 5/15 5/19 5/21 6/1 11/11 13/10 13/12 13/19 15/9 16/5 made [1] 12/20 manslaughter [3] 3/24 8/3 8/10 March [1] 6/5 March 22nd [1] 6/5 married [1] 5/18 mask [1] 14/11 may [3] 13/20 14/11 15/14 McCURDY [4] 1/25 17/8 17/21 17/23 me [2] 11/1 12/21 means [2] 8/12 8/17 medication [1] 5/25 MEGAN [2] 1/20 3/21 member [2] 6/11 6/16 members [2] 6/24 6/25 mess [1] 16/17 messages [1] 6/19 met [2] 7/10 10/9 Monday [9] 4/2 4/4 4/7 11/13 11/23 14/15 15/14 16/2 16/4 monitor [3] 14/7 14/13 16/14 monitoring [1] 4/5 more [2] 4/1 10/2 most [3] 8/11 8/11 8/13 mother [3] 4/9 14/3 14/4 move [1] 8/13 Mr. [11] 3/4 6/8 6/11 6/15 6/21 6/23 7/1 7/1 7/3 7/7 7/13 Mr. Aguilar [2] 7/1 7/3 Mr. Barry [1] 6/8 Mr. Fyall [1] 3/4 Mr. Pineda [2] 6/15 7/13 Mr. Reed [4] 6/11 6/21 6/23 7/1 Mr. Wilson [1] 7/7 Ms [2] 13/19 14/4 Ms. [4] 4/10 4/16 9/24 13/8 Ms. Brown [1] 13/8 Ms. Eigenbrot [2] 4/16 9/24 Ms. Latima [1] 4/10 murder [1] 3/23 must [1] 15/16 my [1] 10/21
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P	p.m [2] 14/16 15/16 Paid [3] 6/9 6/15 6/24 parole [2] 5/12 8/14 part [2] 6/8 6/15 party [1] 17/17 pending [1] 15/4 percent [1] 8/18 phones [1] 6/19 photo [1] 7/15 picked [1] 7/15 Pierre [3] 6/13 6/21 7/2 Pineda [6] 1/7 3/7 3/20 5/3 6/15 7/13 Plaintiff [2] 1/5 1/19 plea [8] 11/4 12/3 12/4 12/6 12/12 12/17 12/23 13/25 plead [10] 3/24 4/22 4/23 4/25 8/7 8/22 8/25 11/6 12/9 12/18 pleading [2] 7/24 9/19 please [1] 13/21 point [1] 7/16 possible [1] 4/20 pre [1] 6/12 pre-existing [1] 6/12 present [1] 9/6 pretty [1] 6/10 prior [1] 12/24 probation [1] 5/11 proceedings [3] 2/5 2/14 17/12 profile [1] 7/14 properly [1] 10/10 prove [2] 9/3 9/7 PUBLIC [4] 1/20 1/20 1/21 3/22 pulled [1] 7/2 punishment [1] 4/20	Tahoe [1] 7/4 Taima [1] 13/3 take [2] 3/16 14/11 taken [1] 5/25 talked [1] 4/10 tattoo [1] 5/17 ten [1] 12/13 term [1] 3/25 terms [1] 4/2 testify [4] 9/6 9/14 9/15 9/16 text [1] 6/19 than [1] 12/3 thank [14] 3/15 3/19 5/2 6/4 13/11 13/14 13/15 13/20 15/17 15/18 15/19 15/20 16/16 16/19 that [56] That's [2] 4/17 13/17 their [2] 5/22 9/18 them [4] 7/10 10/23 13/6 16/3 then [3] 14/23 16/8 16/10 there [7] 6/6 6/18 7/1 10/16 12/16 14/13 15/3 these [4] 2/5 2/14 9/20 13/24 they [10] 6/14 9/6 9/17 11/22 11/24 13/6 16/1 16/3 16/8 16/9 thing [1] 13/2 things [1] 6/7 think [2] 14/8 14/13 Thirty [1] 5/8 Thirty-one [1] 5/8 this [13] 3/11 4/2 4/3 6/7 6/18 11/4 12/4 12/13 12/17 13/5 13/6 13/25 14/19 those [1] 9/10 threatened [1] 12/8 three [2] 14/7 14/13 time [4] 4/6 7/3 10/2 14/22 today [6] 10/17 11/7 12/9 13/12 14/3 15/24 TRANSCRIPT [3] 1/6 16/25 17/11 trial [5] 4/2 9/2 9/2 9/21 17/12 true [1] 17/11 Truluck [1] 13/3 truth [3] 3/12 3/12 3/12 truthfully [1] 10/23 turn [3] 4/6 11/23 14/21 turning [1] 14/14 turns [1] 11/12 two [5] 5/23 7/14 8/12 14/3 15/4 two-strike [1] 8/12
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V voluntarily... [1] 16/14 voluntary [3] 3/24 8/2 8/10 vs [1] 1/6 W waive [1] 9/19 want [2] 4/11 14/2 wanted [1] 13/11 warrant [2] 11/14 16/9 was [13] 6/6 6/11 6/13 6/16 6/21 6/22 7/1 7/9 7/13 7/14 7/17 7/18 7/18 way [2] 14/19 16/17 we [4] 10/17 13/23 14/25 16/16 weapon [1] 7/5 were [8] 2/4 2/13 6/18 6/19 7/6 7/12 8/12 13/4 what [3] 7/24 9/21 14/24 when [2] 6/18 8/24 Where [1] 5/16 WHEREUPON [4] 2/4 2/13 3/2 16/20 which [3] 6/9 7/3 7/17 who [2] 15/22 15/23 whole [1] 3/12 whom [1] 12/21 will [24] William [5] 1/7 3/6 3/20 5/3 13/24 WILSON [6] 1/21 3/22 6/13 6/21 7/2 7/7 wish [6] 4/22 8/6 8/22 9/21 13/8 13/9 wished [1] 9/11 wishes [1] 4/23 within [2] 5/24 12/13 without [2] 8/14 14/8 witnesses [2] 2/4 9/5 Woolwine [1] 14/4 work [1] 5/16 working [1] 5/14 would [10] 9/2 9/4 9/6 9/6 9/7 9/12 9/14 9/17 13/23 14/19 Y year [1] 4/8 years [14] 3/25 4/7 8/3 11/12 11/13 11/15 11/23 11/24 14/8 14/13 14/20 15/13 16/8 16/10 Yes [30] you [107] you'd [1] 9/9 YOUNG [2] 1/20 3/21 younger [1] 14/3 your [28] yourself [1] 11/23		
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ARREST WARRANT

2017A4010201407

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland Bond Court

THE STATE

1703001222

against

William Oliver Aguilar-Pineda

Address: 7648 Garners Ferry Rd Apt 362

Columbia, SC 29209-3872

Phone: _____ SSN: _____

Sex: M Race: H Height: 5 6 Weight: 230DL State: SC DL #: _____DOB: _____ Agency ORI #: SC0400000Prosecuting Agency: Richland County SheriffProsecuting Officer: Cris Truluck - 1554Offense: MurderOffense Code: 0116Code/Ordinance Sec: 16-03-0010This warrant is CERTIFIED FOR SERVICE in the☐ County/ ☐ Municipality ofThe accused
is to be arrested and brought before me to be
dealt with according to the law.

(L.S.)

Signature of Judge

Date: _____

RETURN

A copy of this arrest warrant was delivered to
defendant William Oliver Aguilar-Pineda
on 4-17-17

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

Richland County General Sessions
1701 Main Street
P O Box 192
Columbia, SC 29202
496 778 293

ORIGINAL

ORIGINAL

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland Bond Court

Personally appeared before me the affiant Cris Truluckbeing duly sworn deposes and says that defendant William Oliver Aguilar-Pinedadid within this county and state on or about 3/22/2017State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of

in the following particulars:

DESCRIPTION OF OFFENSE: MurderI further state that there is probable cause to believe that the defendant named above did
the crime set forth and that probable cause is based on the following facts:That on or about March 22nd, 2017 while at 6525 Two Notch Rd in Dentsville Magisterial District of Richland County, it is
believed that the defendant did commit the crime of Murder because The defendant along with five other co-defendants (Barry
Reed, Benjamin Chestnut, Anthony Brevard, Calvin Rockmore, Corey Sanders) was in the parking of Club Raveat waiting for the
victim, Pierre Tanaree Wilson, to exit. Once the victim exited from inside the club and while walking to his vehicle the defendant
and co-defendants with malice and aforethought began shooting at the victim. The victim was struck in the neck and died from his
injuries. The defendant was positively identified in a photo lineup as a shooter in this incident. Affiant and others are witness to
prove.

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of

Richland Bond Court

Affiant's Address 5623 Two Notch RoadColumbia, SC 29223-Affiant's Telephone (803)576-3000

ARREST WARRANT

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

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

on or about 3/22/2017defendant William Oliver Aguilar-Pineda

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

☒ County/ ☐ Municipality of Richland Bond Court

) as set forth below:

DESCRIPTION OF OFFENSE: MurderHaving found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or
her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as
soon thereafter as is practicable.
Sworn to and subscribed before meon 4/17/2017

Signature of Issuing Judge

Harold A. Cuff

Judge Code: 5906

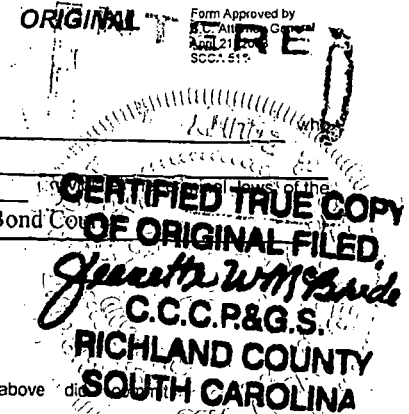
Judge's Address

Columbia, SC 29201-4858Judge's Telephone (803)576-2550Issuing Court: ☒ Magistrate☐ Municipal☐ Circuit

ORIGINAL

ORIGINAL

ORIGINAL



2017 MAY -4 PM 12:22
JANUARY 2017
RCSO
RECEIVED
2017 APR 17 PM 1:55

BAIL set by

Judge M. Howard
on 4/18/17
Type and Amount: Bond Set In
Name of Surety: General Sessions

PRELIMINARY HEARING held by

Judge _____
on _____
Defendant Attorney: _____
Decision: _____

DISPOSITION before

Judge _____
on _____
by _____
(indicate jury trial, bench trial, plea, nol. pros., etc.)
Disposition: _____
Sentence: _____

JURORS

WITNESSES

Name: _____
Address: _____
Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____
Address: _____

Telephone: _____

Name: _____

Address: _____

Telephone: _____

Name: _____

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Name: _____

Address: _____

Telephone: _____

CODEFENDANTS



WITNESSES

(S) Cris Truluck

- Richland County Sheriff Dept

ARREST WARRANT NUMBER

2017A4010201407

ACTION OF GRAND JURY

TRUE BILL

**Foreperson of Grand Jury
Date:**

AUG 10 2017

VERDICT

**Foreperson of Petit Jury
Date:**

DOCKET NO. 2017GS4004198

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

TERM 2017

131

**THE STATE
vs.**

William Oliver Aguilar-Pineda

**Indictment for
MURDER / MURDER**

**SC Code: 16-03-0010
CDR Code: 0116**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

**CERTIFIED TRUE COPY
OF ORIGINAL FILED**
Jeannette W. McBride
**C.C.C.P&G.S.
RICHLAND COUNTY
SOUTH CAROLINA**

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

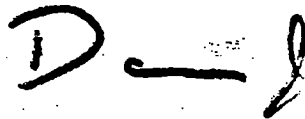
INDICTMENT

At a Court of General Sessions, convened on Aug 9, 2017, the
Grand Jurors of Richland County present upon their oath:

MURDER

That William Oliver Aguilar-Pineda did in Richland County, on or about
March 22, 2017, kill the victim, Pierre Willson, with malice aforethought,
either express or implied, by means of gun shot, and the victim did die as a
proximate result thereof. All in violation of Section 16-03-0010, S. C. Code
of Laws, 1976, as amended.

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



DAN JOHNSON, SOLICITOR



SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

RECORD SUMMARY REPORT DATED 11/02/21

C0667

AGUILAR PINEDA, WILLIAM OLIVER FBI # 906047TC2 SID# SC01784145 SCDC # 0038427

OFFENDER TYPE.: ADULT-STRAIGHT SENTENCE

INSTITUTION ...: KERSHAW CORR INST

DORM.....: PA0032B

SECURITY/CUST.: 2 ADULT-STRAIGHT SENTENCE

RACE....:O SEX...:M

CURR INCARC SENT...: 23 YRS 0 MOS 0 DYS

PROJ MAXOUT DATE: 11/03/2039

CENTRAL MONITORING.: YES STG-SUSPECT

PROJ PAROLE DATE: 00/00/0000

SOCIAL SECURITY #...: [REDACTED]

EWC JOB...: TEACHER ASSISTANT

EDUC PGM.: NO CURR EDUC PROGRAM

CURRENT PROGRAM...: NO CURRENT PROGRAM

EWC LEVEL: 2F5 EEC LEVEL: B7

AGE...: 32 DATE OF BIRTH...: [REDACTED]

ASSIGNMENT...: EDUCATION DEPT

PREVIOUS NUMBERS:

** NO PREVIOUS NUMBERS **

CURRENT OFFENSES	SENTENCE YRS MOS DYS COUNTY	SENTENCE START V/NV CATEGORY
VOLUNTARY MANSLAUGHTER	23 0 0 RICHLAND	4/21/2020 V 4

PRIOR COMMITMENTS OVER 90 DAYS:

MISSING PRIORS DATA

DETAINERS (HOLD, WANTED, NOTIFY):

NO DETAINERS

NO DETAINERS

ESCAPES:

NO ESCAPE HISTORY

CRIMINAL CHARGES:

NO CRIMINAL CHARGES WHILE IN CUSTODY

NO CRIMINAL CHARGES HISTORY

ASSAULTIVE DISCIPLINARIES:

NO ASSAULTIVE DISCIPLINARY HISTORY

NON-ASSAULTIVE DISCIPLINARIES:

NO NON-ASSAULTIVE DISCIPLINARY HISTORY

HISTORY OF MOVEMENTS:

DATE	LOCATION	STATUS	REASON
2/18/21	KERSHAW	INCARCERATED	ADMINISTRATIVE
2/11/21	LIEBER	INCARCERATED	MEDICAL
11/10/20	KIRKLAND	INCARCERATED	NEW ADMISSION

HISTORY OF EARNED WORK CREDIT ASSIGNMENTS:

JOB DESCRIPTION	START DATE	END DATE	TERMINATION REASON	JOB LVL
TEACHER ASSISTANT	08/31/21	0/ 0/ 0		2F5
WARDKEEPER	08/16/21	8/30/21	LATERAL TRANSFER	2F5
WARDKEEPER	03/25/21	7/26/21	PLACED IN ST/SP CUSTODY	2F5
WARDKEEPER ASSISTANT	01/15/21	2/18/21	INSTIT TRANSFER	2F5

HISTORY OF EARNED EDUCATION CREDITS:

EEC DESCRIPTION	START DATE	END DATE	TERMINATION REASON
BONUS 15 OR MORE	08/31/21	0/ 0/ 0	

***** END OF REPORT *****

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

William Oliver Aguilar-Pineda

AKA:

Race: HISPANIC Sex: M Age: 31

DOB: [REDACTED] SS#: [REDACTED]

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Manslaughter / Voluntary manslaughter

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-40-04198

A/W#: 2017A4010201407

Date of Offense: 3/22/2017

S.C. Code § : 16-03-0010

CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☒ §17-25-45The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence ☐ Recommendation by the State.

ATTEST:

Fyall, Lamar

SC Bar#

Defendant

101190
SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 23 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. **198 days**☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUPTotal: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§14-1-206 (Assessments 107.5 %)	\$	
§14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>✓</u>
§14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
Proviso (Public Def/Probation)	\$500	\$ <u>✓</u>
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>✓</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$
§50-21-114(BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ <u>18.75</u>

TOTAL

\$ 643.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

Deborah W. McBride
D. McBride

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

Other:

may report on Monday, Nov
4th, 2020 to ASGDC by
5:00 pm. must stay on bond,
and GPS.

☐ Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge

Judge Code:

Sentence Date:

2161

11-5-2020

STATE OF SOUTH CAROLINA

County of Richland

SCDC# 384278
 William Aguilar-Pineda
 Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2021CP400 5321

APPLICATION FOR
 POST-CONVICTION RELIEF

2021 OCT 26 AM 10:00
 CLERK OF COURT

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Kershaw Correctional Institution
2. Name and location of Court which imposed sentence General Sessions;
Richland, Columbia, SC
3. Name(s) of co-defendant(s) (if any) Barry Reedy, Corey Sanders,
Benjamin Chestnut, Calvin Rockmore, Anthony Brevard
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017-GS-40-04198
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Nov. 5, 2020 ; 23 years
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) ☒ after a plea of guilty voluntary Manslaughter
- (b) ☐ after a plea of not guilty _____
- (c) ☐ after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
No
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) had it not been for counsel erroneous advice
- (b) to plea guilty, I would of proceeded with trial.
- (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? _____
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

i.

ii.

iii.

iv.

(d) the date of each such disposition:

i.

ii.

iii.

iv.

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

i.

ii.

iii.

iv.

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

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

(a) which grounds have been presented:

i.

ii.

iii.

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

i.

ii.

iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) PCR is the proper forum.
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (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. Megan Eigenbrat, Laura Young, Jamie Wilson
Richland County Public Defender; 1701 Main St., Suite 403B
- ii. Columbia, SC 29201
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Arraignment and Plea
- ii. Sentencing
- iii. _____

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

The relief I seek are to vacate my
convictions and sentences

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

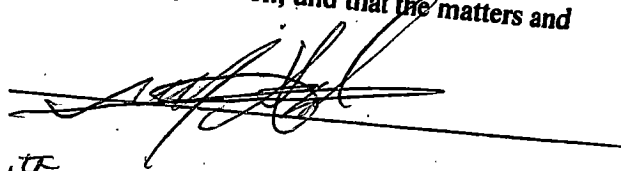
NO

STATE OF SOUTH CAROLINA

County of Richland

VERIFICATION

I, William Oliver Aguilar - Pineda, 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.



SWORN to and subscribed before me this 11th
day of October, 2021.

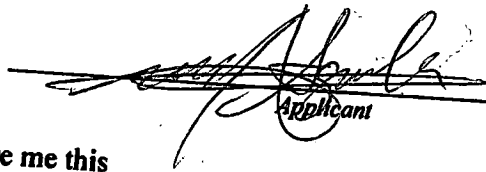
Catherine A. Chesser (L.S.)
Notary Public

My Commission Expires: 1-22-2029

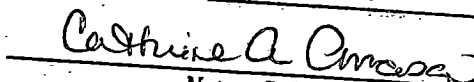
**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, William Oliver Aguilar-Pineda, 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.


Applicant

SWORN or affirmed to and subscribed before me this
11th day of October, 2021.


Notary Public

My Commission Expires: 1-22-2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
William Aguilar-Pineda, #384278,	)	
Applicant,	)	2021-CP-40-5321
	)	
v.	)	
	)	RETURN & MOTION FOR A MORE
State of South Carolina,	)	DEFINITE STATEMENT
Respondent.	)	(Counsel Appointed)
	)	

In response to Applicant William Aguilar-Pineda's action for post-conviction relief (PCR) commenced October 26, 2021, Respondent, the State of South Carolina, makes this return:

I. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections (SCDC). During the August 2017 term, the Richland County Grand Jury indicted Applicant for Murder (2017-GS-40-4198). Applicant was represented by Megan A. Eigenbrot, Laura W. Young, and Jamie E. Wilson of the Public Defender's Office. Assistant Solicitor Lamar Fyall prosecuted the case.

On November 5, 2020, Applicant pled guilty pursuant to a negotiated plea agreement with the State before the Honorable DeAndrea G. Benjamin. Judge Benjamin sentenced Applicant as negotiated to a term of imprisonment of twenty-three years for the lesser-included offense of voluntary manslaughter. Applicant did not appeal.

II. FACTS GIVING RISE TO THE CONVICTION

The incident giving rise the charges occurred on March 22, 2017. Plea Tr. 6. The facts for this indictment were articulated by the State at Applicant's plea hearing as follows:

The actual incident happened on March 22nd, 2017. Before that, there was sort of a, I guess confluence of things that led to this incident.

The Co-Defendant, Mr. Barry Reed, is a part of an organization known as the Paid family, which is a pretty expansive drug operation here in Richland and Lexington counties. Mr. Reed

was also a member of the Bloods. He had a pre-existing feud with the victim, Pierre Wilson, and was essentially intending to kill him because of a beef they had.

Mr. Pineda is not a part of the Paid family, but the evidence suggested he was a member of the Bloods.

When this incident occurred, there were several text messages on various phones that were collected by law enforcement indicating that Mr. Reed was looking for Pierre Wilson and that he had found out that he was going to be at Club Reveal the day of the 22nd. Mr. Reed arrived with various Co-Defendants, some members of the Paid family, some members of the Bloods.

Mr. Aguilar was there. Mr. Reed encountered the victim, Pierre Wilson, pulled out his gun and began shooting, at which time Mr. Aguilar exited the green Chevy Tahoe he had arrived in and began shooting with an assault style weapon.

Dozens of shots were fired that day, Your Honor. And the fatal shot hit Mr. Wilson in the neck, and that shot that hit him in the neck killed him. He was essentially deceased at the scene.

The Co-Defendants dispersed. Some of them met at an apartment later and sort of sought to get rid of the items that were involved in the crime.

Mr. Pineda was initially ID'd by his nickname. His Facebook profile was located and two of the Co-Defendants picked him out of a photo line-up.

At some point he dropped a bandanna on the scene, which was recovered, and his DNA was found on that item. He was subsequently arrested.

Plea Tr. 6–7.

III. CURRENT APPLICATION

Applicant timely commenced this PCR action on October 26, 2021. Applicant asserts he is being held in custody unlawfully, alleging:

1. “Ineffective Assistance of Counsel”
 - a. “had it not been for counsel erroneous advice to plead guilty, I would of proceeded with trial.”

Applicant requests relief in the form of a vacation of his conviction and sentence.

Attached herewith and incorporated herein are the Richland County Clerk of Court records regarding the subject conviction, Applicant’s SCDC records, the plea transcript, and the records

of this PCR action. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

IV. MOTION FOR A MORE DEFINITE STATEMENT

The Uniform Post-Conviction Procedure Act requires applicants to “*specifically set forth the grounds upon which the application is based.*” S.C. Code Ann. § 17-27-50 (1985) (emphasis added). In an application for post-conviction relief, it is incumbent upon the applicant to make a *prima facie* showing entitling them 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). Rule 71.1(d), SCRPC, provides appointed PCR counsel “shall insure that all available grounds for relief are included in the application and shall amend the application if necessary.”

Here, Applicant has failed to state with any specificity the facts giving rise to his allegation of ineffective assistance of counsel, as required by section 17-27-50. Additionally, Applicant’s allegation that Counsel did not perform in his best interest is not supported by any other additional information in the application. Therefore, Respondent moves pursuant to Rule 12(e), SCRPC, and Rule 71.1(d), SCRPC, to require Applicant, through PCR counsel, to provide a more definite statement of his allegation of ineffective assistance of counsel.

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Accordingly, Respondent moves to require Applicant to file an amended application well in advance of the hearing scheduled in 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 application for failure to state a claim.

V. RESPONSE TO ALLEGATION OF INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant's allegations of ineffective assistance of plea counsel are without merit. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984); *Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989).

The test for determining the validity of a guilty plea is “whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” *North Carolina v. Alford*, 400 U.S. 25, 31 (1970). “[A] defendant entering a guilty plea must be aware of the nature and crucial elements of the offense, the maximum and any mandatory minimum penalty, and the nature of the constitutional rights being waived.” *Pittman v. State*, 337 S.C. 597, 599, 524 S.E.2d 623, 624 (1999). “The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases.” *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To prove prejudice, the applicant must show a reasonable probability he would not have pleaded guilty and would have insisted on going to trial absent plea counsel's alleged deficiency. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

Strickland requires trial counsel must be given leeway to make reasonable strategic decisions. No particular set of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. *Strickland*, 466 U.S. at 688–689. “Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another.” *Id.* at 691. Therefore, judicial scrutiny of counsel's performance must be highly deferential. *Id.* at 689. Where counsel articulates a valid strategic reason for his action

or inaction, counsel's performance should not be found ineffective. *Roseboro v. State*, 317 S.C. 292, 454 S.E.2d 312 (1996); *Underwood v. State*, 309 S.C. 560, 425 S.E.2d 20 (1992); *Stokes v. State*, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. *Whitehead v. State*, 308 S.C. 119, 417 S.E.2d 529 (1992). In making a fair assessment of attorney performance, a court must make every effort to "eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." *Strickland*, 466 U.S. at 689.

Applicant cannot satisfy either requirement of *Strickland*. However, the record likely does not refute or disprove Applicant's allegations of ineffective assistance of trial counsel; therefore, Respondent requests an evidentiary hearing to fully resolve the issues. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

VI. ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. *See* Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to *Love v. State*, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. *See id.*

at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Pursuant to section 17-27-150 of the South Carolina Code, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Further, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. *See Love*, 428 S.C. 231, 834 S.E.2d 196.

VII. ALL OTHER CLAIMS

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

VIII. CONCLUSION

WHEREFORE, Respondent moves for a more definite statement and the opportunity to respond to the more definite statement if necessary. Once a more definite statement is provided, respondent requests an evidentiary hearing be held on the claim of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

YASMEEN E. KLEIN
Assistant Attorney General

By:


ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

December²⁹, 2021

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

2021-CP-40-5321

WILLIAM OLIVER AGUILAR PINEDA,)
#384278)

Applicant,)

vs)

CERTIFICATE OF SERVICE BY MAIL

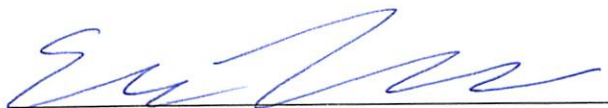
STATE OF SOUTH CAROLINA,)

Respondent,)
_____)

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

Michael H. Lifsey, Esquire
Post Office Box 548
Chester, SC 29706

DATED this 29th day of December, 2021.



Erik Marcusson, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

)
)
)

COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Case No.: 2021-CP-40-5321

William Oliver Aguilar Pineda,
SCDC # 384278,

)
)
)

Applicant,

)
)
)

v.

State of South Carolina.

)
)
)
)

**AMENDED POST-CONVICTION
RELIEF APPLICATION**

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on October 26, 2021, to add the following allegations:

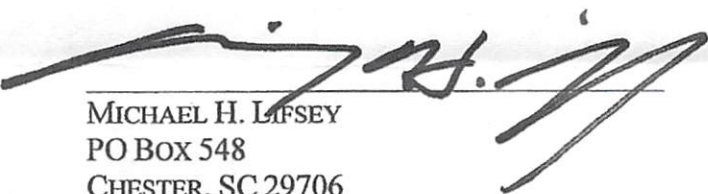
1. Ineffective assistance of counsel for

- (a) Applicant's lawyer advised him to voluntarily submit a DNA sample to the State and to waive his right to a *Schmerber* hearing on this issue. Had Applicant received effective representation of counsel in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
- (b) Applicant's plea counsel did not meet with Applicant a sufficient number of times prior to his plea, did not fully explain the strengths and weaknesses of the State's case, and did not properly investigate the case. Had plea counsel given effective representation in these regards, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
- (c) Plea counsel did not give Applicant sufficient notice of the proposed trial date, thereby not giving Applicant a sufficient amount of time to decide whether to plea or go to trial. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.

(d) Plea counsel improperly advised Applicant to answer the questions of the judge during the plea colloquy in a manner that would allow the judge to accept the plea rather than answer honestly because that would cause the trial judge to reject his plea and that Applicant would be convicted of Murder and receive a life without parole sentence if he proceeded to trial. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.

2. The ineffective assistance of counsel as detailed above, rendered Applicant's plea involuntary.
3. Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. *See Simpson v. Moore*, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



MICHAEL H. LIFSEY
PO BOX 548
CHESTER, SC 29706
803-899-5040
MICHAEL.LIFSEY@GMAIL.COM
SC BAR NO. 015154
ATTORNEY FOR APPLICANT

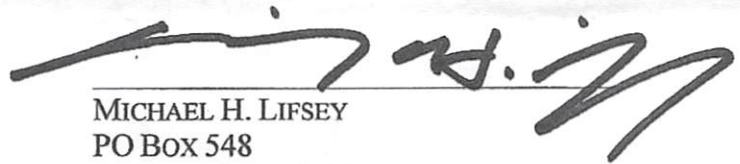
June 20, 2022

CERTIFICATE OF SERVICE

I certify that I have served this document via first class mail on:

D. Russell Barlow
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

This 20th Day of June, 2022.



MICHAEL H. LIFSEY
PO BOX 548
CHESTER, SC 29706
803-899-5040
MICHAEL.LIFSEY@GMAIL.COM
SC BAR No. 015154
ATTORNEY FOR APPLICANT

June 20, 2022

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
County of Richland	)	2021CP4005321
	)	
WILLIAM AGUILAR PINEDA,	)	
	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
RESPONDENT,	)	

September 26, 2022
Columbia, South Carolina

BEFORE:

THE HONORABLE COURTNEY CLYBURN POPE, JUDGE.

APPEARANCES:

MICHAEL LIFSEY, ESQ.
Attorney for the Applicant

DANIELLE DIXON, ASSISTANT ATTORNEY GENERAL
Attorney for the State

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S
INDEX OF WITNESSES:

WILLIAM AGUILAR PINEDA

Direct By Mr. Lifsey 4

Cross By Ms. Dixon 20

MEGAN EIGENBROT

Direct By Ms. Dixon 28

Cross By Mr. Lifsey 39

Redirect By Ms. Dixon 46

(No exhibits were introduced)

> > > < < <

CERTIFICATE OF REPORTER 53

1 MS. DIXON: Your Honor, this is the case of William
2 Aguilar Pineda, docket number 2021-CP-40-5321.

3 Mr. Aguilar Pineda was indicted in August 2017, by the
4 Richland County grand jury for murder. That's indictment
5 number 2017-GS-40-4198.

6 That charge arose from the fatal shooting of Pierre
7 Wilson outside of a nightclub on March 22nd, 2017. On
8 November 5th, 2020, Mr. Aguilar Pineda pled guilty before
9 the Honorable Deandra G. Benjamin to the lesser-included
10 offense of voluntary manslaughter. It was a negotiated
11 range of 23 to 30 years imprisonment.

12 Basically, the negotiation was he was permitted to
13 remain on bond over the weekend. My understanding, so he
14 would have one more weekend with his children. And if he
15 turned himself in on Monday, which is when the trial was
16 scheduled, then he would get 23 years.

17 If he did not turn himself in, he would get 30. He
18 showed up as required and was sentenced to 23 years
19 imprisonment. He was represented by Megan Eigenbrot, Lori
20 Young and Jamie E. Wilson and Assistant Solicitor Lamar
21 Fyall represented the State, and he got the 23-year
22 sentence as negotiated.

23 He did not file a direct appeal. This application
24 for a PCR was filed October 26th, 2021. The State filed a
25 return and a motion for a more definite statement. The

1 application was amended June 23rd, 2022. I think I'll let
2 Mr. Lifsey, if he doesn't mind, state the grounds that
3 y'all are going to go forward on today.

4 MR. LIFSEY: Thank you, Judge. We're going to go
5 forward on the grounds stated in our amended application
6 for post conviction relief. I assume the Court has a
7 copy. If you don't, I'll be glad to provide it for you.
8 But we are going to go forward on this.

9 THE COURT: Let me just verify I'm looking at the
10 amended. Yes, I do.

11 All right. You all wish to proceed on the amended
12 application?

13 MR. LIFSEY: Yes, ma'am.

14 THE COURT: Very good.

15 MR. LIFSEY: Thank you, Judge. If it please the
16 court. I would call Mr. Aguilar to the witness stand.

17 THE BAILIFF: Raise your right hand, face the clerk
18 sworn.

19 WILLIAM AGUILAR PINEDA, after being
20 duly sworn, testified as follows:

21 THE CLERK: Please step up, state your name for the
22 record, please.

23 THE WITNESS: William Aguilar.

24 DIRECT EXAMINATION
25

1 BY MR. LIFSEY:

2 Q Okay. Mr. Aguilar, how old are you, sir?

3 A I'm 33 years old.

4 Q Where are you currently residing?

5 A SCDC Kershaw Institution.

6 Q Kershaw Correctional Institution?

7 A Yes.

8 Q How long have you been there?

9 A Going on two years November -- going on now, I'd say
10 about 18, 19 months maybe.

11 Q Now, you were there as a result of a guilty plea to
12 charges in Richland County; is that correct?

13 A Yes, sir.

14 Q What charges did you plead guilty to?

15 A Involuntary manslaughter -- or voluntary
16 manslaughter, I'm sorry.

17 Q Now, who was -- let's talk about your lawyers. Who
18 was your lawyer when you pled guilty?

19 A Megan Eigenbrot.

20 Q All right. Was she your lawyer for the entirety of
21 your time being charged with this crime?

22 A No, sir.

23 Q Talk to the judge -- tell us a little bit about your
24 lawyers, how they switched them, what you know about that.

25 A Well, initially, when I was arrested and I had bond

1 court, I was appointed by the public defender's office
2 Ms. Megan Eigenbrot. I went to bond court. I was denied
3 bond. Shortly after that, I had a visit from a public
4 defender by the name of Adam Ruffin, who at that point --

5 Q You said Adam Ruffin?

6 A Yes, sir.

7 Q All right. Go ahead.

8 A At that point, he advised me that Mrs. Eigenbrot's
9 caseload was incredibly large, so that they were passing
10 him off to me and he would be my attorney moving forward.
11 Mr. Ruffin, he got me a bond.

12 Shortly after that, I would say 2019, I had court for
13 roll call and that was the last time I seen him.
14 January 20 of 2020, I had another call for roll call and I
15 had received an email from Ms. Eigenbrot saying that I
16 needed to be, you know, here -- or I needed to contact
17 her. When I did so, she told me that I needed to be in
18 court a little early because I had a different attorney.

19 Q Let me stop you just a minute. I want to make sure I
20 understand the progression of your lawyers. So you have
21 Ms. Eigenbrot first?

22 A Yes, sir.

23 Q And then you have Adam Ruffin?

24 A Yes, sir.

25 Q And then who was your next lawyer?

1 A I never met him.

2 Q Have you heard the name Rob Forney?

3 A Maybe. I can't recall.

4 Q All right. But you had some lawyer after Ruffin, but
5 before Megan again, correct?

6 A Yes.

7 Q All right. Did you talk to him?

8 A Never.

9 Q All right. Well, how did you find out -- how did you
10 find out Megan was your lawyer again?

11 A She called me to get in contact with me because I had
12 got a letter in the mail saying I had roll call. Like I
13 said, she wrote me via email to contact her immediately.
14 When I did, she told me, you know, you need to be in court
15 Monday.

16 You have roll call. You also have a new attorney.
17 At that point, I asked her, you know, what's -- Adam
18 Ruffin had left the office. So I asked her, when did Adam
19 Ruffin leave the office, and I was told that he had left
20 the office March 19th.

21 So it dumbfounded me because I went from March 19th
22 to January 20th without the knowledge of any attorney.
23 She advised me to get there to court early so I could meet
24 the new attorney, and I did so.

25 When I arrived to court, unfortunately, she

1 approached me, she told me that the attorney that was
2 appointed to me could not be my attorney because it was a
3 conflict of interest.

4 At that point, she took on my case again and we
5 proceeded to roll call where in court, the judge had
6 pretty much tried to set trial and she had asked for a
7 continuance.

8 Q So I just want to make sure I understand and the
9 court understands the scenario of your lawyers. You went
10 from -- you had Megan Eigenbrot?

11 A Yes, sir.

12 Q Then Adam Ruffin?

13 A Yes, sir.

14 Q Then a lawyer that you said you never met or even
15 know his name?

16 A Yes, sir.

17 Q And then Megan again; is that correct?

18 A Yes, sir.

19 Q How did that make you feel? How did that -- how did
20 that make you feel?

21 A I mean, initially, I mean, I was at a loss because,
22 you know, the whole time from 2019 to 2020, I went a long
23 period of time without having an attorney without the
24 Public Defender's Office, you know, contacting me letting
25 me know that Adam Ruffin had left the office and that I

1 was getting appointed someone else.

2 Prior to that, I was adamantly in contact with Adam
3 Ruffin. You know, constantly asking him updates about my
4 case, asking him if he know anything. And when I was
5 working with Adam, I was adamantly talking about going to
6 trial.

7 When Adam left, it just like -- it threw me for a
8 loop because it felt like I was being blindsided,
9 something wasn't right. I just didn't know at that time.
10 It was just overwhelming at that time.

11 Q In deciding whether or not to plead or go to trial,
12 did this constant changing of lawyers influence that
13 decision?

14 A Somewhat, yes, sir.

15 Q Let me ask you about -- at some point, you submitted
16 a DNA sample; is that correct?

17 A Yes, sir.

18 Q Who was your lawyer during that time period?

19 A Adam Ruffin.

20 Q Did he explain to you that you have the right to a
21 Schmerber hearing?

22 A No, sir, I don't even know what that is.

23 Q Would you have insisted on a hearing if you had been
24 told you didn't have to give them your DNA sample?

25 A Yes, sir.

1 Q Okay. And, ultimately -- I'm jumping ahead a little
2 bit now, was the presence of that DNA one of the factors
3 that led you to plead guilty?

4 A No, sir, not necessarily.

5 Q All right. I want to ask you about meeting with your
6 lawyers. You said you met with Ruffin some; is that
7 correct?

8 A When I was in the county, he visited me pretty much
9 to go over my initial Rule 5, my Brady motion. He brought
10 the initial statement were made by codefendants. I met
11 him when I went to bond court. He, also, put a couple
12 motions for me.

13 One was like, to get the ankle monitor removed, which
14 really what we wanted to do was get the fees waived
15 because I couldn't afford it and I was threatened by the
16 MOS that if I didn't pay the fees, I would get arrested or
17 rearrested and that my bond would be revoked. So the last
18 time I actually spoke to Mr. Ruffin was the day I went to
19 roll call with him when I was asked to give my DNA.

20 Q Okay. So was there a significant period of time you
21 didn't meet with him then?

22 A Yeah.

23 Q Have you reviewed the entirety of your discovery in
24 this case?

25 A No, sir.

1 Q Have you ever reviewed it entirely?

2 A No, sir, not the entirety of it.

3 Q Did you ask any of your, I guess, three different
4 lawyers on four occasions that you had them to provide you
5 with discovery?

6 A Yes, sir. Even now, I've asked for my entire Rule 5
7 and I still haven't gotten it.

8 Q If you had received the entire discovery in your
9 case, would you have entered a guilty plea in this case or
10 would you have gone to trial?

11 A I would have gone to trial.

12 Q How many times did you -- let's sort of talk about
13 your dealings with Ms. Eigenbrot after she got back on the
14 case. Did you meet with her a sufficient number of times
15 to prepare this case?

16 A I didn't meet with Ms. Eigenbrot until mid-2020, I
17 would say it would be about -- well no, it was like
18 probably end of August, maybe September when we first
19 started meeting to discuss the case. By then, I was
20 already set for trial for November.

21 Q Did you feel like you had sufficient time to meet
22 with her?

23 A No, sir.

24 Q If you had been given sufficient time to meet with
25 her, would you have entered your plea or would you have

1 insisted on going to trial?

2 A I've always insisted on going to trial.

3 Q All right. Let me -- how much notice did you have of
4 that trial date?

5 A Well, the pandemic hit and it had to be like -- if
6 I'm correct, maybe August.

7 Q All right. Let me talk -- how -- talk to us a little
8 bit about how you made the decision and why you pled
9 guilty in this case rather than insisting on a trial?

10 A Well, I never initially wanted to plead guilty. From
11 the first day I was arrested, I always thought it was a
12 sham, that I was being set up.

13 When it really boiled down to it, you know, I kept
14 asking about certain statements. I kept asking about my
15 witnesses that were positive statements on my behalf that
16 I would have used in trial had I went to trial. But when
17 it came down to it, I was really getting pushed into
18 pleading guilty.

19 I was told pretty much that if I was to go to trial
20 that the language that the prosecutor would be using would
21 be damning enough that the evidence probably wouldn't even
22 matter and the jury would find me guilty. So I would be
23 going to trial for nothing because I'd be guilty.

24 Q Let me stop you just a minute. You said you were
25 pressured, I think that's the term you used. Who was

1 doing that, convincing you to plead?

2 A My attorney.

3 Q Tell the court a little bit about that. What did she
4 tell you and why did she tell you --

5 A Well, it was more or less like, you know, if you
6 don't plead guilty, you know, a judge is going to pretty
7 much give you the maximum sentence due to the severity of
8 the crime and you're probably looking at a life sentence.

9 Q I was just about to ask you, what was the max?

10 A Life without parole.

11 Q So go ahead, what were you told in regards to what
12 would happen if you went to trial?

13 A That I probably would receive life without parole.
14 And it was crazy because I didn't understand because, you
15 know, we had trial defenses. Like I said, I never wanted
16 to plead guilty, never. It was never an intent because
17 I'm not guilty. I didn't kill nobody.

18 Q Did you tell your lawyer about these defenses you
19 have?

20 A Yes. I had witnesses. I had witnesses who saw the
21 crime happen who pointed out everyone who was there. And
22 she never once mentioned me when she was investigated by
23 the police, by the investigators.

24 Q What did your lawyer tell you about your codefendants
25 in this case?

1 A Two of my codefendants, or two or three of my
2 codefendants would be testifying against me, that they
3 gave statements that -- you know, although they gave
4 statements, they would still be getting time and all that,
5 but the reason I would probably get found guilty is
6 because they were giving statements against me.

7 Q So as to the codefendants, you're saying -- I think I
8 remember what you just said, is you said, first of all,
9 she told you that they would be testifying against you; is
10 that correct?

11 A Yes, sir.

12 Q If she had told you -- was that one of the reasons
13 you pled guilty?

14 A No, sir.

15 Q I mean, would you have gone to trial if you had known
16 they were not going to testify?

17 A Of course. I wanted to go to trial, regardless.

18 Q So, ultimately, by the way, did -- as far as you
19 know, did those codefendants testify against other
20 codefendants in this case?

21 A No, sir.

22 Q And that was not what your lawyer had indicated to
23 you, correct?

24 A Yes, sir. Actually, no one else is even in prison or
25 even has been charged.

1 Q That was going to be my next question. I mean, I
2 think you testified a minute ago that your lawyer
3 indicated the other codefendants were going to get prison
4 time out of this case; is that right?

5 A Yeah.

6 Q Did that happen?

7 A No.

8 Q All right. What about -- now, obviously, the
9 Attorney General, I'm sure, is going to ask you about your
10 transcript and the way you answered questions to the
11 judge. Did the lawyer talk to you about what to say to
12 the judge?

13 A Well, initially, I was told that I would be asked a
14 series of questions by the judge and that I would have to
15 answer them. One of the questions that was going to be
16 asked was I, in fact, guilty. And I, you know, raised the
17 question to my attorney that what if I said no, that I'm
18 not guilty. I was told that if I did answer the question
19 in that matter that the judge would probably like to throw
20 out my plea deal and force me into trial.

21 Q So I just -- what about did you answer when you were
22 asked those questions? Did you stand in the courtroom and
23 admit guilt?

24 A Yes, sir.

25 Q Was that because of what your lawyer had told you

1 then?

2 A Yes, sir. Because she told me if I didn't answer the
3 questions according to how I was supposed to that I would
4 not probably get the deal.

5 Q So if your lawyer had advised you differently to tell
6 the truth, would you have ended up going to trial?

7 A Yeah.

8 Q Beg the Court's indulgence just a moment.

9 (Pause.)

10 Is there anything else you want to tell the court
11 about Ms. Eigonbrot's representation in this case?

12 A You know, it was a strange thing during the whole
13 process because, initially, from what I understood, I
14 wasn't going to be tried first at all. And it seemed to
15 me that when my lawyers got swapped around that the
16 solicitor swapped around tactics, as well, and decided to
17 try me at first. And that caught me off guard because I
18 was told I wasn't going to be tried first, that other
19 people who were giving statements who were admitting guilt
20 or admitting participating would be going to trial first
21 and that I would be going to trial last. And then at the
22 last moment when my lawyers get swapped around, I end up
23 going to trial first. So that was a red flag for me.

24 Then, you know, it was a big difference from when I
25 talked to Megan and when I talked to Adam. Adam from the

1 gate when he first initially visited me, he was like this
2 is complete bull. I see that you're being setup somehow.
3 We're going to fight this.

4 And then when I got with Megan, it was more or less,
5 you know, you're going to go to prison. You're going to
6 go to prison. It was like I don't understand why I would
7 be going to prison if we have witnesses that say that --
8 who saw the crime being committed and say that I wasn't
9 there.

10 Q I want to ask you about the day you entered the plea.
11 Was that an emotional day?

12 A Very, it was a very emotional day. I was giving my
13 life away.

14 Q Tell the Court what went on that day as far as your
15 conversations and if you felt pressured or if you were
16 free to answer the questions that the judge asked you.

17 A I mean, when it comes to pressure, how can you -- how
18 can you move forward when you know you're about to go to
19 prison for something you didn't do. You know, I'm an
20 honest person.

21 If I had committed this crime and I was wrongfully
22 guilty, I would have took my guilt and I would have went,
23 but I was signing a plea that I knew I wasn't guilty and
24 there was no way around it.

25 Q What were you thinking about why you decided to plead

1 guilty?

2 A My family.

3 Q Did your lawyer talk to you about your family? Did
4 she mention your kids?

5 A Yeah, she mentioned my kids. She was like, you know,
6 if you take the plea deal, at least, you'll get to see
7 your kids one day. You know, faced with that -- I'm a
8 father.

9 As you can see, I have three children. I have a soon
10 to be 13-year-old daughter. I have a recently
11 six-year-old son and my youngest boy just turned four
12 Saturday. Both of their mothers are here. I'm a father.
13 I didn't want to give up my kids, but, you know, I got to
14 make the best decision. Either I don't see them ever
15 again or I come home to them one day.

16 Q Do you think that was fair to put your kids in the
17 middle of it like that?

18 A No.

19 Q If your lawyer had not -- if you were not worried
20 about the prospect of seeing your children again, would
21 you have entered a plea or would you have insisted on a
22 trial?

23 A I would have went to trial. Like I said, I was
24 always adamant about going to trial because I'm not
25 guilty. But when you -- you know, like my father -- I had

1 my father, you know.

2 My father was with me until the day he died. I was
3 raised with my father. And A lot of people don't get that
4 privilege. I was proud to be a father, you know, to take
5 care of my sons, to take care of my daughter. I did
6 everything I could. I did everything I could. I worked.
7 I took care of my mom. I did everything. I was a
8 positive influence on people around me. And to have to
9 come to court and know that there is no way possible that
10 I'm going home, that if I do go to trial that I'm just
11 going to be guilty just because, not because I am guilty.

12 I mean, when you're put in a situation like that, you
13 got to do what's best for your children, not what's best
14 for you. I'm not thinking about myself. I wasn't
15 thinking about myself. I was thinking about my children.
16 My children need me.

17 Regardless if I go to trial, you know, what I'm
18 saying, would have been found innocent or -- I mean, I
19 would have elected to go to trial had it been different
20 circumstances.

21 I didn't feel that my attorney was competent -- I
22 wouldn't say competent, but confident, you know, in what
23 we had. And it's devastating, you know. Some people go
24 to prison and they actually are guilty, but then there's a
25 rare few of us that are not. And we're just -- you know,

1 by just a hair, we're guilty.

2 And like I said, my association was technically nail
3 to cross. It wasn't anything else. It wasn't, you know,
4 credible statements that was going to nail me. That's why
5 I was so adamant about going to trial, but knowing that
6 oh, you're going to get a life sentence and you're never
7 going to see your kids again.

8 Q And those threats of going to prison for rest of your
9 life and never seeing your children again, is that what
10 led you to plead guilty?

11 A Yes, sir.

12 MR. LIFSEY: I don't have anything further. If
13 you'll answer anything the Attorney General has.

14 CROSS-EXAMINATION:

15 BY MS. DIXON:

16 Q How are you doing today?

17 A I'm all right.

18 Q I just have a few questions for you today. Before we
19 get started, I want to make sure you understand what type
20 of relief the court could give you today if the court
21 decided to give you relief. Just remind us again what was
22 your plea? Do you recall?

23 A I believe it was voluntary manslaughter.

24 Q All right. And what were you indicted for?

25 A Murder, attempted murder and possession of a firearm

1 during a violent crime.

2 Q Okay. And as far as the voluntary manslaughter plea,
3 what sentence did you get?

4 A Twenty-three years.

5 Q Twenty-three years. And as far as murder, has anyone
6 ever told you the minimum sentence for murder?

7 A Yes.

8 Q What is that?

9 A I believe 30 years day for day.

10 Q Thirty years day for day, that is correct. And
11 what's the maximum sentence?

12 A Life without parole.

13 Q Life without parole. That is correct, as well. Now,
14 do you understand that the only relief the court could
15 give you today is a new trial?

16 A Yes, ma'am.

17 Q And if you're granted a new trial, all these charges
18 come back?

19 A Yes, ma'am.

20 Q And the State can try you for murder?

21 A Yes, ma'am.

22 Q And if you're convicted of murder, you will get a
23 minimum sentence of 30 years?

24 A Yes, ma'am.

25 Q With a maximum sentence of life?

1 A Yes, ma'am.

2 Q And knowing that, do you wish to proceed?

3 A Yes, ma'am.

4 Q Okay. Let's see. So it does seem to me from your
5 direct examination that one of your concerns was you did
6 not have any lawyer at the Public Defender's Office from
7 March 2019 to January 2020, am I correct or
8 misunderstanding that?

9 A Yes, ma'am.

10 Q And do you recall what month you pled guilty?

11 A November.

12 Q November. So how many months after January is that?

13 A I believe eight or nine.

14 Q Eleven maybe, ten or 11. So for the ten to 11 months
15 prior to your plea, you did, in fact, have a lawyer
16 assigned to you, correct?

17 A Yes.

18 Q And let's see, you were asked about -- tell me about
19 the State's evidence. What were you told that the State
20 was going to put up in trial?

21 A Mere testimony about my codefendants.

22 Q Okay.

23 A That my codefendants were testifying against me.

24 Q What were they going to say?

25 A That pretty much that I was the shooter.

1 Q That you were the shooter, okay. Can you tell us a
2 little bit about that night, what happened?

3 A Well, first and foremost, to be very clear, I don't
4 know my codefendants. I never seen them a day in my life,
5 never hung out with them, you know, any of that. You
6 know, especially the ones who were suggesting -- like, any
7 of them. It's six of us involved and I don't know three
8 of them. I cannot think -- never seen them ever a day in
9 my life.

10 From my perspective, you know, I went to a club, was
11 not injured, left, a shooting occurred. Subsequently, I
12 was picked up later. It was out of nowhere. I had just
13 came back from -- it was the day after Easter, just came
14 back from North Carolina from picking up my daughter and
15 my mother from my sister's house.

16 I was taking my son to his grandfather's house and we
17 got ambushed by Richland County, you know, was taken to
18 headquarters. Was told that, you know -- was read my
19 Miranda rights. I acknowledged my Miranda rights. And
20 the bottom part of it, you know, had the waiver form
21 consent that I would talk to them.

22 Up until that point, I was willing to talk. And then
23 I asked the investigator, you know, what we were going to
24 talk about because I didn't want to incriminate myself nor
25 anyone else. He, at that point, said well, if I didn't

1 want to sign, he could go ahead and charge me.

2 You know, I thought it was just a tactic that he was
3 trying to do. So I called him, and he actually charged
4 me. When he put the warrants in front of me, I was
5 shocked. I was like what, are you serious? And
6 immediately, I asked for a lawyer.

7 Later, come to find out, you know, I get -- I'm going
8 through the process. I'm getting arrested. I'm going to
9 jail. I'm getting transferred from jails because all of
10 my codefendants are arrested, so we can't be housed
11 together.

12 Then I get my bond -- I mean, I get my -- Adam comes
13 to see me because at that point, she was no longer my
14 attorney. Adam comes to see me, he gives me the initial
15 Rule 5, and he's telling me that these people are, you
16 know, the ones saying that, you know, this, that and the
17 third. Caught me completely offguard because I don't know
18 these people. I have never seen these people a day in my
19 life.

20 Q Now, you said you had six codefendants?

21 A There's six of us, yes, ma'am.

22 Q And three of them you did not know?

23 A Well, four, really.

24 Q Okay. Tell me about the other two that you did know.

25 A Well, knowing is, more or less, like how I know

1 Mr. Lifsey. I know who he is. I don't know him, but I
2 know who he is. I'm aware of who he is. And that's
3 pretty much it.

4 Q So you admit you were at the club that night?

5 A Yes, ma'am, I mean, it's a club.

6 Q Okay?

7 A It's a club. People go party all the time.

8 Q Right. And the State found your hat or a cap or
9 something that had your DNA on it?

10 A Yes, ma'am.

11 Q And I think you were asked on direct examination
12 whether the presence of that DNA was a factor in your
13 decision to plead guilty and you said not necessarily?

14 A No, because --

15 Q Well --

16 A -- I mean, I could have dropped it. I was at the
17 club. I had intentions of going to the club, like I said,
18 to have a good time. So, you know, the fact that, you
19 know, I had DNA on something that belonged to me, you
20 know, it wasn't like it was a gun. It wasn't like it was,
21 you know, a shell casing. It was something that belonged
22 to me. Me being at club doesn't mean I'm guilty.

23 Q Correct. So when you said not necessarily, what led
24 you to plead guilty? What made you decide to plead
25 guilty?

1 A The pressure that I was put on that, you know, if I
2 didn't plead guilty that I would never see my kids again.

3 Q And if you had gone to trial, what evidence would you
4 have put up at trial to prove your innocence?

5 A I had plenty of witness statements, witnesses that
6 were there at the time of the crime who saw these other
7 individuals committing the act, witnesses who, in fact,
8 you know, didn't see me or say or suggest that I was
9 there.

10 There were statements that were, you know, given.
11 There were multiple statements by the same individuals who
12 was going to give statements against me and those
13 statements altered every single time. They changed every
14 single time.

15 Q You admitted on direct that you knew about the trial
16 as early as August; is that correct?

17 A Yes, ma'am.

18 Q So you knew in August and then in November is when
19 you pled guilty?

20 A Yes, ma'am.

21 Q And then you were talking about somebody caught you
22 offguard that you were going to be tried first. Whose
23 decision do you think that was?

24 A I don't necessarily know.

25 Q Okay. Well, let me ask it a different way. Do you

1 think that was your lawyer's decision?

2 A I don't know.

3 Q Regarding your allegation that you were advised to
4 answer in a way that the judge would accept your plea, do
5 you recall telling the judge when you pled guilty that you
6 were answering honestly and truthfully?

7 A Yes, ma'am.

8 Q Okay. So you did tell the judge that. Do you recall
9 telling the judge no one was forcing you to plead guilty?

10 A Yes, ma'am.

11 Q Do you recall telling the judge no one had promised
12 you anything other than the negotiated sentence?

13 A Yes, ma'am.

14 Q Okay. And do you recall telling the judge you
15 understood you were giving up your jury trial rights?

16 A Yes, ma'am.

17 Q And do you recall telling the judge that you
18 understood her questions?

19 A Yes, ma'am.

20 MS. DIXON: Okay. No further questions.

21 MR. LIFSEY: I don't have anything further to ask
22 this witness, Judge.

23 THE COURT: All right. This witness may be excused.

24 MR. LIFSEY: If I can have just one moment to speak
25 to him about whether or not I'm going to call another

1 witness, I'd appreciate it.

2 THE COURT: Certainly.

3 (Pause.)

4 MR. LIFSEY: I don't have any further witnesses,
5 Judge.

6 THE COURT: All right.

7 MS. DIXON: Your Honor, the State calls Megan
8 Eigenbrot.

9 MEGAN EIGENBROT, after being duly
10 sworn, testified as follows:

11 THE CLERK: Thank you. Please state your name for
12 the record.

13 THE WITNESS: Megan Eigenbrot. My last name is
14 spelled E-I-G-E-N-B-R-O-T.

15 DIRECT EXAMINATION:

16 BY MS. DIXON:

17 Q Ms. Eigenbrot, how are you today?

18 A I'm well, thank you.

19 Q And just a little bit of background information. How
20 many years have you been practicing law?

21 A I've been with the public defender's office for
22 approximately nine years now.

23 Q Nine years. So has all of your legal practice been
24 criminal defense?

25 A That's correct.

1 Q All right. Do you recall representing Mr. Aguilar
2 Pineda?

3 A I do.

4 Q Can you let us know just basically how you got
5 involved in that case, when and how?

6 A Sure. Mr. Aguilar Pineda is absolutely correct. I
7 was originally assigned his case when he was first
8 arrested. Our first meeting was at the Kershaw Detention
9 Center.

10 Again, him and his codefendants had been moved around
11 because of the allegations. None of them were being
12 housed together, so he was out of Kershaw. We had
13 discussed doing a bond setting, had the initial meeting,
14 you know, told him not to talk to anybody, those types of
15 things.

16 We did do the bond setting together the next week, I
17 believe it was scheduled for April 26th of 2017. And then
18 shortly thereafter, that the case was transferred to Mr.
19 Adam Ruffin in my office.

20 Mr. Pineda is completely correct, my caseload was
21 heavy at the time. I had more homicide cases than any of
22 the other attorneys in the office, so it was transferred.

23 Mr. Ruffin and I, though, had kind of kept in contact
24 about the case. He kind of kept me up to date on major
25 things happening. So I think at that point, my intention

1 was to be his second seat if and when it went to trial.
2 So I knew the basics of the case. I was the attorney that
3 received the initial disclosures, in fact, so I had some
4 knowledge of the case moving forward.

5 But when Mr. Ruffin left the office in 2019, his
6 entire caseload was transferred to Mr. Robert Forney. I
7 have no idea why Mr. Forney never spoke to Mr. Pineda, but
8 he is correct, his case came back on the radar when Judge
9 Benjamin started scheduling status conferences.

10 His was scheduled in January, I believe it was
11 January 23rd of 2020. Mr. Forney at that time did not
12 have contact information for him. I actually found him on
13 Facebook and that's how we got back in contact with him.
14 But when Mr. Forney began reviewing the discovery, he
15 realized that he represented one of the witnesses who had
16 given statements previously in the case.

17 At that time, I informed my boss that he had a
18 conflict, that it might as well just come to me since I
19 was familiar with the case. And I was officially
20 reassigned at that point.

21 Q And when you were reassigned, did you reach out and
22 let Mr. Aguilar Pineda know?

23 A He was there at the courthouse the morning when it
24 was officially reassigned to me.

25 Q So he knew. Do you remember what evidence the State

1 had against him?

2 A So, as he mentioned, there were several codefendants
3 statements that were provided. Basically, after the
4 shopping had taken place, law enforcement had spoken to
5 numerous individuals and they had identified both Corey
6 Sanders and Benjamin Chestnut as the two individuals they
7 definitely saw with guns that evening.

8 I believe they eventually interviewed Stacks, he was
9 the victim's brother -- or, I'm sorry, Stacks is the
10 victim, but his brother, Demonte Mintz, was also present.
11 He was the attempted murder victim. He gave a statement.
12 He identified Corey Sanders, Benjamin Chestnut, Anthony
13 Brevard and Barry Reed.

14 It wasn't -- I do believe they took Benjamin Chestnut
15 into custody first. And Mr. Pineda is right, he gave a
16 series of statements. He started with one very vague
17 statement.

18 As they continued to talk to him, he continued to add
19 more detail. Eventually later on down the road, they
20 identified -- I believe Mr. Sanders and Mr. Chestnut
21 identified Mr. Aguilar Pineda as the individual that was
22 firing an assault rifle.

23 After he became a suspect, they did collect a
24 bandanna from the crime scene, which is where he would
25 have been parked based on other witness statements. That

1 DNA did come back to him. They had cell phone tower
2 records placing his cell phone in the area at the time of
3 the shooting.

4 There were some texts -- they did phone dumps on
5 everybody, all the codefendants, and there were some text
6 messages that suggested he was meeting some of these other
7 individuals there at the club.

8 Q Okay. So, at least, how many codefendants were
9 implicating him?

10 A There were definitely two of them. I do believe
11 Mr. Rockmore, who was later arrested, did eventually also
12 point the finger at him, but I think that was like his
13 third statement that he gave.

14 Q Okay. So a total of two or total of --

15 A I think -- I believe three.

16 Q Three, three total, okay. And then you said there
17 were some text messages that he was involved in?

18 A Yes. And I believe Mr. Sanders -- we verified
19 Mr. Sanders' number in those text messages and Mr. Barry
20 Reed and, I believe, Mr. Chestnut.

21 Q Did he have any defenses?

22 A He always said he merely was present at the club that
23 night. He had individuals in the vehicle with him.
24 Unfortunately, I was not allowed to speak with those
25 individuals.

1 Q Who did not allow you to speak with them?

2 A Well, they, basically, told Mr. Pineda they did not
3 want to speak. They did not want to get involved.
4 Because there was a parallel investigation going on in the
5 Attorney General's Office against Mr. Barry Reed for
6 drugs.

7 Everyone had been kind of wrapped up in that, but one
8 of the main witnesses in his case that would have helped
9 him was, unfortunately, mentioned multiple times in that
10 testimony. And I did tell him this and I think that
11 individual was concerned about getting wrapped up in all
12 of these things, so I was never able to speak with him.

13 Q So the other people in the vehicle didn't want to
14 talk to you or Mr. Pineda didn't want you to talk to them
15 or --

16 A I think he told them kind of what the situation was
17 and they all kind of declined to speak. One, actually,
18 was being represented, as well and I know his lawyer was
19 not going to let me speak to him.

20 Q Was there anyone you did plan to call at trial had
21 y'all proceeded to trial?

22 A Sierra Adams. She was one of the initial witnesses
23 interviewed. She seemed to have a very good recollection
24 of the incident and very pointedly pointed out Corey
25 Sanders and Benjamin Chestnut as individuals present. And

1 I think they, actually, directly asked her if they saw
2 somebody fitting Mr. Aguilar Pineda's description and she
3 said no.

4 Q So if y'all had gone to trial, would you have called
5 her as a witness?

6 A Yes.

7 Q Okay. Let's see. So y'all are preparing for trial.
8 You said -- he said y'all had a trial date, I guess, as of
9 August. Do you feel that you had enough time to be ready
10 for trial?

11 A It was one of those really tough circumstances. As
12 he said, he was initially noticed for a status conference
13 in January. The judge gave me a couple more months to
14 figure out what we wanted to do because I had not had time
15 to review all the new discovery at that point in time.
16 Unfortunately, though, Covid hit and shut us all down when
17 that was rescheduled.

18 I believe I had a phone status conference with the
19 judge in April along with the solicitor, and at that time,
20 we had scheduled -- originally scheduled it for
21 September 28th. But I advised him things were kind of on
22 a day-to-day basis. We didn't know where things were
23 going. We couldn't determine where Covid was going to go
24 and how it was going to play out.

25 Ultimately, though, September 28th, would have been

1 probably the first week I think Richland County started
2 trying cases. I did not feel comfortable jumping into his
3 case at that time. We were not back in the office.

4 My meetings and conversations with him were all by
5 phone. I think we had one zoom conference with the other
6 lawyers that were working the case with me. So there was
7 a lot of pressure. Thankfully, the judge did allow us to
8 move it to November 9th, but that did not give him and I a
9 significant amount of time to meet in person necessarily.
10 We just talked to the phone.

11 Q But you were able to talk on the phone?

12 A Yes.

13 Q Pretty regularly?

14 A Yes.

15 Q And get the information from him that you needed?

16 A Yes.

17 Q Was there anything that he expressed concern about in
18 terms of going to trial?

19 A I, actually, think the big thing that he was
20 concerned about was the State bringing up any gang
21 affiliations. Their theory of the case at the time was
22 this whole situation surrounded an issue with groups of
23 Bloods and this more small group of Bloods, but called
24 Paid Family that was kind of like a music group pushing
25 drugs and music and stuff like that. It, also, involved

1 some Crips.

2 It was very confusing. But, essentially, their
3 theory of the case revolved around these drugs -- gang
4 transactions. And I know they were going to accuse him of
5 being in a gang, of not only being in a gang, but being an
6 enforcer in a gang based on one of his codefendant's
7 statements.

8 My research kind of suggested they would probably be
9 able to do so, and I let him know that. That was a big
10 cause of concern for him. And I think that's kind of what
11 he's referencing is, you know, if the jury hears some bad
12 statements, but also hear he's in a gang, they're just
13 going to convict him based on the fact that he's in a
14 gang.

15 Q I know he had expressed some concern that he
16 originally thought he was not going to be tried first and
17 then the trial just got moved around and he was tried
18 first. Whose decision would that have been in terms of
19 when to call his case?

20 A He is correct, though. Mr. Ruffin, actually, has in
21 his notes that he had conversations with the original --
22 the other problem with this case is there were multiple
23 solicitors involved.

24 It was initially assigned to John Steadman. Mr.
25 Steadman and Mr. Ruffin had had a conversation where they

1 were going after Barry Reed. Barry Reed was the main
2 codefendant.

3 He was believed to be the person that set this whole
4 thing up. He was the individual that had the problem with
5 the victim. The AG's office, like I said, was also
6 investigating him, so that was their main target. Adam
7 was told that they were not going to go after him first.
8 In fact, they wanted him to testify. I think Mr. Ruffin
9 had advised them that that probably would not be happening
10 as he denied being involved in any way shape or form. But
11 that was always what the plan was.

12 I wholeheartedly believe that the reason he got tried
13 first is because I'm a public defender. The other two
14 main guys they could go after -- because Mr. Reed and
15 Mr. Brevard did not give statements to law enforcement.
16 Mr. Sanders and Mr. Chestnut did, so they were going to
17 always be testifying. But I believe those two had private
18 representation.

19 Mr. Dick Harpootlian represented Barry Reed; and I
20 believe jack Swerling represented Mr. Brevard. They
21 cannot as readily be dragged to court as I can. So I do
22 believe that's kind of where the flip was. And I believe
23 Mr. Fyall was the one that made that ultimate decision.

24 Q And when you learned about the trial date, how soon
25 after that did you advise him that it was on the trial

1 docket?

2 A I think pretty quickly. I think we were
3 communicating pretty regularly at that point. We were
4 also making some motions for him to maybe go on vacation
5 with his family and stuff, so we'd been in contact.

6 Q What was your advice to him regarding the plea
7 colloquy or the plea itself?

8 A I advised that if he does not respond to certain
9 questions in certain ways, the judge would not accept his
10 guilty plea and that we would be going to trial.

11 Q Did you threaten him to plead guilty?

12 A No, I did not.

13 Q Coerce him -- did anyone else to your knowledge
14 threaten or coerce him to plead guilty?

15 A No, but I know that he was struggling with the idea,
16 though. In fact, I think the night before, maybe two
17 nights before, we had a very long conversation over the
18 phone where he was very emotional and upset. So I know he
19 was struggling with the decision. And I think during the
20 plea, in fact, he asked me to turn to the mother of his
21 youngest children and tell her that I'm sorry you're
22 having to hear me say this. Tell her it's not true, I'm
23 just saying it for the court.

24 Q And, ultimately, whose decision was it to plead
25 guilty?

1 A It was his.

2 MS. DIXON: No further questions.

3 MR. LIFSEY: I'm going to ask you a few questions.

4 CROSS-EXAMINATION:

5 BY MR. LIFSEY:

6 Q So if I understand the scenario, he has you
7 initially, then Adam Ruffin, then Forney, then you again;
8 is that correct?

9 A That's correct.

10 Q I mean, is it fair to say that's not a recipe for a
11 client having confidence in his representation?

12 A I would agree with that.

13 Q And how long did Mr. Forney -- so Ruffin gets it
14 because your case load is too high; is that correct?

15 A That's correct.

16 Q And Ruffin leaves the office and Forney gets it
17 because inherits all of Ruffin's case load?

18 A Correct.

19 Q When did that happen?

20 A I don't have it in front of me, but it would have
21 been shortly after Mr. Ruffin left the office. And by
22 shortly, I mean, like within a week, they would have had
23 all the cases reassigned.

24 Q Do you remember when Ruffin left the office?

25 A His transfer memo was written in February of 2019.

1 Q So February 2019, give or take a week or two, Forney
2 gets it. When does Forney get off of it?

3 A I believe it was January 23rd of 2020.

4 Q So almost a year later?

5 A Yes.

6 Q And Forney gets off of it because of a conflict?

7 A Yes, he was representing one of the listed witnesses
8 in the case.

9 Q Was that readily apparent upon looking at the file?

10 A Yes.

11 Q So if Mr. Forney had looked at the file at any point
12 after being assigned it, he would have realized it,
13 correct?

14 A Correct.

15 Q So, I mean, logically, that means for 11 months,
16 Mr. Forney didn't even look at a file?

17 A That would be my understanding.

18 Q That also probably not a recipe for a client having
19 confidence in the quality of his representation?

20 A Correct, and this case had a massive amount of
21 discovery, which I started collecting as soon as I was
22 reassigned the case.

23 Q And the Attorney General asked you a series of
24 questions regarding the strength of the State's case. If
25 I understood your answers, you're saying, basically, the

1 first -- it begins with them describing two people having
2 guns at the scene; is that correct?

3 A Those were the two people that everyone recognized.

4 Q And then at some point, evolves into four people with
5 guns?

6 A Yes.

7 Q But none of those, either two or four, are our
8 client?

9 A That's correct.

10 Q And your client, our client, Mr. Aguilar indicated he
11 was at the scene of the crime anyway, right?

12 A In fact, he said to me that he arrived on scene. He,
13 actually, noticed a ruckus near the front door, which is
14 kind of what witnesses described and why they recognized
15 Mr. Sanders and Mr. Chestnut. They were kind of making a
16 scene at the time. And that's why him and his friends,
17 ultimately, left.

18 Q So, ultimately, if his statement to you is I was
19 there when the crime happened, correct?

20 A Correct.

21 Q Obviously, you and I know your presence at the scene
22 of a crime is not evidence of guilt, correct?

23 A Correct.

24 Q So it would not be surprising at all for there to be
25 his DNA on an object at the scene, correct?

1 A Correct.

2 Q It would not be surprising -- you mentioned cell
3 phone triangulation. It would not have been surprising
4 for there to have been his cell phone there if he was, in
5 fact, there?

6 A Correct.

7 Q And you also testified that there was evidence of
8 a -- my client had no relation with the victim that you
9 were aware of, right?

10 A That is correct.

11 Q And, in fact, there was another one of the
12 codefendants who had an existing beef or argument with the
13 victim?

14 A Yes.

15 Q And I don't mean this to be an argumentative or smart
16 aleck question, but I'm just trying to figure out if
17 you've got different people identified with the gun,
18 another guy with a beef with a guy, why was this such a
19 strong case on the State's behalf?

20 A I think the concern over this case was the fact that
21 they were putting the assault rifle in his hands.

22 Q They being who?

23 A The codefendants.

24 Q The same codefendants who had made multiple
25 statements?

1 A Yes.

2 Q You're, obviously, a very talented trial lawyer. You
3 could have made much hay about their multiple statements
4 on the stand, correct?

5 A And we had planned to, yes. In fact, I have even
6 gotten the transcripts from the State grand jury testimony
7 for impeachment purposes.

8 Q So -- and you mentioned gang-related evidence. You
9 could have had a pretrial hearing to determine whether or
10 not that information was admissible; is that correct?

11 A That's correct. I, actually, was working on a
12 pretrial memorandum in opposition of them testifying about
13 gang stuff.

14 Q And witnesses -- so, obviously -- so you had a case
15 with multiple -- with codefendant witnesses who had given
16 multiple different statements. You would agree that's
17 plenty of fodder for cross-examination?

18 A Yes, sir.

19 Q And you would agree that you could have offered
20 explanation for why his DNA and his cell phone
21 information?

22 A Correct.

23 Q And you could have had a pretrial motion to argue
24 that the gang stuff was not admissible?

25 A Yes.

1 Q I mean, I'm trying to -- and yet, you recommended to
2 him that he take a plea rather than go to trial?

3 A I did.

4 Q How is this any different than any other murder case
5 where the State has got some good stuff and you've got
6 some good stuff?

7 A I think it's one of those situations where I do what
8 I always do, I advise my client no matter what, no matter
9 how good I do, there's always risks at trial. I don't
10 know what a jury is going to do.

11 Q I want to ask you, you told the Attorney General some
12 information about your opinion that at one time other
13 clients were scheduled -- other codefendants were
14 scheduled to be tried first?

15 A Correct.

16 Q And that later, you were informed that he was going
17 first, my client?

18 A Yes.

19 Q And you offered an opinion as to why you think that
20 was, which, I mean, I understand your opinion?

21 A I did.

22 Q Did you consider making a motion to the judge or to
23 the chief administrative judge to order a different order
24 of the trial?

25 A I had not.

1 Q I mean, truthfully, for what it's worth, we,
2 theoretically, at least, live in a post-Langford world
3 where the solicitor doesn't get to pick those things
4 all the time, correct?

5 A That's correct.

6 Q So you could have made a motion to whoever was at the
7 time chief administrative judge for this circuit and ask
8 that they be tried in a different order?

9 A I could have.

10 Q Beg the Court's indulgence just one second.

11 (Pause.)

12 Let me ask you, ultimately, then you agree -- or part
13 of your -- a significant portion of your advice toward him
14 pleading guilty had to do with the codefendant's
15 testimony?

16 A Yes.

17 Q Okay. But, in fact, after he's convicted, the
18 codefendants don't cooperate at all, right?

19 A That is correct. In fact, I learned of Mr. Barry
20 Reed's state plea while on vacation, and I heard that he
21 pled to Bop (phonetic) HAN and got probation, which
22 enraged me because that's not the information that I had
23 been given up to this point.

24 When I spoke to the solicitor, he indicated to me
25 that the case had, basically, fallen apart. That the

1 victim's brother refused to cooperate anymore. They
2 couldn't even get him under subpoena. And that the
3 testifying codefendants were all now saying they were no
4 longer going to testify.

5 Q Is there anything to suggest that if you had advised
6 your client to go to trial the very same thing wouldn't
7 have happened for you?

8 A Right.

9 MR. LIFSEY: I don't have any further questions.

10 MS. DIXON: Just a few quick things.

11 REDIRECT EXAMINATION:

12 BY MS. DIXON:

13 Q Now you were just now asked about after he pled
14 guilty, these other people chose not to testify in the
15 other cases. But, of course, this is all hindsight,
16 right?

17 A Yes.

18 Q At the time that he was making the decision to plead
19 or not plead, did you have any way of knowing these
20 codefendants were suddenly going to --

21 A No, in fact, I reached out to their lawyers on
22 multiple occasions and they all indicated they would be
23 testifying.

24 Q Okay. So as far as you knew, that was going to --

25 A That's correct.

1 Q In terms of a motion to order a different order of
2 trials, is that something you've ever heard of?

3 A I have heard of something similar, making arguments
4 about why other individuals should go first. I've never
5 seen it done and I have not ever done it before.

6 Q Would you consider that a common practice for defense
7 lawyers?

8 A I think we'd all been so trained by pre-Langford and
9 being told when we were going to trial that I don't know
10 that we ever strongly considered it. Of course, there's
11 not always codefendant cases like this that put us in
12 those scenarios. It's something I could have considered.
13 I did not think about it until Mr. Lifsey just mentioned
14 it.

15 Q Would you consider that prevailing professional
16 norms?

17 A Yes.

18 Q You would consider to it file that motion --

19 A Oh, I'm sorry, no.

20 Q Okay.

21 A That's not something that we have typically
22 discussed, no.

23 Q Okay. And then in terms of it seems like Mr. Lifsey
24 was doing a good job of trying to develop what could have
25 been a mere presence defense, tell us about text messages.

1 A So there were some group chats in both Mr. Aguilar
2 Pineda's phone and Mr. Barry Reed's phone. I think the
3 one the State continued to focus on was a text message
4 that said, Bring your shoes.

5 Mr. Aguilar Pineda gave me an explanation for that
6 text. We were trying to figure out a way to present that
7 explanation without him having to testify. We consulted
8 with some other individuals who we believed would have
9 some knowledge of it, what that would mean and their --
10 the information they provided was not positive for us.

11 Q What was that information?

12 A That it meant to bring your guns.

13 Q So he was part of a group text that said bring your
14 guns effectively?

15 A Yes.

16 Q Do you think the State would have used that to refute
17 a mere presence defense?

18 A Yes.

19 MS. DIXON: No further questions.

20 MR. LIFSEY: I don't have anything further.

21 THE COURT: This witness may be excused.

22 Attorney General Dixon, do you have any further
23 witnesses?

24 MS. DIXON: Nothing further, Your Honor.

25 THE COURT: Would y'all like to go into closing now?

1 MR. LIFSEY: Sure, Judge. All of us as defense
2 lawyers have to, ultimately, at some point advise our
3 clients whether to plead or go to trial. And I guess I
4 would point out two things in regards to that advice.
5 One, we have a duty for it to be the correct advice.

6 I mean, we have a duty to give that opinion. We also
7 have a duty to make sure that we understand that it is the
8 client's decision, not ours. And I'm always uncomfortable
9 with the idea -- you know, sometimes we as defense lawyers
10 can try to act in our client's best interest rather
11 than -- we're not their guardian ad litem.

12 We're their lawyer. And what I'm concerned about in
13 this case is that -- I have no doubt Ms. Eigenbrot gave
14 her best advice, but at some point, we ought not to be
15 pressuring clients to do what we think they ought to do.
16 We ought to give them their options and let them make that
17 decision.

18 And I am very concerned about the idea that a client
19 says tell my family that I'm lying to the judge, which I
20 believe was the testimony from the stand, that
21 Mr. Eigenbrot said to tell my family that I'm not telling
22 the truth, that I'm really innocent. And I'm very
23 concerned about how as a defense lawyer at that point we
24 can allow our client to continue in a plea colloquy when
25 he has indicated that he is not answering the judge's

1 questions truthfully.

2 So our argument is that that would be ineffective
3 assistance of counsel and that the judge should have stood
4 the matter aside and let him have his trial and see what
5 happens at the trial.

6 MS. DIXON: Your Honor, on that end, I would just say
7 that -- well, first of all, I think the plea colloquy
8 speaks for itself.

9 He was advised by the Court of the sentence he was
10 facing, the Constitutional Rights he was waiving. He
11 informed the court he wasn't being threaten, coerced. No
12 one had promised him anything other than the negotiated
13 plea that was clearly on the record. So the State submits
14 this is a voluntary knowing plea.

15 To it extent he was arguing he was pressured, she
16 testified she did not pressure or coerce him. What she
17 did do and, basically, it's her job to do is to tell him,
18 you know, the strength of the State's case, the risk of
19 going to the trial, what sentence he would face if
20 convicted and, you know, also, the weaknesses in his
21 defense. And based on her testimony, she was giving him
22 reasonable advice.

23 In terms of the DNA evidence, he testified on the
24 stand that was not necessarily the reason that he decided
25 to plead guilty, so we would submit he's not met his

1 burden of showing prejudice on that issue.

2 Let's see, in terms of meeting with prior to the
3 plea, she did testify, I know she said she had trouble
4 meeting with him personally, but was able to talk on the
5 phone with him. She notified him of the trial date as
6 soon as she knew about it.

7 In terms of investigation, she had investigated.
8 She, actually, had a witness that she was prepared to call
9 had it gone forward. She would have called this witness.
10 She would have presented these defenses, would have
11 cross-examined the codefendant. Actually, had ordered the
12 transcript from some of the grand jury proceedings for the
13 purposes of the preparing for that cross-examination.

14 So, ultimately, it did not go to trial because
15 Mr. Aguilar Pineda chose to plead guilty rather than go to
16 trial. We submit that it was a knowing and voluntary
17 plea.

18 THE COURT: Thank you, Mr. Lifsey.

19 Thank you, Attorney General Dixon.

20 I have just a few questions, Mr. Lifsey, for your
21 client, Mr. Aguilar Pineda.

22 MR. LIFSEY: Would you like him to stand up, Judge?

23 THE COURT: No, it's fine. I just want to make sure
24 -- I know that the Attorney General questioned you on
25 this, but I want to make sure that I have a clear

1 understanding that you have a clear understanding. You
2 understand that the only relief that the court can give
3 you is to, essentially, start your case over again. Do
4 you understand that?

5 THE APPLICANT: Yes, ma'am.

6 THE COURT: So as a result, what that means is that
7 the solicitor will then prosecute pursuant to -- or has
8 the option to prosecute pursuant to original indictment,
9 which is the indictment for murder which carries anywhere
10 of a minimum of 30 years day for day up to a life
11 sentence. Do you understand that, sir?

12 THE APPLICANT: Yes, ma'am.

13 THE COURT: All right. And understanding that, you
14 still wish for me to make a decision regarding your PCR
15 application?

16 THE APPLICANT: Yes, ma'am.

17 THE COURT: All right. Very good. Thank you, sir.

18 Mr. Lifsey and Ms. Dixon, what I'm going to do --
19 what I will do is to review both my notes, as well as the
20 transcript that was provided with regards to the plea, and
21 I will have a decision for you by the end of this week
22 with regards to this PCR application.

23 MR. LIFSEY: Thank you, Judge.

24 MS. DIXON: Thank you, Your Honor.

25 (Whereupon, the proceedings were concluded.)

CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Karen Ambroziak, Official Court Reporter for the
5th Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate and
complete Transcript of Record of the proceedings had and
evidence introduced in the trial of the captioned case,
relative to appeal, in the Court of Common Pleas for
Richland County, South Carolina, on the 26th day of
September, 2022.

March 11, 2023

Karen Ambroziak

Karen Ambroziak, RPR
Circuit Court Reporter

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

William Oliver Aguilar Pineda,)
SCDC # 384278,)

Applicant,)

v.)

State of South Carolina.)
_____)

COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Case No.: 2021-CP-40-5321

**ORDER GRANTING
POST- CONVICTION RELIEF**

2022 DEC 16 AM 9:54
FILED
RICHLAND COUNTY

This matter came before the court for a hearing on September 26, 2022. The Applicant, William Oliver Aguilar Pineda, was represented by Counsel Michael H. Lifsey. The Respondent, State of South Carolina, was represented by Assistant Attorney General Danielle Dixon.

PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections. He was indicted by the Richland County Grand Jury in 2017 for the offense of Murder on Indictment 2017-GS-40-4198. On November 5, 2020, Applicant pled guilty before the Honorable DeAndrea G. Benjamin to the lesser-included offense of Voluntary Manslaughter and received a sentence of 23 years. He was represented at his plea by Attorney Megan Eigenbrot of the Richland County Public Defender's Office. No direct appeal was taken.

Applicant timely commenced this PCR action on October 26, 2021. In that *pro se* filing, Applicant alleged ineffective assistance of counsel, asserting that "if it had not been for counsel erroneous advice to plead guilty, I would of proceeded with trial." The State filed a Return and Motion for a More Definite Statement dated December 29, 2021. Applicant was appointed

counsel and, through counsel, filed an Amended Application dated June 20, 2022. In that Amended Application, Applicant alleged the following grounds for relief:

1. Ineffective assistance of counsel for
 - (a) Applicant's lawyer advised him to voluntarily submit a DNA sample to the State and to waive his right to a *Schmerber* hearing on this issue. Had Applicant received effective representation of counsel in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
 - (b) Applicant's plea counsel did not meet with Applicant a sufficient number of times prior to his plea, did not fully explain the strengths and weaknesses of the State's case, and did not properly investigate the case. Had plea counsel given effective representation in these regards, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
 - (c) Plea counsel did not give Applicant sufficient notice of the proposed trial date, thereby not giving Applicant a sufficient amount of time to decide whether to plea or go to trial. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
 - (d) Plea counsel improperly advised Applicant to answer the questions of the judge during the plea colloquy in a manner that would allow the judge to accept the plea rather than answer honestly because that would cause the trial judge to reject his plea and that Applicant would be convicted of Murder and receive a life without parole sentence if he proceeded to trial. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
2. The ineffective assistance of counsel as detailed above, rendered Applicant's plea involuntary.

FINDINGS OF FACT

Applicant testified on his own behalf. His recitation of the procedural history of the case was consistent with the history outlined above. Mr. Pineda testified that shortly after his arrest,

the Richland County Public Defender's Office was appointed to represent him. The first lawyer assigned to his case was Megan Eigenbrot. After Attorney Eigenbrot had his case for a period of time, he was informed that she would be handing his case over to Adam Ruffin, another attorney in the Richland County Public Defender's Office because Ms. Eigenbrot's caseload was too high. Mr. Ruffin represented him for several months but eventually left the Public Defender's Office and Mr. Pineda's case was assigned to yet another attorney in the Public Defender's Office, Robert Forney. Mr. Pineda testified that while Mr. Forney represented him for many months, he never contacted him. Eventually, when the State began pushing to resolve the case, Attorney Eigenbrot contacted him and told him that Mr. Forney had a conflict of interest and that she was going to take his case back. Mr. Pineda testified that this repeated switching of attorneys did not lead him to have confidence in his representation. The Court finds his testimony credible in this regard.

Mr. Pineda testified that throughout his representation by the various attorneys with the Public Defender's Office, he always maintained his innocence. The Court finds his testimony credible in this regard.

Mr. Pineda testified that eventually Attorney Eigenbrot told him that the State was offering a plea to Voluntary Manslaughter for 23 years and that Ms. Egenbrot advised him to take this deal. Ms. Eigenbrot indicated that if he went to trial, the State's case was strong, his co-defendants would testify against him, and that he would be convicted of murder and most likely sentenced to life in prison without parole. He testified that he felt pressured by Attorney Eigenbrot to plead guilty and if he had not been so pressured, he would not have pled guilty but would have insisted on having a jury trial. The Court finds his testimony credible in this regard.

When questioned as to why he answered the questions of the plea judge in the manner he did, Mr. Pineda testified that he did so at the instruction of his attorney, Ms. Eigenbrot. He testified that his attorney told him that if he did not answer the judge's questions in a manner that allowed her to accept the plea, he would end up receiving a life sentence after trial. The Court finds his testimony credible in this regard.

Mr. Pineda testified that prior to his guilty plea, he told Attorney Eigenbrot to tell his family that he was innocent of the charge of Voluntary Manslaughter and was only admitting guilt during the plea colloquy because he wanted the judge to accept his plea. This testimony was corroborated by the testimony of his plea counsel Ms. Eigenbrot (see below) and the Court finds his testimony credible in this regard.

Mr. Pineda said he ultimately learned that none of his co-defendants were willing to testify and that the State's case against the other defendants had fallen apart and that charges against them were ultimately either dismissed or pled down to insignificant sentences and that he was the only defendant in this case to receive a lengthy prison sentence. This testimony was corroborated by the testimony of Attorney Eigenbrot (see below) and the Court finds it credible. Mr. Pineda testified that had he known that his co-defendants were not willing to testify, he would never have pled guilty but would have insisted on a jury trial. The Court finds his testimony credible in this regard.

Attorney Megan Eigenbrot testified. She corroborated the testimony of the Applicant in most respects. She confirmed his account of the shifting of his lawyers. She confirmed that she encouraged Mr. Pineda to plea guilty. She confirmed his account that the case against the co-defendants fell apart after Mr. Pineda's plea and that, in retrospect, her advice that co-defendants would testify against him should he go to trial was ultimately incorrect. The Court finds that this

incorrect advice and the pressure to plead guilty that Attorney Eigenbrot placed on Applicant to plead guilty constituted ineffective assistance of counsel and that, but for counsel's errors, Applicant would not have pled guilty.

Ms. Eigenbrot confirmed that Applicant never admitted to her that he was guilty of the crime for which he pled. She specifically corroborated that shortly before his plea, Mr. Pineda asked her to tell his family that the statements he intended to make in admitting guilt during the plea colloquy were not going to be the truth. Despite knowing this, Ms. Eigenbrot did not seek to persuade her client not to offer this false testimony. Instead, she not only allowed the plea to go forward and allowed her client to present testimony to the plea judge that she knew was false, she raised no objection to her client pleading guilty to charges where he maintained his innocence and, in fact, encouraged him to present false testimony to the court.

The Court finds counsel allowing and encouraging Applicant to present testimony that she knew to be false to the plea judge constituted ineffective assistance of counsel and that, but for counsel's error, Applicant would not have pled guilty.

CONCLUSIONS OF LAW

A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel's performance was deficient and (2) there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty. *Johnson v. Catoe*, 336 S.C. 354, 520 S.E.2d 367 (1999); *Wolfe v. State*, 326 S.C. 158 485 S.E.2d 367 (1997); *Satterwhite v. State*, 325 S.C. 254, 481 S.E.2d 709 (1997).

Where there is no evidence contradicting or conflicting with an applicant's testimony that he would not have pled guilty but for counsel's deficient performance, applicant is entitled to relief. *Jackson v. State*, 342 S.C. 95, 535 S.E.2d 926 (2000).

If a lawyer knows that the client intends to testify falsely or wants the lawyer to introduce false evidence, the lawyer should seek to persuade the client that the evidence should not be offered. If the persuasion is ineffective and the lawyer continues to represent the client, the lawyer must refuse to offer the false evidence. If only a portion of the witness's testimony will be false the lawyer may call the witness to testify but may not elicit or otherwise permit the witness to present testimony that the lawyer knows to be false. Comment 6 to Rule 3.3, South Carolina Rules of Professional Conduct, Rule 407, SCACR.

THEREFORE, IT IS ORDERED that Applicant's conviction is vacated and he is remanded to the Court of General Sessions for Richland County for a new trial.

AND IT IS SO ORDERED this 8 day of December, 2022.

Aileen, South Carolina
Dan Moore, 2022

Courtney Clyburn Pope
COURTNEY CLYBURN POPE
Circuit Court Judge