

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Florence County

Honorable Debra R. McCaslin, Circuit Court Judge

ANTHONY M. HUDSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001687

APPENDIX

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State of South Carolina	)	Court of General Sessions
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2018-GS-21-02120
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
Anthony Markell Hudson,	)	
	)	
Defendant.	)	
	)	

August 8, 2019
Marion, South Carolina

B E F O R E:

The Honorable Thomas A. Russo, Judge

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

J. Ryan White, Esquire
Attorney for the Plaintiff/State

Matthew Swilley, Esquire
Attorney for the Defendant

Krystal J. Smith
Official Circuit Court Reporter III

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E X H I B I T S

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

COURT REPORTER LEGEND

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

1 AUGUST 8, 2019

2 (WHEREUPON, the proceedings began at 2:56 p.m.)

3 MR. WHITE: Anthony Hudson.

4 Judge, may it please the Court?

5 THE COURT: Yes, sir, Mr. White.

6 MR. WHITE: Oh, I'm sorry.

7 THE CLERK: Place your left hand on the Bible and raise
8 your right hand as much as possible. Do you solemnly swear or
9 affirm to tell the truth, the whole truth, and nothing but the
10 truth, so help you God?

11 THE DEFENDANT: Yes, ma'am.

12 THE CLERK: Thank you.

13 MR. WHITE: Judge, standing before you is Anthony Hudson
14 on Indictment 2018-GS-21-2120. Judge, this is a Florence
15 County case. Mr. Hudson is being represented by Matt Swilley.
16 Mr. Swilley has been appointed on this case.

17 Mr. Hudson is charged with one count of murder, one count
18 of burglary first, one count of armed robbery, and one count
19 of conspiracy. Judge, this is a five co-defendant case. The
20 trigger man has been convicted. The person we believe was the
21 mastermind behind it has been convicted. Of the three co-
22 defendants left, Mr. Hudson is kind of the next on the list,
23 Judge.

24 He has been in discussions with our office to kind of
25 cooperate. Those discussions have kind of fallen apart, but

1 we have come up with a deal that I believe was a good offer.
2 The State extended an offer of straight up to armed robbery
3 and voluntary manslaughter. He seemed reluctant to take that,
4 and so we have placed him on the trial list for the September
5 term, and we have every intention by either plea or trial to
6 dispose of that case before the conclusion of that term.

7 In the meantime, he has made a motion, a written letter
8 to the clerk's office, asking that Mr. Swilley be relieved
9 from the case. So we're here to take up that issue.

10 THE COURT: All right. And currently, Mr. Swilley, you
11 represent Mr. Hudson?

12 MR. SWILLEY: I do, Your Honor.

13 THE COURT: How long have you been representing him on
14 this matter?

15 MR. SWILLEY: Your Honor, I believe since early 2018.

16 THE COURT: Okay.

17 MR. SWILLEY: That's when I was appointed.

18 THE COURT: All right. And, Mr. Hudson, have you been
19 locked up out in Effingham since you've been charged with
20 this?

21 THE DEFENDANT: No, sir.

22 THE COURT: So you were out for -- at some point?

23 THE DEFENDANT: No, sir. I've been locked up the whole
24 time.

25 THE COURT: Okay. So when they -- when they actually

1 arrested you on this charge, is there a bond on this matter?

2 MR. SWILLEY: He's got, I believe, a \$100,000 bond.

3 THE COURT: Okay. But when they arrested you on this
4 matter, you got locked up; correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And you haven't been out since?

7 THE DEFENDANT: No, sir.

8 THE COURT: I gotcha. Okay. All right. So I'll be
9 happy to hear from you, Mr. Hudson, if you can explain what --
10 to the Court why you want to relieve Mr. Swilley.

11 THE DEFENDANT: Back in -- I'd say around March, April,
12 April this time --

13 THE COURT: Of this year?

14 THE DEFENDANT: 2018.

15 THE COURT: Okay.

16 THE DEFENDANT: Around -- no.

17 THE COURT: This is 2019. So you're talking about just a
18 couple of months ago or a year ago?

19 THE DEFENDANT: 2019, this year, the beginning of this
20 year.

21 THE COURT: Okay. So this past April, May, somewhere in
22 that time frame?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Okay.

25 THE DEFENDANT: One of my -- one of my other co-

1 defendants was actually supposed to deemed to go to trial.

2 THE COURT: Right.

3 THE DEFENDANT: At that time, Mr. Swilley came and talked
4 to me for a little while, and there was some things that were
5 brought to my attention that I brought to his attention as far
6 as jailhouse kites or letters or whatever, you know, people
7 may call them that my co-defendants were passing around saying
8 to change their statements or who to place blame on. There
9 was also a CO that confiscated, you know, at least one of
10 these kites and turned it in and also wrote a statement. I
11 asked Mr. Swilley during that time to, you know, look into all
12 of that and see what possibly, you know, can he do about, you
13 know, all of that.

14 I'm a military vet. I served five-and-a-half years, got
15 discharged for rehabilitation failure, deemed to go to the VA.
16 I had two appointments since I was locked up. I asked him to
17 see as far as what can he do, you know, possibly for me to
18 make it to my VA appointments. Nothing has been done about
19 that.

20 Some things that in my motion of discovery that, you
21 know, I looked at and I let Mr. Swilley know that I think
22 these should, you know, be looked into because I don't really
23 think it's -- it doesn't add up. To me, it doesn't -- it
24 doesn't add up.

25 Let's see. What else? At the same time, I've been

1 trying to contact him a couple of times before, you know, this
2 co-defendant went to trial because there's some things that,
3 you know, I -- I know he didn't told me to lie about what I
4 said, but, you know, I told him some things I know I lied
5 about it. So I tried to contact him to get him to come, you
6 know, and talk to me so I can, you know, get things situated,
7 and he, you know, wasn't responding. My mother also has
8 contacted him a couple of times. He wasn't in the office,
9 never called her back.

10 And then I was telling him, hey, I think, you know, I
11 just -- because I'm not -- I know everybody is not innocent,
12 you know, but as far as, you know, what I'm being charged for
13 or whatever and whatnot, you know, I'm -- I'm not about to
14 take a charge and, you know, do some time behind something I
15 didn't do and I had no control over. So I told him that I'd
16 rather just, you know, see if we can go to trial because I
17 think, you know, we might have a good chance, and he continued
18 to talk me out of going to trial. He also called my mother
19 and told my mother to talk to me and tell me that he think it
20 best that we not go to trial because if the solicitor do come
21 with a plea, it'll be criminal conspiracy, five to ten years.

22 So, you know, my thing is I don't think I can be able to
23 trust my attorney with certain things. I have -- I have yet
24 to see any ballistic reports, any autopsy reports. I haven't
25 even seen the statements that anybody said against me or the

1 co-defendants the whole time I've been locked up.

2 THE COURT: Well, let me -- and I'm going to let Mr.
3 Swilley speak in just a minute, but let me just say this, Mr.
4 Hudson, and I don't -- and I don't know anything about your
5 case, but I will tell you this. I've known Mr. Swilley for
6 years, and there -- and there can be some miscommunications,
7 and I certainly understand that.

8 But I will tell you this. I've never known Mr. Swilley
9 to be anything other than a straight shooter and an honest
10 person. So I would probably lean more toward there may be
11 some miscommunication between you and Mr. Swilley, rather than
12 Mr. Swilley has not been honest with you and trustworthy. And
13 I know you don't know me either. So I mean this may mean
14 nothing, but I can tell you if my life was on the hook, I
15 would trust Matt Swilley.

16 So I don't think -- again, there could still be
17 miscommunication, but I want to try to assure you that he's
18 not someone that would lie to you or mislead you
19 intentionally. But I know you have your concerns.

20 Mr. Swilley, is there any -- do you want to address some
21 of those?

22 MR. SWILLEY: Judge, just I'll do whatever the Court
23 orders me to do. If the Court sees fit that I stay on the
24 case, I'll do everything I can to perpetuate Mr. Hudson's
25 position to where he's in --

1 THE COURT: Sure.

2 MR. SWILLEY: -- the best position possible. If not --

3 THE COURT: Are there -- what -- he was mentioning
4 something about something being passed around the jail or --

5 MR. SWILLEY: There's been some -- and there was some
6 kites that were passed around the jail amongst the co-
7 defendants that I think those were intercepted by a CO.

8 THE COURT: Kites?

9 MR. SWILLEY: Letters, like people write letters and give
10 them to the trustee or whomever, and they'll take them to
11 another person's room.

12 THE COURT: Oh, I gotcha. They call them kites?

13 MR. SWILLEY: Yes, sir. And then they'll give those --

14 THE COURT: I learned something new today.

15 MR. SWILLEY: Yeah. Those -- those were intercepted by a
16 CO down there though. I think those were turned over to the
17 Solicitor's Office, and then those were turned over in
18 supplemental discovery to us.

19 THE COURT: Okay.

20 MR. SWILLEY: And I believe I have an -- I believe I have
21 those.

22 THE COURT: Okay.

23 MR. SWILLEY: All the pertinent ones.

24 THE COURT: Has Mr. Hudson seen those?

25 MR. SWILLEY: I believe so.

1 THE COURT: Okay.

2 MR. WHITE: And, Judge, if I may address the kite
3 situation, those kites were damning in regards to the two
4 co-defendants, who have since been convicted. The State, you
5 know, definitely used those against those particular
6 individuals, you know.

7 THE COURT: Nothing to be used against Mr. Hudson?

8 MR. WHITE: I -- and I don't want to speak out of turn,
9 but I don't believe -- I want to say that when they -- they
10 dumped the rooms, they did search warrants on the rooms, he
11 kind of got off scott free. I mean there wasn't anything
12 incriminating as to his particular case. So --

13 THE COURT: Yeah. Okay.

14 MR. WHITE: -- that's sort of it there.

15 THE COURT: Mr. Hudson, let me -- let me ask you this
16 too, just because I want -- I want to be sure that you're
17 fully aware. You made -- you made a couple of references to
18 not wanting to go down for something you didn't do.

19 Have you spoken with -- have you talked with Mr. Swilley
20 about the law as far as -- one way it's referred to as
21 accomplice liability. Another way it's referred to is the
22 hand of one is the hand of all. Have you talked to him about
23 that, about the law in that area?

24 THE DEFENDANT: I've heard some things that pertain to
25 that.

1 THE COURT: Because under the law -- and I'm not saying
2 this applies in your case, but I'm just saying under the law,
3 under certain circumstances, a person can be convicted of
4 murder if they never had a weapon, never fired a shot, and
5 never did anything in connection with the actual killing but
6 was involved in the activity that led up to the killing.

7 And depending if the -- if the certain elements are
8 present, a person can be convicted of murder even though they
9 never laid a hand on the victim or anything. So that's an
10 area of the law that you need to discuss with your lawyer and
11 understand because that may -- and I don't know. I'm not
12 speaking for Mr. White because I don't know anything about his
13 case, but it sounds like that might be part of the theory that
14 they're going with.

15 So I guess what I'm trying to say is they're ready to try
16 your case. Your case is a couple of years old.

17 And, Mr. Swilley, you -- I mean if you were to go -- if
18 the case were to be called and you were still on the case, are
19 you ready to try it? I mean have you talked to everybody you
20 need to talk to? You think you're ready? Well, it's not
21 going to be tried this week, but if it's called in September,
22 would you be prepared to go to trial?

23 MR. SWILLEY: Yes, Your Honor.

24 THE COURT: Mr. Hudson, I've not heard anything that
25 would cause me to believe that Mr. Swilley is not operating in

1 your best interest. You know, I know him. I know him
2 personally, and I know him by reputation. He's a very
3 thorough lawyer. He's a very good trial lawyer. He tells me
4 as an officer of the Court that -- and I don't know when the
5 case would be tried. Well, it couldn't be tried before
6 September because y'all don't have a term of court before
7 then; right?

8 MR. WHITE: Judge, I believe we have a plea week the last
9 week of August and then the two following weeks.

10 THE COURT: So September.

11 MR. WHITE: The first week -- the first two weeks of
12 September.

13 THE COURT: So they wouldn't be able to call it before
14 September. Mr. Swilley indicates to the Court that he would
15 easily be ready to go to trial if it's called in September.

16 Mr. White has extended a plea offer, you know, and I'm
17 not making any comment on that. That's between you and Mr.
18 White and Mr. Swilley, but let me -- that brings me back to
19 something you mentioned earlier.

20 And again, I'm going to talk general. I'm not going to
21 talk about your case because I don't -- I don't want to get
22 involved in your case, but I used to -- I used to be a public
23 defender before I came on the bench, and the job of defense
24 counsel is -- and, you know, sometimes, you know, people call
25 them by different names. They call them lawyers mostly, but

1 some people call them counselor.

2 Well, that term or that phrase comes because that's his
3 job. He's supposed to counsel you on the things that you may
4 not be aware of. He's trained in the law. You may not be.
5 So he counsels you on what the law says or what the law is on
6 a particular case. And then because of his experience as a
7 trial lawyer, he also can counsel you on what he thinks is in
8 your best interest.

9 Now, you may disagree with that, and that's fine for you
10 to disagree with it, but his job is to at least share with you
11 anything that the State offers, in this case a plea offer.
12 And then it would be his job to explain to you why he thinks
13 that would be in your best interest or why he thinks it's not
14 in your best interest. That's his job.

15 And so, again, this may come into that area of maybe
16 miscommunication where I think you may -- I think you
17 mentioned that you felt like -- like he was trying to talk you
18 into taking a plea offer that you didn't want to take.

19 What I would do if I was you, I'd listen carefully to
20 what he's saying. It's always going to be your decision.
21 Okay? No one can ever make a decision to accept a plea offer
22 or to deny or to reject a plea offer other than you. His job
23 though is to give you his best counsel, his best -- what he
24 thinks is in your best interest based upon the evidence and
25 the law. That's -- that's why he is in the position he is in,

1 and that's a big advantage for you.

2 So I would encourage you to listen carefully to what he's
3 saying, and if you question -- if -- for example, you
4 mentioned that you felt like he was trying to talk you into
5 it. If you feel that way, I would ask him point blank, Mr.
6 Swilley, why do you think I should do this? Tell me why. And
7 have him explain it to you.

8 You may end up agreeing with him. You may end up still
9 disagreeing with him, which is okay, because here's what's
10 going to happen and here's what happens all the time. Mr.
11 Swilley is going to give you his best counsel, his best
12 thoughts and advice, but if you look him in the eye and say
13 I'm not taking any plea deal, then he's going to -- he's going
14 to turn all his attention into preparing your case for trial
15 and defending you in trial.

16 He's not going to try to force you to do anything, but it
17 is his job to make sure you understand if he thinks it's in
18 your best interest, why it's in your best interest. And more
19 than likely, it's going to be because of the strength or the
20 weaknesses of the State's case, but I just want to encourage
21 you to listen carefully and to ask him questions as to why he
22 thinks what he thinks, whatever it may be.

23 But I haven't heard anything here that would cause me to
24 believe that he's not capable of trying your case and capable
25 of giving you good representation. So I'm going to deny the

1 motion to remove Mr. Swilley from the case.

2 The other -- the other problem with that, Mr. Hudson, is
3 if I were to remove Mr. Swilley from the case and appoint
4 someone else to represent you, it's almost like starting over.
5 You've already been locked up for two years in this thing or
6 going on two years, and it would just delay this case a lot
7 longer, and I'm not up to the belief that any other attorney
8 is going to have any different information or have any
9 different understanding of the law than Mr. Swilley has.

10 So I'm going to deny the motion to relieve counsel and,
11 Solicitor, just leave it on the docket for whenever the case
12 is called.

13 MR. WHITE: Yes, sir.

14 THE COURT: All right.

15 THE DEFENDANT: Thank you, sir.

16 MR. WHITE: Thank you, Judge.

17 THE COURT: All right. Thank you, folks.

18 (WHEREUPON, the proceedings ended at 3:16 p.m.)

19

20 --- END REQUESTED TRANSCRIPT ---

21

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23

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25

State of South Carolina)

) Certificate

County of Florence)

I, the undersigned, Krystal J. Smith, Notary Public and Official Circuit Court Reporter III for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 16, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of General Sessions for Florence County, South Carolina, held in Marion County, South Carolina, on the 8th day of August, 2019.

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

s/Krystal J. Smith

Court Reporter

Florence, South Carolina

May 27, 2023

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

) COURT OF GENERAL SESSIONS
) 2018-GS-21-02120
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)

State of South Carolina
vs.
Anthony Markell Hudson

) TRANSCRIPT OF RECORD
)

) August 30, 2019

DEFENDANT) Florence, South Carolina

B E F O R E:

THE HONORABLE D. CRAIG BROWN.

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

RYAN WHITE, ASSISTANT SOLICITOR
Attorney for the State

MATTHEW SWILLEY, ESQ.
Attorney for the Defendant

KESHIA REED
Official Court Reporter

I N D E X

(WHEREUPON, no witnesses were called.)

1 THE COURT: Yes, sir.

2 MR. WHITE: Thank you, Judge. May it please the
3 Court. Standing before you is Anthony Hudson on
4 indictment 2018-GS-21-02120 originally indicted for one
5 count of murder, one count of armed robbery, one count of
6 burglary in the first degree, and one count criminal
7 conspiracy to commit armed robbery. Judge, Mr. Hudson is
8 pleading guilty to a lesser-included offense of voluntary
9 manslaughter as well as attempted armed robbery. It comes
10 without any negotiation or recommendation from the State.

11 THE COURT: Sir, if you'd raise your right hand.
12 You swear to tell the truth, the whole truth, and nothing
13 but the truth so help you God?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You are Anthony Markell Hudson?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You ever been treated for alcohol
18 abuse, drug abuse or mental illness?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: What have you been treated for?

21 THE DEFENDANT: Alcohol substance program while
22 I was in the military.

23 THE COURT: Did you complete those programs?

24 THE DEFENDANT: No, sir.

25 THE COURT: Does that in any way affect your

1 ability to know and understand what you're doing here
2 today?

3 THE DEFENDANT: No, sir.

4 THE COURT: Within the last 24 hours have you
5 taken any medication, drugs or alcohol?

6 THE DEFENDANT: No, sir.

7 THE COURT: Are you aware of any physical,
8 emotional or nervous problem that would prevent you or
9 keep you from understanding what's going on here today?

10 THE DEFENDANT: No, sir.

11 THE COURT: The State indicates you're pleading
12 guilty to two separate charges first being voluntary
13 manslaughter, is that right?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You understand it carries up 30
16 years?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you understand that this is
19 considered to be a violent offense under South Carolina
20 law?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: As well as a most serious offense?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Mr. Swilley, you talk to him about
25 the consequences of pleading to a violent as well as a

1 most serious offense?

2 MR. SWILLEY: We have, your Honor.

3 THE COURT: And you are confident he understands
4 the consequences?

5 MR. SWILLEY: I am, your Honor.

6 THE COURT: Is that right, Mr. Hudson?

7 MR. SWILLEY: Yes, sir.

8 THE COURT: Mr. Hudson, you understand
9 furthermore the State's indicated this plea or these pleas
10 excuse me -- are being entered without negotiation or
11 recommendation?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You understand under a voluntary
14 manslaughter that you can pretty much count on doing day
15 for day whatever sentence the court imposes?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You still want to plead guilty?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Understanding that this
20 particular charge the voluntary manslaughter carries up to
21 30 years, understanding that it's considered to be a
22 violent as well as a most serious offense and
23 understanding that it's being entered into without
24 negotiation or recommendation, you still want to plead
25 guilty to this charge?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: All right. The State also indicates
3 you're pleading guilty to attempted armed robbery, is that
4 correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand that carries up to
7 20 years?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You understand further that it's
10 considered to be a violent offense as well as a most
11 serious offense?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you understand that this plea is
14 also being entered into without recommendation or
15 negotiation?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Understanding that
18 attempted armed robbery carries up to 20 years,
19 understanding that it is a violent offense as well as a
20 most serious offense, as well as the fact that this plea
21 is being entered into without recommendation or
22 negotiation, you still want to plead guilty to this
23 charge?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Now, going back to the voluntary

1 manslaughter and the attempted armed robbery, the
2 voluntary manslaughter carries up to 30 and the attempted
3 armed robbery carries up to 20. You understand that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You understand that if I saw fit
6 that I could run those two -- whatever sentences
7 consecutive and I can give you up to 50 years today if I
8 saw fit. You understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: You still want to plead guilty?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Now, you understand that under a
13 most serious charge which each of these are it falls under
14 the two strike rule. You understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you understand if upon release
17 from the department of corrections, you're convicted or
18 plead guilty to another most serious charge, and the State
19 is properly noticed you of their intent to seek life
20 without parole, the Court would have no alternative but to
21 give you life. You understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You still want to plead guilty to
24 these charges?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: All right. Now, you understand,
2 Mr. Hudson, when you plead guilty, you give up certain
3 important constitutional rights. You understand that you
4 have a right to a jury trial. I would tell the jury that
5 you are presumed innocent, that the State has to prove
6 your guilt beyond a reasonable doubt. Your lawyer would
7 have the right to cross-examine witnesses that come in
8 here and testify against you. If you went to trial, you'd
9 have a right to remain silent, means you can sit at that
10 table over there with your lawyer, you wouldn't have to
11 say a word. And if you did that, I would instruct the
12 jury that they could not hold that against you. I would
13 further instruct them that they could not even discuss the
14 fact that you did not testify when they went to deliberate
15 about this case. You understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: In addition, I want you to
18 understand that you would have a right not required to,
19 but you'd have a right to present a defense to these
20 charges. You understand that?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. In addition, if you made
23 any incriminating statements, you would have a right to
24 challenge the admissibility of those statements. You
25 understand that?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Now, I've explain to you your
3 constitutional trial rights. Have you understood all of
4 those rights?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you understand when you plead
7 guilty you give up those rights?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Understanding your
10 rights and understanding that when you plead guilty you
11 give you give them up, how do you plead to these two
12 charges here today guilty or not guilty?

13 THE DEFENDANT: Guilty, your Honor.

14 THE COURT: All right. You represented by Mr.
15 Swilley. You talk with him enough?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Have you understood your talks with
18 him?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Has he done everything that he could
21 have done or should have done or that you ask him to do in
22 this case?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you need any more time to talk to
25 him?

1 THE DEFENDANT: I would like so, your Honor.

2 THE COURT: You want to talk to him right now?

3 (WHEREUPON, a pause in the proceedings.)

4 MR. SWILLEY: Your Honor, I believe we're ready
5 to proceed.

6 THE COURT: Well, Mr. Hudson, I gave you a
7 chance to talk with your lawyer some more. You indicated
8 that you like to. Did you do that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you need any more time to talk to
11 him?

12 THE DEFENDANT: No, sir.

13 THE COURT: Now, have you understood all your
14 talks with your attorney?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you have any complaints about
17 your lawyer whatsoever?

18 THE DEFENDANT: No, sir.

19 THE COURT: Has anyone promised you anything or
20 held out any hope of reward to get you to plead guilty to
21 these charges?

22 THE DEFENDANT: No, sir.

23 THE COURT: Has anyone used any threats, force,
24 pressure or intimidation to get you to plead guilty to
25 these charges?

1 THE DEFENDANT: No, sir.

2 THE COURT: Has anyone mistreated you in any way
3 whether it be law enforcement or Solicitor's office?

4 THE DEFENDANT: No, sir.

5 THE COURT: Have you had enough time to make up
6 your mind as to whether or not you want to plead guilty to
7 these charges or go to trial?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: What do you wish to do?

10 THE DEFENDANT: I would plead, sir.

11 THE COURT: Are you pleading guilty?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Are you pleading guilty as to each
14 of these charges of your own freewill?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Have you understood my questions?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Mr. White.

19 MR. WHITE: Thank you, Judge. This incident
20 occurred on December 24, 2017, at the home of Johnny and
21 Amos Cameron, Judge at [REDACTED] North Old Georgetown Road in
22 Lake City, which is Florence County and that was Christmas
23 Eve. Your Honor, the family was gathering at that home
24 eating food celebrating the holidays. They were there
25 pretty much all day long. I think there were as many as

1 maybe 30 head just having a good time and celebrating.
2 One of the last people to leave was Johnny Cameron's
3 daughter.

4 About 30 minutes after she left, Mr. Amos
5 Cameron, Johnny Cameron's brother, went into the bedroom
6 to retire for the evening. About that time, he heard a
7 loud car pull into the yard. He would describe it as
8 being so loud like a race car, like a jet engine.
9 Shortly, thereafter, Judge, they hear a knock at the door.
10 They hear some commotion. Mr. Amos Cameron comes to the
11 bedroom door. He looks out the door to the mobile home
12 where they are residing. He sees his brother Johnny
13 Cameron fighting with an individual who's masked and has a
14 gun. Just then, he hears about four shots and some
15 people, you know, run back out the door and Johnny Cameron
16 stumble into kitchen shot very bad, Judge, and dies right
17 there on the kitchen floor.

18 This case was investigated by Roger Tilton who's
19 with the sheriff's office is here today. They start
20 looking into this car and how loud it is. They have very
21 little to go on until some people on Facebook appear to be
22 talking about the incident as if they know a lot about it,
23 Judge. So they have some suspects in mind. One of them
24 is Charlie Roberson who's on Facebook talking about it.
25 They go to Mr. Roberson's home Investigator Roger Tilton

1 along with Investigator Ben Price. While Investigator
2 Tilton is at the front door speaking to the residents
3 inside the house, Investigator Ben Price kind of goes
4 around the side and he notices a vehicle, a burgundy
5 vehicle with the muffler laying beside it. Mr. Hudson
6 also lives there with Charlie Roberson.

7 He comes to the door. They ask if he can crank
8 it up and sure enough it's loud, Judge. They ask
9 Mr. Roberson if he can come in. They actually find him
10 there with a pistol in his book bag. They ask
11 Mr. Roberson to come on down to the sheriff's office.
12 They ask Mr. Hudson to come down to the sheriff's office
13 both of them give statements, and the statements are that
14 Mr. Hudson, Mr. Roberson and a third co-defendant Carl
15 McDowell were all hanging out in Lake City. They drive to
16 Florence. They pick up a Mr. Justin Pringle and a Curtis
17 Nelson. Mr. Nelson is about 50 years old. At that time
18 they start plan to hit a lick, Judge, an arm robbery.
19 They don't know exactly where they're going to go. They
20 throw out several different places. It's Mr. Nelson, the
21 older of the individuals, who has the idea to go to
22 Mr. Johnny Cameron's home because Mr. Cameron is known to
23 be a bootlegger, Judge. He sells beer and potato chips,
24 and so they go there, Judge. And at that time they pull
25 up in Mr. Hudson's vehicle, three of them get out of the

1 car. Mr. Hudson is one of the three individuals who goes
2 to the door where Mr. Johnny Cameron is ultimately shot to
3 death. The two individuals in the car are Carl McDowell
4 gives a statement and a Curtis Nelson who does not.

5 Judge, there's a lot of evidence in this case,
6 but most notably against Mr. Hudson is his statements.
7 You know, he gives a statement to law enforcement
8 initially and that statement is damning. However, he
9 indicates that he did not leave the vehicle.

10 Well, you know, they do some more investigation
11 they don't believe that's true. They bring him back in.
12 At that time he admits that he is one of the three that
13 gets out of the vehicle and actually admits that he's the
14 one that knocked on the door. Judge, but we don't believe
15 at this time that he's the one that fired the gun that
16 killed Mr. Cameron. We believe that Mr. Pringle had the
17 .40 caliber that fired and killed Mr. Cameron, and the
18 pathologist will testify that the bullet holes in Mr.
19 Cameron were consistent with a .40 caliber handgun. The
20 other two handguns were the .9 millimeter that was found
21 on Charlie Roberson's person when they first came in
22 contact with him. And then there was a .380 that was
23 mention. We believe that .380 was in the hand of
24 Mr. Hudson.

25 Now, we're preparing this case, Judge, and we

1 got ready to go to trial on the trigger man, Mr. Pringle,
2 but at that time there was a curious thing about the case.
3 We believe that the .40 cal was the one that shot and
4 killed -- we're pretty certain that that was the one that
5 Mr. Pringle used to kill Mr. Cameron, but there was a
6 bullet hole in the mobile home that was inconsistent and
7 it was a smaller caliber bullet. And we didn't know who
8 fired that bullet. So we were talking to Mr. Hudson as
9 well the other co-defendants to try to get them to
10 cooperate, and we went out to the sheriff's office. It
11 was me, Investigator Tilton, Investigator Street from our
12 office, Mr. Swilley and Mr. Hudson who sat down in
13 preparation for the trial against the trigger man. At
14 that time Mr. Hudson tells us something he hadn't told us
15 before that when he went to the door and all the
16 commotion, he is actually the one that fired that small
17 caliber bullet and he's lucky that it missed Mr. Cameron.
18 Judge, we did everything we could to try to get
19 Mr. Hudson to cooperate. We would go out there several
20 times, but I can't say that he, you know, cooperated with
21 the State in preparations for a trial. In fact for the
22 first trial, we were making preparations to treat him as a
23 hostile witness. Luckily for everybody, I think the
24 trigger man ended up pleading guilty. He was sentence to
25 30 years.

1 Judge, a few months later, we got ready for that
2 50-year-old co-defendant, Mr. Nelson. We believe he was
3 the master mind behind all this, and we, again, went to
4 talk to Mr. Hudson. And at that time he, again, became
5 kind of combative towards us and discussions broke down.
6 And we, again, began to prepare him as a hostile witness.
7 Luckily for everybody, Mr. Nelson pled guilty and he
8 received a 30 year sentence.

9 Judge, you know, we're just kind of going one by
10 one over the co-defendants, and Mr. Hudson is the next one
11 to fall. There be two co-defendants afters this, and I
12 can't say that he's as culpable as maybe that trigger man,
13 but only because he missed. But Mr. Cameron, Mr. Amos
14 Cameron is in the courtroom today. He would like to
15 address the Court at the appropriate time. Mr. Hudson's
16 got a criminal history. It's not extensive. In 2007, he
17 was convicted of an unlawful carrying of a weapon, 2014
18 driving under suspension, 2015 looks like a bank fraud.
19 He was placed on probation a two-year sentence suspended
20 to one year of probation, Judge.

21 THE COURT: Voluntary manslaughter is being
22 offered under the theory of hand one hand of all?

23 MR. WHITE: That's correct, Judge. Judge,
24 obviously, we be proceeding to trial.

25 THE COURT: Each charge in essence?

1 MR. WHITE: Sir?

2 THE COURT: As to each charge in essence?

3 MR. WHITE: That's correct, Judge.

4 THE COURT: I'm sorry. Go ahead.

5 MR. WHITE: We would be proceeding to trial
6 under the felony murder, obviously. The law does apply --
7 a felony voluntary manslaughter, but there is case law
8 that says he could plead down to that voluntary
9 manslaughter.

10 THE COURT: All right. Mr. Hudson, you heard
11 the facts as stated by the prosecutor as it relates to
12 these charges. You agree with those facts?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You guilty of these two charges?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And how do you plead, sir, guilty or
17 not guilty?

18 THE DEFENDANT: Guilty.

19 THE COURT: All right. I find there is
20 substantial factual basis for this defendant's plea as to
21 each of these charges. It is his decision to plead guilty
22 as to each of these charges has been entered into freely,
23 voluntarily, knowingly and intelligently, that he's had
24 the advice and counsel of an attorney with whom he's
25 indicated he's completely satisfied. I'll accept his plea

1 as to each of these two charges. Before I hear from you,
2 Mr. Swilley, let me hear from Mr. Cameron.

3 MR. WHITE: Yes, sir, Judge, Mr. Amos Cameron.

4 AMOS CAMERON: Yes, your Honor. My name is Amos
5 Cameron.

6 THE COURT: Please direct any comments to me,
7 okay.

8 AMOS CAMERON: Yes, sir. The only thing I would
9 say that they came to my house and they took my brother's
10 life. And I'm still having nightmares every night because
11 I have to live with it every day with seeing my brother
12 being shot down for nothing. They didn't even get a dime.
13 He ain't had no money. I don't even know why they came to
14 the house. That's all I got to say.

15 THE COURT: Thank you, sir. Anybody else?

16 MR. WHITE: Judge, there are plenty others that
17 wish to be here. They gave me the go ahead to go ahead
18 and move the case if we could. It was kind of short
19 notice the way we got this thing scheduled, but there
20 several other family members that were here for the other
21 pleas and have been here since the case's inception. And,
22 Judge, they would just echo the same sentiments as
23 Mr. Cameron.

24 This is a family that is extremely touched and
25 affected by this situation. The place where this occurred

1 in Lake City is actually known as Cameron town. That
2 family has been there for a long time and each and every
3 one of them have been impacted.

4 THE COURT: All right. Thank you, sir. All
5 right. Mr. Swilley, happy to hear from you.

6 MR. SWILLEY: Your Honor, this whole
7 circumstances surrounding Anthony is a tragic testament
8 and also a grim reminder that instantaneous decisions to
9 be apart of things like this can, you know, not only alter
10 that person's life, but it can alter the lives of multiple
11 people. And it has in this case.

12 Your Honor, Anthony up 'til about this time
13 December 24th 2017, was -- there was no indicator that he
14 had ever been involved or associated with anything violent
15 or anything irrelevant or anything of this nature. He did
16 graduate high school, Lake City High School in 2007. Your
17 Honor, he did spend six years in the military as an IT
18 specialist in the Army.

19 Your Honor, while he was in the Army at some
20 point, and I don't know when he developed this problem
21 with alcohol -- you know, alcohol abuse. At some point
22 that in tandem with posttraumatic stress led to, I think,
23 some serious issues with him mentally, and he was -- it
24 got to the point where he was unable to conform and was
25 discharged from the military in that matter. I think when

1 he came back to Pee Dee area -- I think he had been
2 stationed in Germany and in Texas. He had a child -- a
3 child with a lady that lives in Texas, but when he was
4 discharged, I think he came back here and that's when he
5 began to, I think, make some relationships with some
6 individuals he probably shouldn't have.

7 And for the Court's edification, your Honor,
8 that weapon's charge he was convicted of was not a gun. I
9 think that was back in teenager when he was -- I think
10 that was some kind of other weapon other than a gun, but
11 that was, you know, before he reached the age of 18. That
12 bank fraud charge he was able to go into PTI for that, but
13 he was unable to complete it for pecuniary issues. He
14 couldn't afford it unfortunately. He would have been able
15 to complete PTI if he had the means to do that. Then he
16 had some driving issues, but, your Honor, other than that,
17 I mean, there's been no involvement with the law.

18 And I think if he had gotten -- if he'd been
19 able to get the treatment that he needed and I'm not
20 making excuses for him. I think some of this should have
21 been done on his part, but I think if he would have gotten
22 the necessary treatment this wouldn't have happened. He
23 was seeking treatment at the VA at the time, you know,
24 before his arrest. Your Honor, he's been incarcerated for
25 613 days. The other co-defendants I believe are bonded

1 out. They're still pending. The case is still pending.
2 He wasn't able to do that. His mother wasn't able to bond
3 him out. So that's about 20 months 613 days is how long
4 he's had to sit in the jail.

5 And, you know, during that time he hadn't been
6 sitting there idly. Your Honor, he actually had been
7 receiving the addictions -- having being treated with the
8 addictions program with the Florence area chapter. The
9 director sent me a letter for Mr. Hudson if I could hand
10 that up. Your Honor, Mr. Hudson has been in jail -- he
11 was actually in a relationship the sister of one of the
12 co-defendants Mr. Roberson. He had a child with her while
13 he's been in jail. He has a son that he has not been able
14 to see. I think that him having a son here is going to
15 provide, you know, b impetuous for him to live a lawful
16 and productive life hopefully when he's able to be
17 released from incarceration.

18 Your Honor, last night, I'd be remiss if I
19 didn't mention his mother and sister are here. And they
20 been here seated on the front. They been awake since
21 about two a.m. Mr. Hudson's father unfortunately last
22 night was stabbed. My understanding multiple times in a
23 dispute with an individual with whom he shared a
24 residence. He's over at McLeod in intensive care right
25 now. I don't know anything about his status, but I think

1 the question in everybody's mind is, you know, is Anthony
2 going to be left to be only male in the household -- in
3 the family, and that's unfortunately what happen last
4 night. And that's what his mother Anetha and his sister
5 Aliyah have been dealing with. And they come to support
6 Anthony in this decision.

7 Your Honor, I don't want the Court to think that
8 Mr. Hudson delayed or intentionally waited to this point
9 to enter into this plea. I want to kind of supplement a
10 couple things Mr. White said. Mr. Hudson gave his initial
11 statement to Investigator Tilton indicating he never got
12 out of the car. And then gave a subsequent statement on
13 video basically sticking to that point just to correct the
14 facts. And, obviously, Investigator Tilton didn't believe
15 him. Only when it became time to prepare for trial, he
16 came forward with this new information. I think, you
17 know, he didn't become combative, but he became very
18 argumentative about his responsibility. And the reason
19 for that is my understanding he's got a little bit of an
20 intellectual disability. And one of the things is the
21 most esoteric about the criminal law is the theory of
22 accomplice liability hand of one hand of all. It's very
23 difficult for people to conceptualize that you can be held
24 criminally liable just as much for something that you
25 didn't physically do just as much as the person who

1 physically did it if you are involved with them in tandem.
2 I think that was very very difficult for Mr. Hudson to
3 understand as it is with a lot of people, but he
4 understands it. He's taking responsibility here today.

5 Your Honor, I don't -- I think that he's got the
6 abilities to -- I fail to mention he was working a full
7 time job at this time. He was working at Honda at the
8 Honda plant making \$12 an hour with the full intentions of
9 supporting his family, you know, his children. I think he
10 had got employment that he'd gone back to had he got out
11 on bond. He just couldn't afford to do it or his family
12 couldn't afford to bond him out and that -- you know, that
13 speaks a lot to his character. I think that the fact that
14 he was intoxicated at this time he been hanging out with
15 these guys, got intoxicated, got stoned, and then went
16 along with them and that's going to impact not only the
17 rest of his life, but lives of his family and the lives of
18 Mr. Cameron's family and everyone else and he fully
19 realizes that. And I ask the Court to recognize that he
20 recognizes that.

21 Your Honor, I don't want to be too audacious,
22 but I don't -- I would ask the Court to impose some sort
23 of a split sentence for Mr. Hudson. If he were to be
24 released from prison at some point, I think that he would
25 do well on probation. I think that he could conform with

1 the requirements of probation. I don't think at that
2 point he'll have any more substance abuse issues after
3 going a long time without using substances, and I think
4 that he'll be successful on that.

5 Your Honor, on Mr. Hudson's behest and I know
6 it's not common I'm also going request that the Court
7 perhaps consider allowing him, I guess, a delayed
8 transportation to prison so that maybe he could bond out
9 for a few days to see his son. I know that's highly
10 irregular and I ask the Court take that into consideration
11 at his behest. But, your Honor, he is very very sorry for
12 what happened, and he's very very sorry that he took what
13 was otherwise a productive life and did this. And he
14 can't take it back. He can't fix anything. He can't
15 bring Mr. Cameron back to life, but he does want the Court
16 to know that he is very sorry for his involvement. And I
17 don't -- I wouldn't foresee anything like this ever
18 happening with Mr. Hudson again. He's 31 -- he'll be 31
19 years old soon. And he's -- when he's going to be
20 released from incarceration, he'll be in all likely a
21 middle-age man. And I think that he'll have the
22 opportunity, and he'll have the motivation to take care of
23 his family and become somebody that is a benefit to
24 society. I mean, he's not going to be a parasite.

25 That's about all I have, Judge. I just ask that

1 you take all of those things into consideration in
2 imposing a sentence on Mr. Hudson. He didn't -- he never
3 wanted to go to trial. He never wanted to put the State
4 through that, and his family through and Mr. Cameron's
5 family through that. He just -- it was just very hard for
6 him to realize the predicament that he was in as far as
7 sentencing goes.

8 THE COURT: All right. Thank you. Mr. Hudson,
9 anything you want to say, sir?

10 THE DEFENDANT: Yes, sir. I just like to, you
11 know, just say that apologize to the Court. You know,
12 apologize to the victim's family, and I also apologize to
13 my family by, you know, just being naive and, you know,
14 letting, you know, the substance, you know, control me to
15 hang around a group of people that I don't associate with
16 and, you know, I have no relations to. And, you know,
17 while I was incarcerated in Effingham Florence County
18 Detention Center I grew closer to God. I read my Bible
19 every day. I pray. You know, I even attended these
20 reformers unanimous classes, you know, to make sure, you
21 know, that I continue to stay, you know, a better person
22 and make different choices for my three kids and mother
23 and my sister.

24 MR. SWILLEY: Your Honor, if I could ask the
25 Court's indulgence, I think his mother may -- his mother

1 Anetha Hudson would like to address the Court briefly.

2 THE COURT: Yes, ma'am.

3 ANETHA HUDSON: Okay. Thank you, Your Honor. I
4 want to apologize to Mr. Cameron family and just to say
5 that my son has never been in any trouble or anything,
6 sorry for my voice, but I been crying over my husband ever
7 since he got to the hospital. I barely rarely have a
8 voice, but I want to apologize to his family. And I know
9 how they're feeling because of what we're going through
10 now and to let him know that if he was to ever to get out
11 they would never have a problem with my child again
12 because he wasn't raise this way.

13 When he went in the military, he did all he
14 could to take care me and my daughter because he's one of
15 my oldest children and he has kids that he -- that just
16 been born. His baby girl birthday is at the end of next
17 month on the [REDACTED] of September. His son he hasn't seen
18 him only on a picture but never felt him. And I had never
19 got a chance to get a hug for Mother's day or for my
20 birthday because he would always have something for me and
21 his nieces and nephews.

22 All of this that we're going through right now I
23 can attest to what Mr. Cameron's family is going through.
24 But to say that my child he's been well raised and taught
25 not to hang with certain people, but somewhere along the

1 line he strayed. And being in the military, he saw his
2 battle buddy got killed and this is when the PTSD set in
3 on him and when he started doing the alcohol and drinking
4 and the hard drugs and stuff. So when he got out when he
5 call me and told me they had to release him for not
6 complying with going to his counselor and seeking the help
7 that he needs, he came home and I immediately got him to
8 the VA in Columbia and here in Florence, so he has had
9 some trauma in his life, and it went the wrong way. So
10 I'm asking you to have little leniency on him and for him
11 to keep prayer in his heart because he was a church child,
12 hanging around the wrong people I preached it to him, but
13 once we reach a certain age, there's only so much a mother
14 and father can do. But he was and is a good person. He's
15 never violent.

16 THE COURT: Tell me your name again please?

17 ANETHA HUDSON: Anetha Hudson.

18 THE COURT: Okay. Thank you, Ms. Hudson.

19 ANETHA HUDSON: Thank you.

20 THE COURT: What's the status of the remaining
21 co-defendants?

22 MR. WHITE: There are two co-defendant's left,
23 Judge. Mr. Roberson is pending mental eval, that order
24 was signed I believe yesterday for the Blair hearing that
25 was the issue with the McNaughton had already been

1 completed. And then the driver of the vehicle, Mr. Carl
2 McDowell, his is still pending. He has been co-operating
3 since the onset and would have testified in this trial and
4 will testify in Mr. Roberson's trial if necessary. And,
5 Judge, I did want to be heard on one thing I like to make
6 clear for the record at the appropriate time.

7 THE COURT: Yes, sir.

8 MR. WHITE: Judge, I said earlier that I be
9 advancing on a hand of one hand of all and we talked a
10 little bit about accomplice liability. I want to address
11 that, that's not necessarily 100 percent accurate, Judge.
12 I think we would have gone to trial on attempted arm
13 robbery. I think there's substantial evidence in the
14 record, you know, that he conspired to commit arm robbery.
15 He knocked on the door with a gun in hand. I think that
16 standing alone without hand of one there would have been a
17 conviction on that one. Burglary first minimum 15 years,
18 Judge. Even if I could not prove that his body cross the
19 threshold, by his own statement, his bullet cross
20 threshold, Judge. It shot clear through the other side,
21 so I think that standing alone. And then, Judge, during
22 the commission of this extremely violent felony a murder
23 was obviously committed.

24 And then one last thing, Judge, heard from
25 Mr. Hudson and with all due respect to Mrs. Hudson I know

1 that she's going through a difficult time talked about
2 being around the wrong people. Well, one co-defendant,
3 Mr. Nelson, was 50 years old when this happened.
4 Mr. Hudson was 27 years old when this happened. The other
5 co-defendants were 19 and 20. So I ask, Judge, who was
6 influencing who. And I'll let that speak for itself.

7 THE COURT: Mr. Cameron, Mrs. Hudson, I hope
8 that I personally never have to go through what either one
9 of you all are going through you with your brother and
10 being a victim, and you Mrs. Hudson having a son standing
11 up here in the courtroom before me or some other judge. I
12 hope that none of my children ever are in that situation.
13 And I listen to what you had to say Mrs. Hudson. And I
14 listen to what you had to say Mr. Cameron. I can't --
15 because I've never personally dealt with what you all are
16 dealing with, I can't sit here and say I know how you feel
17 because I don't. I don't.

18 I can promise you that time after time, week
19 after week, day after day, I see it in and out of this
20 courtroom, and I see the pain of victims. I see the pain
21 and anguish of family members just like I see in here
22 today. No person, Mr. Cameron, should meet their maker in
23 the way that your brother had to on that night. No one.
24 Mrs. Hudson, I heard what you said about your son wasn't
25 raise this way. None of my three children have been raise

1 that way either. And it's quite often and I've told my
2 kids and remind them about who you hanging out with and
3 also I'm teach you right from wrong because one day you
4 gone be from under my roof, and you ain't never gone look
5 back at me and say, daddy, you didn't teach me any better
6 because one day and you kind of hit on this, Mrs. Hudson.
7 They get to an age that you don't -- you can't control it.
8 It's up to them. And so I sympathize with both of you. I
9 can tell you not long after I got on the bench one of my
10 colleagues another judge told me said sentencing is the
11 hardest part of this job. It is.

12 Most of the cases that come in front of us
13 are -- come by virtue of a negotiation or recommendation
14 on behalf of the State and for the most part judges go
15 along with what's recommended or negotiated in cases.
16 This is one of those cases that you have a negotiation or
17 recommendation. I want you to understand that as well.

18 Mr. Hudson, I really don't know what to say to
19 you other than, you know, appreciate your service in the
20 military. I never served in the military, but I went to a
21 military college. And I do know that through military and
22 through training and the discipline that you get and more
23 importantly leadership skills that you obtain. I don't
24 know these other guys that you were with that night, but I
25 will suspect that you were more educated, more

1 experienced, especially when it comes to leadership
2 skills.

3 Your lawyer's conveyed to me you all were either
4 drunk and or high another example of the fact that
5 95 percent -- if that's true, 95 plus percent of what ends
6 up in this courtroom is because of drugs or alcohol
7 because people don't act like they usually do when they
8 sober. You get high. You get drunk. You think you're
9 invincible and bullet proof. And then you go do something
10 dumb that affects somebody like Mr. Cameron's family and
11 it also affect your mom, your sister, your dad, your
12 children because they depend on you. They depend on you.
13 They going to depend on you, but because of bad choices
14 you made you put yourself in a position for them not to be
15 able to.

16 On 2018-GS-21-2120, defendant's hereby committed
17 to the state department of corrections on the attempted
18 arm robbery 20 years. On 2018-GS-21-2120 on voluntary
19 manslaughter, defendant's hereby committed to the state
20 department of corrections for a period 28 years, given
21 credit for 613 days. They're to run concurrent, mental
22 health counseling as well as addictions treatment unit.
23 Good luck to you, Mr. Hudson.

24 MR. WHITE: Thank you, Judge.

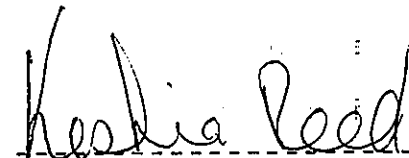
25 END OF REQUESTED TRANSCRIPT

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter and Notary Public
in and for the State of South Carolina At Large, do hereby
certify that the above-entitled cause was heard as
hereinafter set out; that I was authorized to and did
transcribe the said proceedings; and that the foregoing
and annexed paged, numbered 1 through 32, inclusive,
constitute a true and accurate transcription of my
stenographic report of the said cause taken during the
said hearing. In the Court of General Sessions for
Florence County, South Carolina, on the 30th day of
August, 2019.

I do further certify that I am neither of kin,
counsel nor interest to any party hereto. In witness
whereof, I have hereunto affixed my signature this 30th
day of June 2022.



Keshia Reed, Court Reporter

18-2420

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

STATE OF SOUTH CAROLINA

v.

ANTHONY HUDSON,

DEFENDANT.

IN THE COURT OF GENERAL SESSIONS
TWELFTH JUDICIAL CIRCUIT

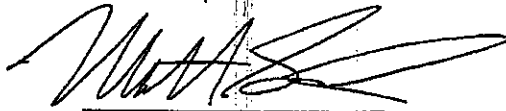
**MOTION TO RECONSIDER
SENTENCE**

WARRANT NO.: 2017A2110201151
INDICTMENT: 2018-GS-21-2120, A

CHARGES: VOLUNTARY MANSLAUGHTER
ATTEMPTED ARMED ROBBERY

YOU WILL PLEASE TAKE NOTICE that the undersigned as attorney for the above-named Defendant moves before this Court to reconsider the Defendant's sentence pursuant to Rule 29 SCRCrimP. The Defendant was sentenced to twenty-eight years for Voluntary Manslaughter and twenty years for Attempted Armed Robbery to be served concurrently on August 30, 2019 before The Honorable D. Craig Brown.

Respectfully Submitted,



Matt Swilley
Attorney for Defendant
129 S. Coit Street
Florence, SC 29501
Phone: 843-250-3632
Email: Matt@swilleylaw.com

Florence, South Carolina

September 4, 2019

DOUGLAS COUNTY, SC
CLERK OF COURT
2019 SEP 4 PM 3:49

2019 SEP - 4 PM 3:49

FILED

18-2120

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE

IN THE COURT OF GENERAL SESSIONS
FOR THE TWELFTH JUDICIAL CIRCUIT

The State

2021 NOV 22 P 3:22

Indictment number 2018-GS-21-2120

vs.

DORIS ROULOS O'HARA
CCOP & GS
FLORENCE CO

Order Denying Defendant's Motion to
Reconsider

Anthony Hudson,

Defendant.

THIS MATTER came before the Court by way of Defendant's Motion to Reconsider Sentence pursuant to Rule 29 of the South Carolina Rules of Criminal Procedure. The motion was filed on behalf of Defendant by his attorney, Mr. Matt Swilley, on September 4, 2019. Mr. Swilley submitted mitigating evidence as well as an email brief on December 7, 2020. Assistant Solicitor Ryan White responded via email on December 8, 2020.

After reviewing the briefs of both parties and upon consideration of the mitigating evidence submitted by Mr. Swilley, Defendant's motion to reconsider is DENIED. This motion is decided without oral argument pursuant to Rule 29(a) of the South Carolina Rules of Criminal Procedure.

IT IS SO ORDERED.

November 22, 2021
Florence, South Carolina


The Hon. D. Craig Brown
Presiding Judge

FORM 5
FILED

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE 2022 APR 21 PM 2:19

ANTHONY HUDSON DORIS POWERS O'HARA

Full name and prison number (if any) of Applicant
FLORENCE COUNTY, SC

v.

State of South Carolina

2022-CP-21-821
IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Broad River Correctional Institution
2. Name and location of Court which imposed sentence court of general sessions
3. Name(s) of co-defendant(s) (if any) Charlie Roberson, Justin Pringle, Curtis Nelson, Carl McDowell Jr.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: 2018-GS-21-2120. A
 - (a) 2018-GS-21-2120. A
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 28 years
 - (b) August 30 2019

Revised 3/2003

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
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) Trial counsel had filed a motion to reconsider
- (b) Trial counsel's illadvised against Direct Appeal
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: 1

- (a) Hill v. Lockhart
 (b) There is evidence that which warrants a trial.
 (c) Ineffective assistance of counsel
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
 (a) U.S. Supreme Court case Law
 (b) Inconsistence statements that exculpatory evidence
 (c) Ineffective assistance of Counsel
12. Prior to this application have you filed with respect to this conviction:
 (a) any petition in a State Court under South Carolina Law? None
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? None
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? None
 (d) any other petitions, motions or applications in this or any other Court? None
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
 (a) the specific nature thereof:
 i. _____
 ii. _____
 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?
NONE
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) _____
- (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? Yes
 - (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. Matt Switley
 - ii. 129 S. Coit Street, Florence, S.C. 29501
 - 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:
Sentence Reduction, Lesser Charge, Parole.
20. Are you now under sentence from any other court that you have not challenged?
No

STATE OF SOUTH CAROLINA)

County of)

VERIFICATION

I, , 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.

Anthony Hudson Anthony Hudson

SWORN to and subscribed before me this 6th
day of November, 2019.

Beth Mangold (L.S.)
Notary Public

My Commission Expires: _____

BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2028

FILED

2017 APR 21 PM 2:19

DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

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

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

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

Anthony Hudson *Anthony Hudson*
Applicant

SWORN or affirmed to and subscribed before me this
6th day of November, 2019.

Betha Mangold
BETHA MANGOLD
Notary Public, State of South Carolina
My Commission Expires: 8/10/2028

FILED
2022 APR 21 PM 2:19
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
 COUNTY OF FLORENCE 2022 OCT -6 PM 2:03 FOR THE TWELFTH JUDICIAL CIRCUIT

Anthony Hudson,) DORIS POULOS, CLERK)
) CCCP & GS)
) FLORENCE COUNTY, SC)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

**RETURN AND MOTION FOR
 MORE DEFINITE STATEMENT
 (Counsel Appointed)**

Respondent, making its return and motion for more definite statement to the application for post-conviction relief (PCR) filed by Anthony Hudson on April 21, 2022, would respectfully show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections serving a twenty-eight-year sentence pursuant to orders of commitment of the Florence County Clerk of Court. In November 2018, the Florence County Grand Jury indicted Applicant for murder, armed robbery, first-degree burglary, and criminal conspiracy (2018-GS-21-2120). These charges arose from a home invasion that led to the fatal shooting of Johnny Cameron on December 24, 2017.

On August 30, 2019, Applicant pled guilty to the lesser-included offenses of voluntary manslaughter and attempted armed robbery before the Honorable D. Craig Brown. Matthew Swilley, Esquire, represented Applicant and Assistant Solicitor Ryan White represented the State. The plea was without any negotiation or recommendation. Judge Brown found Applicant knowingly and voluntarily pled guilty and sentenced him concurrently to twenty-eight years' imprisonment for voluntary manslaughter and twenty years' imprisonment for attempted armed robbery. Applicant filed a motion to reconsider the sentence, which was denied on November 22,

2021. Applicant did not appeal.

II. Allegations

Applicant timely commenced this PCR action on April 11, 2022. In his application, Applicant alleges he is being held in custody unlawfully on the following grounds:

- a. Hill v. Lockhart: U.S. Supreme Court Case Law
- b. There is evidence that which warrants a trial: Inconsistence statements that exculpatory evidence
- c. Ineffective assistance of counsel

As relief, Applicant requests "sentence reduction, lesser charge, parole."

Attached to this return and incorporated herein are the Florence County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, and the transcript of Applicant's guilty plea. The State reserves the right to amend this return upon receipt of any additional relevant material.

III. Motion for More Definite Statement

The State moves for a more definite statement on Applicant's allegations. The Uniform PCR Act requires applicants to "specifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50. In an application for PCR, the applicant must make a prima facie showing of entitlement to relief before an evidentiary hearing will be held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965). Where a PCR applicant fails to adequately set forth the grounds upon which he seeks relief, the court may at any time prior to entry of judgment "issue orders for amendment of the application or any pleading or motion." S.C. Code Ann. §17-27-70(a); see also Rule 12(e), SCRCP (permitting the Court to order a more definite statement if a pleading "is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading"). The Court may, in its discretion, fix the time for which a more definite statement shall be made. Rule 12(e), SCRCP. Appointed PCR counsel "shall insure that all

available grounds for relief are included in the application and shall amend the application if necessary.¹ Rule 71.1(d), SCRCP. Furthermore, Rule 8(a), SCRCP, requires all civil pleadings to include "a short and plain statement of the facts showing that the pleader is entitled to relief."

Here, Applicant has failed to state with any specificity the facts giving rise to his allegations. Therefore, the State moves pursuant to Rules 12(e) and 71.1(d), SCRCP, to require Applicant, through PCR counsel, to provide a more definite statement of his allegations. Specifically, the State moves to require Applicant to file an amended application in advance of any hearing scheduled in this matter. If Applicant fails to timely file a responsive amended application setting forth specific allegations for relief, the State reserves the right to move for summary dismissal of this application for failure to state a claim.

IV. Ineffective Assistance of Counsel

The State contends Applicant's allegations of ineffective assistance of 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 because 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 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 establish prejudice, the applicant must prove "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Applicant cannot satisfy either requirement of Strickland. However, the record likely does

¹ Applicant was appointed counsel to represent him in this action on May 19, 2022.

not refute or disprove Applicant's allegation of ineffective assistance of counsel; therefore, the State requests an evidentiary hearing to resolve the issues once Applicant has filed an amended application. 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").²

V. 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 applicant. 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 (2018), or, alternatively, the State will request a continuance. 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.").

Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon showing of good cause. S.C. Code Ann. § 17-27-150. 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

² The State reserves the right to move for summary dismissal should Applicant fail to file an amended application that adequately sets for the basis for his allegations.

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.

VI. Conclusion

WHEREFORE, the State respectfully requests Applicant, through PCR counsel, provide a more definite statement of his allegations. Once a more definite statement is provided, the State requests an evidentiary hearing. However, if Applicant fails to timely file a responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss the application for failure to state a claim.

Respectfully Submitted,

ALAN WILSON
Attorney General

MEGAN HARRINGAN JAMESON
Senior Assistant Deputy Attorney General

DANIELLE DIXON
Assistant Attorney General

By:


Danielle Dixon

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

October 3, 2022

FILED

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Anthony Hudson

vs

State of South Carolina,

Respondent,

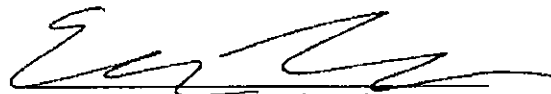
2022 OCT 6 PM 2:07
 IN THE COURT OF COMMON
 PLEAS
 DORIS FOULOS O'HARA
 CCCP & GS
 FLORENCE COUNTY, SC 2022-CP-21-821

AFFIDAVIT OF SERVICE BY
 MAIL

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

Steven W. Fowler
 730 Main Street Unit # 237
 North Myrtle Beach, SC 29582

DATED this the 3rd day of October, 2022.


 Erik Marcusson, Legal Assistant
 for Respondent

FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE 2022 OCT 20 PM 2:08) FOR THE TWELFTH JUDICIAL CIRCUIT

Anthony Hudson,)
DORIS POULS DUKAKIS)
CCCP # 03)
Applicant, FLORENCE COUNTY, SC)
CASE NO. 2022-CP-21-821)

v.)

State of South Carolina,)

Respondent.)

**ORDER GRANTING
RESPONDENT'S MOTION FOR
MORE DEFINITE STATEMENT**

This matter is before the Court on an application for post-conviction relief (PCR) filed by Anthony Hudson (Applicant) on April 21, 2022. This Court has before it the application and Respondent's return and motion for more definite statement. For the reasons set forth below, Respondent's motion is **GRANTED**.

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections serving a twenty-eight-year sentence pursuant to orders of commitment of the Florence County Clerk of Court. In November 2018, the Florence County Grand Jury indicted Applicant for murder, armed robbery, first-degree burglar, and criminal conspiracy (2018-GS-21-2120). These charges arose from a home invasion that led to the fatal shooting of Johnny Cameron on December 24, 2017.

On August 30, 2019, Applicant pled guilty to the lesser-included offenses of voluntary manslaughter and attempted armed robbery before the Honorable D. Craig Brown. Matthew Swilley, Esquire, represented Applicant and Assistant Solicitor Ryan White represented the State. The plea was without any negotiation or recommendation. Judge Brown found Applicant knowingly and voluntarily pled guilty and sentenced him concurrently to twenty-eight years' imprisonment for voluntary manslaughter and twenty years' imprisonment for attempted armed

robbery. Applicant filed a motion to reconsider the sentence, which was denied on November 22, 2021. Applicant did not appeal.

II. Allegations

Applicant timely commenced this PCR action on April 11, 2022. In his application, Applicant alleges he is being held in custody unlawfully on the following grounds:

- a. Hill v. Lockhart: U.S. Supreme Court Case Law
- b. There is evidence that which warrants a trial: Inconsistence statements that exculpatory evidence
- c. Ineffective assistance of counsel

As relief, Applicant requests "sentence reduction, lesser charge, parole." Before this Court are the Florence County Clerk of Court records, Applicant's records from the South Carolina Department of Corrections, and the transcript of Applicant's guilty plea.

III. Respondent's Motion for More Definite Statement

The State has moved for a more definite statement on Applicant's allegations. The Uniform PCR Act requires applicants to "specifically set forth the grounds upon which the application is based." S.C. Code Ann. § 17-27-50. Rule 8(a), SCRCP, requires all civil pleading to include "a short and plain statement of the facts showing that the pleader is entitled to relief."

In an application for PCR, the applicant must make a prima facie showing of entitlement to relief before an evidentiary hearing will be held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965). Where a PCR applicant fails to adequately set forth the grounds upon which he seeks relief, the court may at any time prior to entry of judgment "issue orders for amendment of the application or any pleading or motion[.]" S.C. Code Ann. §17-27-70(a); see also Rule 12(e), SCRCP (permitting the Court to order a more definite statement if a pleading "is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading."). The Court may, in its discretion, fix the time for which a more definite statement shall be made. Rule 12(e),

SCRCP.

Based on its review, this Court finds Applicant has failed to state with any specificity the facts giving rise to his allegations. The claims are vague and provide no specific facts to support them, and thus they fall short of meeting the specificity requirements of the Uniform PCR Act. Therefore, a more definite statement is necessary, and Applicant, through appointed counsel, shall amend the application to set forth specific facts upon which the allegations are based.¹ See Rule 71.1(d), SCRCP ("Counsel shall insure that all available grounds for relief are included in the application and shall amend the application if necessary."); Coardes v. State, 262 S.C. 493, 206 S.E.2d 264, 265 (1974) ("[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the [PCR] Act. The bare assertion by the appellant that he was deprived of adequate and effective assistance of counsel is insufficient.").

VI. Conclusion

Based on the foregoing, this Court finds and concludes that Applicant has not provided adequately specific allegations to support his request for PCR. Therefore, Respondent's motion for a more definite statement is **GRANTED**. Applicant, through counsel, shall file an amended PCR application within sixty days of service of this order. Applicant is cautioned that failure to comply with this order may result in such orders as this Court deems just, including the evidentiary hearing being continued, the tardy amendments being stricken, or dismissal of this action for PCR.

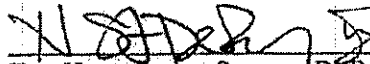
IT IS THEREFORE ORDERED:

1. Applicant shall have sixty days from the date of services of this order to file an amended application for post-conviction relief that specifically states the allegations upon which his claims rest; and
2. Once the application is amended, an evidentiary hearing

¹ Applicant was appointed counsel to represent him in this action on May 19, 2022.

shall be set.

AND IT IS SO ORDERED this 17th day of October, 2022.



THE HONORABLE STEVEN DEBERRY IV
Chief Administrative Judge – General Sessions²
Twelfth Judicial Circuit

Florence, South Carolina

FILED

2022 OCT 20 PM 2:08

RONIS P. DEBERRY IV
CLERK OF COURT
FLORENCE COUNTY, SC

² The Chief Administrative Judge for Common Pleas in the Twelfth Judicial Circuit presided over Applicant's guilty plea hearing.

CERTIFIED: A TRUE COPY
Doris Poulos O'Hara
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

Doris Poulos O'Hara
 Clerk of Court County Complex
 181 N. Irby Street, Suite 1100
 Florence, S.C. 29501

FILED
 2023 MAR 28 AM 10:55
 DORIS POULOS O'HARA
 CCJP & GS
 FLORENCE COUNTY, SC

Anthony M. Hudson #381313
 Turberville C.I. TA-126
 1578 Clarence Coker Hwy
 Turberville, S.C. 29162

March, 2023

RE: Filing of Enclosed Pleading (Petition For
 Writ of State Habeas Corpus)

Dear O'Hara

Enclosed for filing are two (2) copies of the above-referenced pleading. As I have included a SASE, please return the additional copy clock-stamped and docketed for my records.

I hereby certify that a true and correct copy of the referenced Petition has been served, Postage prepaid on the state addressed as follows: TO Mr. Alan Wilson, Attorney General for South Carolina, DeLoach Bldg. P.O. Box 11549, Columbia, S.C. 29211.

On this 22 Day of March 2023.

Doris Paulos O'Hara
 Clerk of Court County Complex
 181 N. Irby Street Suite 1100
 Florence, S.C. 29501

CERTIFIED: A TRUE COPY
Doris Paulos O'Hara
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

FILED

2023 MAR 28 AM 10:55

DORIS PAULOS O'HARA
 C.C.P. & G.S.
 FLORENCE COUNTY, S.C.

Your Honor,

I appeared in the Court of General Sessions, Florence County, on August 30, 2019.

I pled guilty to manslaughter/Attempt Armed Robbery and received a sentence of 28 years.

I would like to receive copies of my sentencing sheets, and indictments, as I am attempting to file an application for Post-Conviction Relief.

Thank you for your assistance in this matter.

Anthony Hudson
 Anthony M. Hudson

State of South Carolina } In The Court of Common Pleas

Case No: 2023-CP-21-700

Anthony/ Hudson #381313
Petitioner

V.

Summon

Kenneth Sharp, Warden TCI.
And Alan Wilson, Attorney
General for the State of
South Carolina,
Respondents

FILED
2023 MAR 28 AM 10:55
DORIS POULOS O'HARA
CCJP & GS
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY
Doris Poulos O'Hara
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

To: Kenneth Sharp, Warden, TCI; and Alan Wilson
Attorney General for the State of South Carolina.

You are hereby summoned and required to
answer the Petition for Writ of Habeas Corpus
herein, a copy of which is here with seized upon
you, and to serve a copy of your answer to this Petition
upon the subscriber, ~~at the~~ address shown below, within
thirty (30) days after service here of, exclusive of the
day of such service, and if you fail to answer the Petition
judgment by default will be rendered against you for the
relief demanded in the Petition.

Columbia, South Carolina

March 22 2023

Anthony Hudson

Anthony M. Hudson

Turbeville, C.I. TA-126

1578 Clarence Coker Hwy

Turbeville, S.C. 29162

CERTIFIED: A TRUE COPY
 Clerk of Court C.P. & G.S.
 FLORENCE COUNTY, S.C.

State of South Carolina In the Court of Common Pleas
 Case No: 2023-CP-21-700

Anthony Hudson #381313
 Petitioner

v.

Kenneth Sharp, Warden TCI;
 And Akul Wilson, Attorney
 General for the State of
 South Carolina

Respondents

Petition For Writ of
 Habeas Corpus

2023 MAR 28 AM 10:56
 DORIS POULOS O'HARA
 OCCP & GS
 FLORENCE COUNTY, SC

FILED

Now comes the above-named Petitioner in the above-styled action Pursuant to 17-17-10 et-seq, and would pray that this Court set a date for a hearing on this matter, and would show his Reasons therefor as follows:

1) Petitioner contends that his trial counsel was Constitutionally Ineffective for Failing to file the Notice of Appeal.

2) Petitioner also contends that he received Ineffective Assistance of Counsel.

3) Involuntary Guilty Plea.

Art. I & 18 of the South Carolina Constitution which states that the Writ of Habeas Corpus may not be suspended except when, in case of insurrection, rebellion or invasion, the Public Safety may require it.

Under Art. 5 & 5 of the South Carolina Constitution, this Court retains the ability to entertain Writ of Habeas Corpus in our original jurisdiction and grant relief in those unusual instances where "there has been a violation which, in the setting, constitutes a denial of fundamental fairness shocking to the Universal sense of justice." Butler v. State, 302 S.C. 466, 394 S.E.2d 87 (1990); Simmons v. State, 322 S.C. 49, 471 S.E.2d 455 (1993) see also Hunter v. State, 316 S.C. 105 447 S.E.2d 203 (1994); Pennington v. State, 312 S.C. 436 441 S.E.2d 315 (1994); Smith v. State, 329 S.C. 280 494 S.E.2d 626 (1997) Dove v. State, 304 S.C. 433 465 S.E.2d 391 (1991); Fecisier v. State, 351 S.C. 385 570 S.E.2d 172 (2002); State v. Torrence, 305 S.C. 45 406 S.E.2d 315 (1991)

I

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of Commitment of the Florence County Clerk of Court. Applicant was indicted at the Florence County Court, terms of the Florence County, Grand Jury for Murder and Robbery Attempted Armed, or Allegedly Armed Robbery (2018-GS-21-02120) on August 30, 2019, Applicant pled guilty, and the Honorable Judge Brown sentenced applicant to twenty-eight (28) years of imprisonment. Applicant did not appeal his conviction or sentence.

Currently applicant is waiting to receive the records of the Florence County Clerk of Court regarding the subject convictions and the applicant's records from the South Carolina Department of Corrections; and the guilty plea transcript.

Pursuant to Rule 15, (b) SCRPC Amended and Supplemental Pleadings applicant reserves the right to Amend the application at anytime before the hearing.

II

In his application, the applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Trial Counsel was Constitutionally Ineffective for Failure to file the Notice of Appeal.

2. Ineffective Assistance of Counsel

3. Involuntary Guilty Plea;

III

III

In his first allegation, trial counsel was Constitutionally Ineffective for failure to file the notice of appeal. Roe v. Flores-Ortega, 528 U.S. 470 120 S.Ct. 1029 (2000) moreover, Applicant ask trial counsel to file an appeal in the matter even after the appeal in waiver in a plea agreement does not relieve defense counsel of it's obligation to file a no-merit brief Pursuant to Anders v. California, 386 U.S. 738 (1967). "When Counsel fails to file a requested appeal, a defendant is entitled to a new appeal without showing that his appeal would likely have had merit. Strickland v. Washington, 466 U.S. 668 104 S.Ct. 2052, 80 L.ed.2d 674, provides the proper framework for evaluating a claim that counsel was Constitutionally Ineffective for failing to file a notice of appeal.

Under Strickland, A defendant must show (1) that Counsel's representations fell below an objective standard of reasonableness at 688, 104 S.Ct. 2052, and (2) that Counsel's deficient performance he would have timely appealed. But see also Frazier v. State, 430 F3d. 696 (4th Cir. 2005) Counsel's obligation to assist the defendant includes a duty to consult with the defendant on important decisions. A defendant has a right to pursue a direct appeal, even if frivolous or is the result of a guilty plea, which Counsel must assist as an active advocate in behalf of his client.

Counsel's failure to consult with him in this regard constitutes a Sixth Amendment right to effective Assistance of Counsel applicant therefore contends that he is entitled to a hearing on this matter in order to more fully establish his claim that his conviction is based on a gross miscarriage of justice.

Applicant's submits that the extensive guilty plea record will speak for itself as to the competency of Counsel failed to demonstrate a normal degree of skill, knowledge, professional judgment, and representation that is expected of an Attorney who practices criminal law in South Carolina. In addition, the applicant submits that he has met the prejudice requirement. Strickland At 694, 104 S.Ct. 2052.

Nevertheless, the allegation probably raises a question of fact which may not be conclusively refuted by the record and therefore requires that an evidentiary hearing on the merits of this matter.

IV

In his second allegation, the applicant asserts that he was denied Effective Assistance of trial Counsel.

For an applicant to be granted (PCR) Post-Conviction relief as a result of Ineffective Assistance of Counsel he must show both:

(1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.ed.2d 674 (1984), Judge v. State, 321 S.C. 554, 471 S.E. 2d 1416 (1996).

When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart 474 U.S. 52, 106 S.Ct. 366, 99 L.ed.2d 203 (1985); Alexander v. State, 303 S.C. 539, 402 S.E. 2d 484 (1991)

The applicant submits that the extensive guilty plea record will speak for itself as to the competency of counsel and will show counsel failed to demonstrate a normal degree of skill, knowledge, professional judgment and representation that is expected of an attorney who practices criminal law in South Carolina. Strickland, supra; Butler v. State, 286 S.C. 441, 334 S.E. 2d 313 (1985); State v. Pendergrass, 370 S.C. 1, 239 S.E. 2d 750 (1977).

In addition, the applicant submits that he can meet the prejudice requirement. Hill, supra; Alexander, supra more over, see Whetsell v. State 276 S.C. 295, 277 S.E. 2d 891 (1981); Lo Piccolo v. State, 270 S.C. 563, 243 S.E. 2d 468 (1978).

Nevertheless, the allegation probably raises a question of fact which may not be conclusively refuted by the record and therefore requires that an evidentiary hearing be convened. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

In his third allegation, the applicant alleges that he did not plead guilty freely and voluntarily. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709, 23 L.ed.2d 274 (1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 388 S.E.2d 360 (1984).

The applicant submits the transcript reflects that the plea was not knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, *supra*; Dover, *supra*, further because a guilty plea is a solemn, judicial admission of the truth of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed.

Blockledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.ed. 2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements, Crowford v. State U.S., 519 F.2d 317 (4th Cir. 1975); Edmonds v. Lewis 546 F.2d 566 (4th Cir. 1976). The applicant submits that he should be allowed to depart from the statements made during his guilty plea hearing.

Nevertheless, the allegations of the applicant not having pled guilty knowingly, voluntarily and intelligently probably raises questions of fact which may not be conclusively refuted by the record presently before this Court. Therefore, the applicant requests that an evidentiary hearing be held in order to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E. 2d 247 (1983).

VII CONCLUSION

The applicant therefore requests that this Court conduct an evidentiary hearing solely on the issue of trial counsel was constitutionally ineffective for failure to file the notice of appeal.

- (2) Ineffective Assistance of Counsel,
 (3) Involuntary Plea.

As to all other allegations, the Respondent (the State) will make for summary dismissal pursuant to South Carolina Code Ann. 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that these allegations should be dismissed as a matter of law. Further, applicant must specify any claims he intends to raise at the (PCR) Post-Conviction hearing.

Any claims not specifically laid out in this PCR application or in Amendments will be opposed by the state at the evidentiary hearing. S.C. Code 17-27-10 et seq; SCRPC 71.1 All claims should be made well in advance of the PCR hearing. If applicant has an attorney appointed, the Attorney, and not the inmate, is the only one authorized to the Amendments. SCRPC Rule 11. Filings by inmates will not be considered at the PCR hearing. Further, a claim of "Ineffective Assistance of Counsel" is sufficient to meet the requirements of the PCR statute. Applicant must have informed Respondent of specific claims prior to the date of the PCR hearing or the state will move to dismiss any vague or general claims.

Each and every allegation contained within the application not herein before either expressly admitted, qualified or explained should be granted.

Wherefore, the applicant prays and requests
that a hearing be held.

Respectfully submitted
Anthony Hudson
Anthony M. Hudson Applicant
Turbeville CI. TA-126
1578 Clarence Coker Hwy
Turbeville, S.C. 29162

Date

March 22 2023

FILED
2023 MAR 28 AM 10:56
DORIS POULOS O'HARA
CCCP & GS
FLORENCE COUNTY, SC

CERTIFIED: A TRUE COPY
Doris Poulos O'Hara
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

CERTIFIED: A TRUE COPY
Paula Offord
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

Matt Swilley
 129 S. Coit Street
 Florence, S.C. 29501

FILED
 2023 MAR 28 AM 10:55
 DORIS POULOS O'HARA
 C.C.P. & G.S.
 FLORENCE COUNTY, SC

Dear Mr. Swilley

Pursuant to Rule 26 and 37 motion for discovery.

I, Anthony M. Hudson am requesting only and all discovery records, copies documents, and data you have in your possession for my review. Whether it is favorable or unfavorable to me of my criminal case.

Matter of Haddock, 321 S.E.2d 601, attorney and client law key 106. Client file belongs to client and should be returned at client's request. Sup. Ct. Rules 32 Code of Dr 6-101 (A)(3). Matter of Crowland, 243 S.E.2d 198 attorney and client law key 44 (2) acceptance of legal matter for a client and refusal to proceed with the matter or to return the document and papers upon request.

Failure to respond to letters of the board of commissioners on grievances and discipline. And receipt of a draft from an insurer without making disbursement as directed by the client warrants disbarment code of Dr. 1-102 (A) (3-6).

Sl Anthony Hudson
Anthony M. Hudson
Turbeville C.I. TA-126
1578 Clarence Coker Hwy
Turbeville S.C. 29162

Sworn to and subscribed before me this 22
day of March 2023

Bridget J. Jolin - Jolin
Notary Public

my Commission expires: March 15, 2031

CERTIFIED: A TRUE COPY
Don Pauls Offord
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

Clerk of Court Solicitors Office
 181 N Irby street, Suite
 Florence, S.C. 29501

FILED
 2023 MAR 28 AM 10:56
 DORIS POULOS JOHNSON
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

March 22, 2023

Dear Mr. Solicitor,

Pursuant to Rule 26 and 37 motion for discovery.

I, Anthony M. Hudson am requesting any and all discovery records, copies, documents and data you have in your possession for my review. Whether it is favorable or unfavorable to my Criminal case. Matter of Haddock, 321 S.E.2d 601, attorney and client law key 106. Client file belongs to client and should be returned at clients request, Sup. Ct. rules 32 Code of Dr. 6-101(A)(3).

Matter of Craswell, 243 S.E.2d 198 attorney and client law key 44(2) acceptance of legal matter for a client and refusal to proceed with the matter or to return the document and papers upon request failure to respond to letters of the board of commissioners on grievances and discipline and receipt of a draft from an insurer without making disbarment as directed by the client warrants disbarment Code of Dr. 1-102(A)(3-6).

S/Anthony Hudson
Anthony M. Hudson
Turbeville C.I. TA-126
1578 Clarence Coker Hwy
Turbeville S.C. 29162

Sworn TO and Subscribed before me

This 22 Day of March 2023

Bridget J. Turner-Durst

Notary Public

my Commission expires: March 15, 2031

CERTIFIED: A TRUE COPY
Don Pauls Ottana
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

State of South Carolina

In The Court of Common Pleas

Anthony M. Hudson #381313
 Petitioner,

Case No. 2023-CP-21-100

V.

Certificate of
 Service

Kenneth Sharp, Warden, TCI;
 And Alan Wilson, Attorney
 General for the State
 of South Carolina

Respondents

2023 MAR 28 AM 10:55
 DORIS POULDS O'HARA
 C.C.P. & G.S.
 FLORENCE COUNTY, SC

FILED

I hereby certify that a true and correct copy of the foregoing pleadings has been deposited with the proper SCDC official for mailing with the U.S. Postal Service, postage prepaid addressed as follows: Alan Wilson, Attorney General for South Carolina, Dennis Bldg. P.O. Box 11549, Columbia, S.C. 29211

Sworn to before me this

22 Day of March 2023

Bridget J. J. J.

Notary Public for S.C.

my Commission expires March 15, 2031

Anthony M. Hudson
 Anthony M. Hudson
 Applicant.

CERTIFIED: A TRUE COPY
Doris Poulos O'Hara
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

State of South Carolina } In The Court of Common Pleas
}

Case No: 2023-CP-21-700

Anthony M. Hudson #381313
Petitioner,
v.
Kenneth Sharp, Warden, TCI;
And Alan Wilson, Attorney General
For the State of South Carolina
Respondents

Motion And Affidavit
To Proceed IN
Forma Pauperis

FILED
2023 MAR 28 AM 10:55
DORIS POULOS O'HARA
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, SC

I, Anthony Hudson #381313, being duly sworn, state that I am the Petitioner and that I do not have the Funds Available to pay the costs of filing and service in the present matter. I hereby Request that the Complaint/Petition be Filed and Service made without costs.

Sworn to and subscribe before me
this day 22 of March 2023
Bridget A. J. J. J.
Notary Public for South Carolina
my Commission expires: March 15, 2023

Anthony Hudson
Anthony Hudson

Order
Leave (granted) (denied) to proceed in Forma Pauperis
3-28-23 2023
[Signature] S.C.

[Signature]
Chief Administrative Judge/Clerk

Notice To Petitioner: The Court may assess costs against either Party if hearing

Thank you kindly for your attention to this very important matter.

Respectfully submitted,

Anthony Hudson

CC: Alan Wilson Attorney General
File.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE) FOR THE TWELFTH JUDICIAL CIRCUIT

Anthony Hudson,

Applicant,

v.

State of South Carolina,

Respondent.

CASE NO. 2022-CP-21-821
2023-CP-21-700

ORDER OF MERGER

Applicant in the above-captioned matters has filed with the Court *two* actions for post-conviction relief from his convictions; the first was filed on April 21, 2022 (2022-CP-21-821), and the second action captioned "Petition for Writ of Habeas Corpus" filed on March 28, 2023 (2023-CP-21-700). An applicant is not generally allowed to have multiple post-conviction relief proceedings in regard to the same conviction. See Aice v. State, 305 S.C. 448, 452, 409 S.E.2d 392, 395 (1991) (PCR rules "contemplate adjudication on the merits of the original petition, one bite as the apple as it were."); Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981) (successive applications for post-conviction relief strongly disfavored); S.C. Code Ann. § 17-27-90 ("All grounds for relief available to an applicant under this chapter must be raised in his original, supplemental or amended application."). Accordingly, this Court hereby orders that the two proceedings be merged and that the application for post-conviction relief filed March 28, 2023, be considered *amendments* to the application for post-conviction relief filed April 21, 2022.

IT IS THEREFORE ORDERED that the Florence County Clerk of Court merge the two cases, with docket number **2022-CP-21-821** being the surviving case. Accordingly, the application filed April 21, 2023, (2023-CP-21-700) shall be dismissed, and the filings associated

therewith shall be merged into **2022-CP-21-821** as amendments to the original application. All future pleadings shall bear the surviving docket number **2022-CP-21-821**.

AND IT IS SO ORDERED this 17 day of April, 2023.


 MICHAEL G. NETTLES
 Chief Administrative Judge
 Twelfth Judicial Circuit

Florence, South Carolina

1 State of South Carolina) **TRANSCRIPT OF RECORD**
2 COUNTY OF FLORENCE) CASE NO. : 2022-CP-21-821

3 -----

4 June 13, 2023

5 **BEFORE:** The Honorable Debra McCaslin

6 -----

7

8 Anthony Hudson,)

9 Applicant,)

10 vs.)

11 State of South Carolina,)

12 -----

13 **APPEARANCES:**

14 Russell Barlow, II Esquire
Attorney for the State of South Carolina

15

16 Steven W. Fowler, Esquire
Attorney for the Defendant.

17

18

19 Julie A. Kevish
Official Court Reporter

20

21

22

23

24

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2	<u>APPLICANT WITNESS</u>	PAGE
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8	<u>STATE'S WITNESS</u>	
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2

June 13, 2023

3

P-R-O-C-E-E-D-I-N-G-S

4

THE COURT: Call the case.

5

MR. BARLOW: May it please the Court? Russ Barlow on behalf of the State of South Carolina. This is the post-conviction relief matter of Anthony M. Hudson versus the State. Case Number 2022-CP-21-821 out of Florence County. In November of 2018 the Florence County Grand Jury indicted Applicant for murder, armed robbery, first degree burglary and criminal conspiracy, 2018-GS-21-2120. These charges arose from a home invasion that lead to the fatal shooting of Johnny Cameron on December 24, 2017. On August 30, 2019, Applicant pled guilty to the lesser included offenses of voluntary manslaughter and attempted armed robbery before the Honorable D. Craig Brown. Matthew Swilley, Esquire represented Applicant and Assistant Solicitor Ryan White represented the State. The plea was without any negotiation or recommendation. Judge Brown found Applicant knowingly and voluntarily pled guilty and sentenced him concurrently to 28 years imprisonment for voluntary manslaughter and 20 years imprisonment for attempted armed robbery. Applicant filed a motion to reconsider the sentence which was denied on November 22, 2021, Applicant did not appeal. Applicant timely commenced this PCR action on April 11, 2022 where he alleged various grounds for being in

25

1 custody unlawfully. Applicant requested relief in the form of
2 a sentence reduction, a lesser charge for parole. On March 28,
3 2023 Applicant filed a Petition for Writ of Habeas Corpus,
4 which was then merged under caption 2023-CP-21-700 which was
5 subsequently merged with 2022-CP-21-821 with 2022-CP-21-821(b),
6 the remaining docket number, the surviving docket number, and
7 that was filed April 17, 2023 with Judge Michael Nettles.
8 Before this Court is the Florence County Clerk of Court
9 records, Applicant's records from the South Carolina Department
10 of Corrections, Applicant's plea transcript, Applicant's
11 transcript from August 8, 2019 to relieve counsel, Applicant's
12 Petition for Writ of Habeas Corpus filed March 28, 2023, and
13 Applicant's records for this PCR action. At this time we'll
14 turn it over to Mr. Fowler.

15 THE COURT: Before I do that, Mr. Hudson, this is
16 your post-conviction relief hearing. I can't reduce your
17 sentence. I can't put you on parole. If you are successful in
18 this hearing all I can do is send you back to General Sessions
19 Court. If there were any charges dismissed they would be
20 reinstated and you would go back to trial. Do you understand
21 that?

22 THE APPLICANT: Yes, ma'am.

23 THE COURT: Your lawyer explained it to you?

24 THE APPLICANT: Yes, ma'am.

25 THE COURT: Knowing that do you still wish to go

1 forward?

2 THE APPLICANT: Yes, ma'am.

3 THE COURT: Alright, Mr. Fowler, I'll be glad to hear
4 from you.

5 MR. FOWLER: Your Honor, I'd like to call Mr. Hudson
6 as a witness, please.

7 THE COURT: And I'm going to tell you, Mr. Fowler,
8 before you call him in front of me, I do have the transcript
9 about relieving counsel, I have his post-conviction relief
10 application dated April 21, 2022, I also have his Writ for
11 Habeas, that also incorporates ineffective assistance of
12 counsel. It's a handwritten document, 2023-21-700, which was
13 combined by order of Judge Nettles on April 17th of 2023. I
14 also have the full packet from the PCR, the transcript of his
15 plea hearing.

16 MR. FOWLER: And Your Honor, just for clarification,
17 we ask the Court to accept the judicial notice of those
18 documents.

19 THE COURT: Sure. I do. Okay. You can call your
20 witness.

21 MR. FOWLER: Mr. Hudson, please?

22 THE COURT: Mr. Hudson, you can come forward and be
23 sworn.

24

25

1 ANTHONY HUDSON WAS DULY SWORN AT THIS TIME AND
2 TESTIFIED AS FOLLOWS:

3 MR. FOWLER: Your Honor, I may approach the witness
4 periodically. Is that acceptable?

5 THE COURT: Absolutely.

6 DIRECT EXAMINATION

7 BY MR. FOWLER:

8 Q. Mr. Hudson, will you please state and spell your full
9 name for the Court, please?

10 A. Anthony Markell Hudson, A-n-t-h-o-n-y, M-a-r-k-e-l-l,
11 H-u-d-s-o-n.

12 Q. You filed an application for post-conviction relief,
13 correct?

14 A. Yes, sir.

15 Q. And it's the one that is filed April 21, 2022; is that
16 correct?

17 A. Yes, sir.

18 Q. And you verified that with your signature at the back;
19 is that correct?

20 A. Yes, sir.

21 Q. So that is your application, right?

22 A. Yes, sir.

23 Q. In questions number ten and 11, you mentioned various
24 things. In both you mentioned ineffective assistance of
25 counsel, correct?

1 A. Yes, sir.

2 Q. And that's the primary issue that we're going forward
3 with today, correct?

4 A. Yes, sir.

5 Q. And A lot can, perhaps, be fit into that, correct?

6 A. Yes, sir.

7 Q. And the Court has taken judicial notice of the
8 transcript from August 8, 2019, correct?

9 A. Yes, sir.

10 Q. And also, your summons and Petition for Writ of Habeas
11 Corpus filed on March 28, 2023, correct?

12 A. Yes, sir.

13 Q. And you'd like for the Court to consider those, correct?

14 A. Yes, sir.

15 Q. Now, this is kind of unique for me, anyway, but there is
16 the transcript on August 8, 2019. That basically spells out a
17 lot of your issues with Mr. Swilley; is that correct?

18 A. Yes, sir.

19 Q. And you contend that he was ineffective as counsel,
20 right?

21 A. Yes, sir.

22 Q. And that ineffectiveness rises to the Strickland versus
23 Washington standard, correct?

24 A. Yes, sir.

25 Q. On page seven and eight of the transcript, if I may join

1 you up here briefly, page seven and eight, that is where the
2 Court, Judge Russo basically spoke to you and allowed you to
3 speak; is that correct?

4 A. Yes, sir.

5 Q. And seven and eight are the primary pages; is that
6 correct?

7 A. Yes, sir.

8 Q. And it basically says that Mr. Swilley -- well, in your
9 words what does this mean? What did you try to get across to
10 on Judge Russo in this transcript?

11 A. Since my time at the county, there has been, as you say,
12 jailhouse cykes floating around between two of my
13 co-defendants.

14 Q. Let me hold you right there, and this is on page seven,
15 line six, what in your description here is a jailhouse "Cyke?"

16 A. Basically, a little note from one cellmate to another.

17 Q. So, and I didn't mean to interrupt you, but I just
18 wanted to be clear on that. So you're saying that there was a
19 passing of notes between inmates?

20 A. Between two of my co-defendants.

21 Q. Well, let me go ahead and ask you again. Page seven and
22 eight, what were you trying to get across to Judge Russo?

23 A. I was basically trying to get to him that a C.O.
24 confiscated some of these jailhouse cykes, turned him in, they
25 were placed in my motion of discovery. I asked Mr. Swilley

1 about that, like, because the cykes were implementing me as
2 being the prime suspect of the case, which from the start I
3 told investigators I had nothing to do with anything. They say
4 my card had been used. I gave my keys to someone else that
5 night. I had nothing to do with it.

6 Q. Well, let me ask you this question. How does jailhouse
7 cykes, and that's what letters, or however you refer to it, how
8 does that relate to his alleged ineffective assistance of
9 counsel in your case?

10 A. When I pointed out that the letters were saying that I
11 did, you know, such and such part of the crime I pointed out to
12 Mr. Swilley and, you know, is there anything that we can do
13 about this, because this right here is basically telling them,
14 okay, they are plotting against me to basically take me down.

15 Q. Did he do anything about that?

16 A. No, sir.

17 Q. Did you talk to him about it?

18 A. Yes, sir.

19 Q. What did he say?

20 A. I can't recall at this moment, but no action was taken
21 as far as investigating about these cykes.

22 Q. And you feel like that was -- his lack of doing anything
23 about it was detrimental to you; is that correct?

24 A. Yes, sir.

25 Q. And you feel like that's ineffective assistance of

1 counsel?

2 A. Yes, sir.

3 Q. Why do you feel that's ineffective assistance of
4 counsel?

5 A. Improper investigation.

6 Q. So you're saying that he didn't investigate those notes,
7 right?

8 A. Yes, sir.

9 Q. Do you feel like if he did it would help out in your
10 case?

11 A. Yes, sir.

12 Q. Why?

13 A. Because it would have let the judge at that time, or if
14 I would have taken it to trial it would have let the jury know
15 that two of my co-defendants were conspiring against me to
16 place blame on me.

17 Q. Is there anything else about the jailhouse cykes or
18 letters that you wish to bring to the Court's attention?

19 A. No, sir. It just, like I said, it was two of my
20 co-defendants just saying that me and another co-defendant was
21 the mastermind behind everything and we took part in doing
22 whatever the crime was.

23 Q. And you feel like Mr. Swilley should have done more --

24 A. Yes, sir.

25 Q. -- to help you out on that, right?

1 A. Yes, sir.

2 Q. You're a military vet, correct?

3 A. Yes, sir.

4 Q. And I certainly thank you for your service. In page
5 seven, lines 14 through 19, it talks about you being a military
6 vet and it says on page 16 and 17: I ask him to see as far as
7 what he could do possibly to make my V.A. appointments. Now,
8 what does his V.A. appointments have to do with his
9 representation of you?

10 A. At the time I was in the process of getting all my V.A.
11 benefits started up and going. I had a couple appointments
12 while I was in the county and I asked him to look into that as
13 far as what process do I have to go by as far as rescheduling
14 my appointments or getting them because I've been diagnosed
15 with PTSD, I did five and a half years in the military. As far
16 as I know I got sentenced to mental health counseling so I
17 could tell the judge knew I had some type of, you know, mental
18 issues, but Mr. Swilley never checked into that, looked into
19 it, as far as my knowledge I never heard anything about it.

20 Q. So you feel like -- now, were you diagnosed with PTSD --
21 by who?

22 A. The military.

23 Q. So the military said, in your words, you had PTSD?

24 A. Yes, sir.

25 Q. What is that? Post Traumatic Stress Disorder?

1 A. Yes, sir.

2 Q. And you feel like Mr. Swilley should have helped you out
3 with working with the V.A. on some things?

4 A. Basically, it was, I guess, what I'm trying to say is
5 for my mental health status as far as what the military had to
6 say as far as my rehabilitation and mental health status.

7 Q. So you feel like Mr. Swilley should having looked into
8 your mental health status through the Veteran's Administration;
9 is that correct?

10 A. Yes, sir.

11 Q. He did not do that, did he?

12 A. No, sir.

13 Q. Do feel like he should have?

14 A. Yes, sir.

15 Q. Starting on line 20 -- well, first of all, is there
16 anything about your PTSD or Mr. Swilley's interaction, or lack
17 thereof, with the Veteran's Administration that you'd like to
18 bring to the Court's attention?

19 A. From my knowledge of my medical records from the
20 military, certain interaction as far as with -- socially, it
21 describes how I interact socially with other people. It
22 describes how I react to loud noises and stuff like that, so
23 what I'm saying is, putting it towards this case, me being
24 around a gun or anything like that would have caused some type
25 of reaction as far as would I be able to actually pull a gun or

1 take part into some type of crime. Me socializing, I don't
2 really socialize, you know like that, so as far as me with this
3 group of individuals, I'm not going to sit there and talk to
4 them or plan anything with them, I'll be off in my own little
5 world, you know, doing my own little thing.

6 Q. So you're saying that you could have an adverse reaction
7 to just being around a gun, possibly, correct?

8 A. Not just being around the noise, like, really the noise
9 that, like -- okay, they say there was gun fire. Me, I would
10 have reacted. I would have probably took cover or did
11 something, you know, to as far as mess up whatever they had
12 going on at that time.

13 Q. And Mr. Swilley did nothing to look into that?

14 A. No, sir."

15 Q. Did he have you take a mental health evaluation?

16 A. No, sir.

17 Q. Do you feel like you should have?

18 A. At the time, yes, sir, because the way I look at it, if
19 Judge Brown sentenced me to mental health counseling then that
20 means some type of mental health issue was brought up and that
21 he felt like I should get it looked at while I'm incarcerated.

22 Q. And that could have helped you in your defense, correct?

23 A. Yes, sir.

24 Q. Do you feel like his lack of interaction with your
25 mental health records or evaluation served as ineffective

1 assistance of counsel?

2 A. Yes, sir.

3 Q. Anything else on that?

4 A. No, sir.

5 Q. If you'll look at lines 20 through 24, at least, at this
6 to point it says, talking about the discovery: I looked at it,
7 I feel like various issues should be looked into because it
8 doesn't add up. Tell me what you were talking about that you
9 felt didn't add up with the discovery.

10 A. One, it states, I believe, in there, if I'm not
11 mistaken, because I don't have it on record right now up here
12 with me, one of the co-defendants said he never got out the car
13 but he also turned around and made a statement saying this is
14 what happened and if you never got out of the car how do you
15 know what happened, how many gunshots or who you saw went in
16 first, how did you see anything in the dark when you're sitting
17 in the car? Ballistic reports, at that time I never saw any of
18 those. Trajectory of gun fire, everything was in a straight
19 line. If they said I was the first man and they said the
20 shooter was behind me, how did the shooter shoot this man if
21 I'm in front of him and we're at the door? No one ever
22 breached the door, the doorway, so just things in the motion,
23 in my motion to the discovery I pointed out to Mr. Swilley that
24 didn't add up as far as my knowledge of how everything went.

25 Q. And that was the placement of the persons for one. Did

1 you have any kind of gun residue testing on your hands?

2 A. No, sir.

3 Q. Anything else about the discovery that you feel is
4 pertinent here?

5 A. As far as my motion goes, my motion discovery goes, no
6 evidence was found against me placing me at the scene of the
7 crime or with any gunshot residue, any DNA from the victim or
8 anything.

9 Q. Did he go over that with you thoroughly?

10 A. He went over it but not thoroughly.

11 Q. What do you mean by that?

12 A. He touched bases on some things that were in the motion.
13 One was the fact that in the interrogation room I did speak to
14 the investigator for the simple fact, me, I was trying to be
15 helpful, you know, because, I was the first one the
16 investigator actually pulled up on. He pulled up that morning
17 at my house, asked me questions about my car, I let them tow my
18 car, you know, so they could do fingerprints, whatever, and he
19 showed me three pictures of three people he was looking for. I
20 remember one time he said I was in question, this, that and the
21 third, he gave me his ID card and told me if I find out
22 anything just give him a call. I was trying to, you know, to
23 be a perfect citizen to try to help out, and one of the things
24 he said was probably a downfall was me actually talking to the
25 investigator. I've never been in trouble day in my life. I

1 was 28 years old when this happened, I got in trouble. I don't
2 know nothing about the law, none of that, so if it was a
3 mistake, that was on me, but I'm trying to turn everything
4 around now, so.

5 Q. Sure. Well, you feel like his -- now, also in the
6 discovery you said that he basically didn't investigate it; is
7 that correct?

8 A. Yes, sir.

9 Q. And do you feel like that lack of investigation and lack
10 of thorough discovery review with you served as ineffective
11 assistance of counsel?

12 A. Yes, sir.

13 Q. So anything else about the discovery?

14 A. A statement from one of my co-defendants. He said it
15 was five shots, but in the discovery they only found two gun
16 shell casings. So I'm still trying to figure out where did he
17 get five shots from? Like I said, the victim's brother made a
18 statement of what he saw because he was in the house. They did
19 not bring that up in nowhere, whatever. They did not bring up
20 the victim's brother's statement. They went off of, basically,
21 what this one co-defendant said, and that was the gist of it.

22 Q. Well, I think that may relate to this -- so if there's
23 nothing else about discovery, let's move to line 25 on page
24 seven.

25 A. Yes, sir.

1 Q. It says, and I'm trying to decipher exactly specifically
2 what you mean here, and if you could explain to the Court.
3 Line 25 going over to page eight, it says: Let's see what else
4 at the same time I've been trying to contact him a couple of
5 times before, you know, this co-defendant went to trial because
6 there's some things that, you know, I -- I know he didn't tell
7 me to lie about, what I said, but you know, I told him some
8 things, I know I lied about it, so I tried to contact him to
9 get him to come, you know, and talk to me so I can, you know,
10 get things situated, and he, you know, wasn't responding. My
11 mother also has contacted a couple of times. He wasn't in the
12 office, never called her back. So what -- as far as this, what
13 does this mean?

14 A. He came to the county to talk to me and we were going
15 over the motion of discovery and one of the things he pointed
16 out was a ten to 15-year sentence, one either for strong armed
17 robbery or a conspiracy charge, never anything about no murder
18 charge, no first degree burglary, none of that, so I talked to
19 him about the situation. When it came down to it to -- I lied
20 about a couple things, I tried to contact him to let him know,
21 hey, this is not how it happened, this is how it happened. I
22 couldn't get in touch with him. I call my mom, told her, hey,
23 get Matt down here to the county, you know, come talk to me
24 before, you know, things get out of hand so we can get things
25 situated. I wrote him up once that time, I think I wrote it to

1 appeal it in Columbia, the thing in Columbia first. I got a
2 response from them, but it wasn't nothing, so that's when I
3 wrote again to remove Mr. Swilley from counsel, that's the next
4 time that I talked to him was August 8th. .

5 Q. So you tried to clarify some things, correct?

6 A. Yes, sir.

7 Q. And Mr. Swilley did not return your call; is that
8 correct?

9 A. No, sir.

10 Q. Anything else about that section you feel is pertinent
11 here?

12 A. Also, at that time Mr. Swilley and Ryan White also came
13 to the county to talk to me, and I asked both of them for a
14 polygraph. Both of them said it wouldn't matter if I told the
15 truth or lied, got it wrong or not because it would be
16 inadmissible in court anyway.

17 Q. Who told you that?

18 A. Both Ryan White and Mr. Swilley.

19 Q. Did you ever take a polygraph?

20 A. No, sir.

21 Q. Do you feel like you should have?

22 A. Yes, sir.

23 Q. Why?

24 A. At least it would have proved that if I was telling the
25 truth whether it could have been used in court or not, but I

1 guarantee if it would have showed I was lying Ryan White would
2 have used it in court so I feel like it would have helped out.

3 Q. Anything else about that section that you feel like
4 needs to be brought to the Court's attention?

5 A. Also at that same time I told Ryan White let's go to
6 trial.

7 Q. Let's go to page eight, and I think this may wrap up our
8 references to the transcript. Page eight, line 15 through 21.
9 It says: So I told him that I'd rather just, you know, see if
10 we can go to trial because I think, you know, we might have a
11 good chance and he continued to talk me out of going to trial.
12 He also called my mother and told my mother to talk me -- talk
13 to me and tell me he thinks that it might be -- let me rephrase
14 that -- told my mother to talk to me and tell me that he think
15 it best that we not go to trial because if the Solicitor do
16 come with a plea it will be criminal conspiracy, five to ten
17 years. Explain that section to me.

18 A. Basically --

19 Q. And you do have a copy of the transcript up there,
20 right?

21 A. Yes, sir.

22 Q. Okay. Go ahead, I'm sorry.

23 A. Basically, Mr. Swilley, he's been hounding me about not
24 really going to trial, but like I said in there, I'm not
25 going -- I'm not getting in trouble for something I did not do,

1 you know, and if me, I'd rather go to trial and take the stand
2 like I'm doing now, tell my side of the story, but he talked to
3 my mother, he also, I think, had his investigator talk to my
4 mother to see if -- tell him don't go to trial, let's just take
5 a plea, and the date of my sentencing, August 30th, my mother
6 and my little sister was up here at the courthouse out there on
7 the computer on Skype, I was on Mr. Swilley's phone on Skype
8 talking to my mother and my sister, and basically, he persuaded
9 them to convince me to take a plea deal. He was saying
10 probably get ten years at 85 and out of that my mom said, you
11 do eight, you'll be home pretty soon, go ahead and get it over
12 with, take the plea, so that's what I did.

13 Q. Did he ever contact you about -- so you're saying that
14 you got more time than he said that you would get?

15 A. Yes, sir.

16 Q. And what were the numbers again? He said you would get
17 what?

18 A. Five the ten.

19 Q. And how much did you wind up getting?

20 A. Twenty-eight. And then he also has wrote a letter right
21 after that.

22 Q. Let me show you this. Okay? And Mr. Swilley's in the
23 courtroom; is that correct?

24 A. Yes, sir.

25 Q. Okay. So I'm showing this you this letter. What is the

1 letter head on it?

2 A. The Swilley Law Firm, LLC.

3 Q. And what's the date?

4 A. 11/9/2019.

5 Q. And who is it addressed to?

6 A. Me.

7 Q. And does it reference anything?

8 A. State of South Carolina versus Anthony Markell Hudson,
9 warrant 2017A2110201151, charge: Murder.

10 Q. And this was sent to you, correct?

11 A. Yes, sir.

12 Q. Did you receive it?

13 A. Yes, sir.

14 Q. And you presented this to me, right?

15 A. Yes, sir.

16 MR. FOWLER: Your Honor, I'd like to enter this as an
17 exhibit.

18 THE COURT: Any objection?

19 MR. BARLOW: No objections, Your Honor.

20 THE COURT: It's admitted.

21 MR. FOWLER: I'm presenting one to the Court.

22 THE COURT: Okay.

23 MR. FOWLER: I apologize, Your Honor, and here's one
24 copy to the court reporter.

25 THE COURT: Mark it as Exhibit Number 1.

1 (Applicant's Exhibit No. 1 was marked for
2 identification and admitted into evidence.)

3 BY MR. FOWLER:

4 Q. And you have is a copy up there; is that correct?

5 A. Yes, sir.

6 Q. What does the first two sentences of it say?

7 A. I am in receipt of your last correspondence. I was
8 sincerely shocked at the sentence that was handed down by the
9 judge at your plea hearing. I did to not expect him to
10 sentence you to that much time.

11 Q. And then it goes on to say --

12 A. He planned on doing a motion to reconsider.

13 Q. Did he do a motion to reconsider?

14 A. Yes, sir.

15 Q. Okay. What happened then?

16 A. It got denied like a year later.

17 Q. So it got denied a year later, right?

18 A. Yes, sir.

19 Q. But what -- let's focus on these first two sentences.

20 What does that mean to you that it says: I am in receipt of
21 your last correspondence, I was sincerely shocked at the
22 sentence that was handed down by the judge at your plea
23 hearing. What does that mean to you?

24 A. Basically, he didn't know that I was going to get
25 sentenced to 28 years. So basically, I signed a plea agreement

1 involuntarily, unknowingly that I would get 28 years on his
2 behalf.

3 Q. So you walked in there thinking you were going to get
4 ten years and came out with 28?

5 A. Yes, sir.

6 Q. How is that Mr. Swilley's responsibility?

7 A. From the time he mentioned any kind of number I been
8 asking him to get it some type of writing, he never did, and if
9 he was really saying that or trying to get the ten years, I
10 think that he really should have put it in writing or when it
11 came down to it on August the 30th of my sentencing when the
12 judge said 28 years, he should have objected and said something
13 about it, but he never did.

14 Q. And it's also a combination of all of this that we're
15 going over today; isn't it?

16 A. Yes, sir.

17 Q. Okay. The things that you mentioned in the transcript
18 to Judge Russo?

19 A. Yes, sir.

20 Q. And also what's already been in judicial notice, the
21 Summons and Writ of Habeas Corpus Petition, all of this kind of
22 goes into that pot where you thought you were getting ten and
23 then walk out with 28?

24 A. Yes, sir.

25 Q. Are you familiar with the legal term "negotiated

1 sentence?"

2 A. I can -- I can -- I can basically get the concept of
3 what it is, but.

4 Q. What does it mean to you?

5 A. Basically a negotiated is something you, your attorney
6 and the Solicitor come to agree upon a certain sentence, like
7 putting a cap on it, like ten with a cap, or something like
8 that.

9 Q. And although a judge can, I believe --

10 A. Override it.

11 Q. It kind of helps in terms of going to the judge,
12 correct?

13 A. Yes, sir.

14 Q. Did he ever bring up the possibility of a negotiated
15 sentence with you?

16 A. He talked about it with me, but on the sentencing he
17 didn't.

18 Q. So he never -- so he never said let's do a negotiated
19 sentence, did he?

20 A. No, sir.

21 Q. Okay. Just briefly. Referring to the summons and the
22 Petition for Writ of Habeas Corpus, that kind of backs up
23 everything you're saying here today; is that correct?

24 A. Yes, sir.

25 Q. There's a lot of case law in here, correct?

1 A. Yes, sir.

2 Q. And in your application I think you mentioned Hill
3 versus Lockheart; is that correct.

4 A. Yes, sir.

5 Q. And that's mentioned under section four, correct?

6 A. Yes, sir.

7 Q. And you'd like the Court to take notice of that,
8 correct?

9 A. Yes, sir.

10 Q. And there's also Supreme Court case law in here that you
11 mention in 11(a), correct?

12 A. Yes, sir.

13 Q. Is there anything about Hiller Lockheart or the Supreme
14 Court case law that you wish to bring to the Court's attention,
15 or is it explained in this sufficiently?

16 A. It's explained in this.

17 Q. Alright. Now, let's talk about the appeal. In your and
18 I discussion several weeks ago you said something about a
19 direct appeal, and I think in subsection number three these are
20 not numbered, and I'll refer to section three of the Writ. It
21 says: When defendant fails to file a requested appeal, a
22 defendant is entitled to a new appeal without showing his
23 appeal would likely have merit. You quoted Strickland versus
24 Washington on that. So tell me about the appeal process. Did
25 he appeal this?

1 A. No, sir. As soon as I caught the time I asked him, hey,
2 let's do some type of appeal. I even told my mother to contact
3 him and make sure that we get an appeal for this because, like
4 I said, I'm not finna do time for nothin' behind somebody else
5 responsibility, you know, whatever. The thing he told me was
6 he would do a motion to reconsider.

7 Q. And I think in the letter it says that he would file a
8 motion the reconsider; is that correct?

9 A. Yes, sir.

10 Q. And you expressed to him at that time that you want an
11 appeal, right?

12 A. Yes, sir.

13 Q. But he didn't do an appeal?

14 A. No, sir.

15 Q. Did he ever tell you why he didn't do an appeal?

16 A. No, sir.

17 Q. Did you ask him?

18 A. No, sir.

19 Q. But you asked him to file an appeal, correct?

20 A. Yes, sir, but when he said about the motion to
21 reconsider I thought that was a type of appeal, so when he said
22 he'd put that in, I was thinking everything would be okay.

23 Q. So you were thinking that, am I correct in saying that
24 you felt a motion to reconsider is an appeal?

25 A. Yes, sir.

1 Q. But it's not the same, is it?

2 A. No, sir.

3 Q. How did you learn that?

4 A. After the motion got denied, and then I put in for the
5 PCR application.

6 Q. Throughout the Petition for Writ of Habeas Corpus you
7 state various case law that comes to mind in this case, it says
8 at the bottom of section four, the page after section four, at
9 the very bottom it says: In addition the Applicant submits
10 that he can meet the prejudice requirement, basically quoting
11 Hill, and what have you, why do you feel like Mr. Swilley's
12 representation was prejudicial to you?

13 A. I feel like if everything that he did was effective and
14 that everything he did was loyal to me as far as him being my
15 attorney, I felt like I would have probably beaten this and I
16 wouldn't be incarcerated at this time.

17 Q. So it was kind of a shock when you walked out of there
18 with 28 years expecting ten, wasn't it?

19 A. Yes, sir.

20 Q. On section five, it says: In the third allegation
21 Applicant alleges that he did not plead guilty -- let me
22 rephrase that: In his third allegation the Applicant alleges
23 that he did not plead guilty freely and voluntarily, and then
24 you go into some come case law of Boyken versus Alabama. Why
25 did you not plead guilty freely and voluntarily?

1 A. In determining a voluntary guilty plea it also falls
2 under ineffective assistance of counsel. If my counsel was
3 ineffective than that means the plea agreement is also
4 involuntary. Not only that, but referring back to the letter
5 where he stated that he was shocked that I got that much time.
6 If he didn't know I was going to get that much time then how
7 did I know I was going to get that much time, or how did I know
8 what I was signing if he didn't expect for me to get that much
9 time?

10 Q. And also you stated in section five that the Applicant
11 submits the transcript reflects that the plea was not knowing
12 and voluntarily entered with a full understanding of the
13 charges and consequences of the plea; is that correct?

14 A. Yes, sir.

15 Q. And why is that?

16 A. You're referring to the letter?

17 Q. I'm referring to number five, five in your Writ, and
18 we'll wind up here in a second, I believe, but right there
19 (indicating,) underlined with my writing.

20 A. Okay. Yeah, because like, it's like I say, um, if -- if
21 my attorney doesn't know or understand the amount of time that
22 I'm getting, how would I know even if I'm signing, I'm looking
23 at what I'm signing? You know what I mean? I'm not the legal
24 counsel here so I'm just going by what he told me. If he told
25 me to sign this, this is what's going on, okay, get in front of

1 the judge, it's a different story, then, you know, how could I
2 take that? I think it's involuntary, really.

3 Q. Anything else in this Summons or Petition and Writ that
4 you want to bring to the Court's attention?

5 A. Yes. It's also -- I mentioned it earlier, the day of my
6 sentencing my mother and my little sister was here at the time.
7 They told me my daddy was just stabbed 16 times. He had -- he
8 was in the hospital, and I believe at that point in time, too
9 emotionally, I probably wasn't fit to really sign a plea deal
10 at that time, but like I said, he persuaded my mother and my
11 little sister, hey, just take the ten, you'll be home in a
12 while and everything would be okay, but like I said, Judge
13 Brown hit me with 28.

14 Q. So you feel like the sentencing, like you were in an
15 emotional state that you should not be entering a plea at that
16 time, right?

17 A. Yes, sir.

18 Q. There's two other things that I wanted to mention. I
19 think we've gone over everything in your application numbers
20 ten and 11, we reviewed the Writ of Petition in the transcript
21 from August 8th, it says there was -- and I just want to make
22 sure that we cover this. In Number 10(b) it says: There is
23 evidence that which warrants a trial. What did you mean by
24 that?

25 A. Referring back to my motion, like I said, there is no

1 evidence saying that I had anything to do with any of this.
2 Even in the county there was a guy that overheard two of my
3 co-defendants talking, and he went in interrogation -- it's a
4 CD on this, too, he went in the interrogation room and voiced
5 what he heard and he never implemented another party, this,
6 that and the third, so with that being said, everything I felt
7 like Matt could have did a better job as far as investigating
8 and checking into all allegations, hearsay, and everything
9 else. I don't think I would have been in this predicament.

10 Q. Okay. In number 10(b) and then in number 11(b), and
11 this might be -- inconsistent statements that, I guess, creates
12 exculpatory evidence. What did you mean by that? Is that what
13 you just went over with 10(b)?

14 A. Yes, sir.

15 Q. As I've said, we've gone over your application, we've
16 gone over your Writ of Habeas Corpus, and the transcript, is
17 there anything else that you would like to bring to the Court's
18 attention at this time?

19 A. One of the things -- me, as far as me being my
20 personality, I'm a good, kindhearted person. I don't do no
21 wrong to anybody. I'd give you the shirt off my back if you
22 need to. Like I said, I've been a military vet five and a half
23 years. People in the community love me. I think it's written
24 in here, people wrote a couple -- I think it's in here, I'm not
25 sure. No. It should have been some written statements, too,

1 from people in the community, you know, speaking on my behalf,
2 and whatnot. Prior convictions, the only thing I got on my
3 record is a bank fraud, which I did 11 months probation for
4 that. Other than that, I'm a pretty stand up guy. I was
5 working at the Honda Plant right here in Timmons ville when all
6 of this went down. I was living with my baby mother. You
7 know, everything was fine and no real reason for me to really
8 --

9 Q. And like I said, we're talking about Mr. Swilley and his
10 representation of you.

11 A. Okay, true.

12 Q. You feel like the evidence that's been presented today
13 in this court shows that he was ineffective assistance of
14 counsel to you in this matter, right?

15 A. Yes, sir.

16 Q. Thank you.

17 MR. BARLOW: Very good quickly, Your Honor.

18 THE COURT: Go ahead.

19 **CROSS-EXAMINATION**

20 BY MR. BARLOW:

21 Q. Good afternoon, Mr. Hudson.

22 A. How are you doing, sir?

23 Q. I'm doing well, how are you?

24 A. I'm doing good.

25 Q. Alright. There's been a lot of talk about the motion to

1 relieve counsel in the transcript, but I want to jump to the
2 actual date of your plea and ask you a few questions on that.
3 Do you recall telling the Court that you had talked to Mr.
4 Swilley and I?

5 A. Yes, sir.

6 Q. Do you recall telling Court that he had done everything
7 you had asked him to do?

8 A. Yes, sir.

9 Q. Do you recall telling the Court that you needed more
10 time with him and they gave you more time with him?

11 A. Yes, sir.

12 Q. Do you recall then telling the Court that you did not
13 need to have anymore time with him?

14 A. Yes, sir.

15 Q. Okay. Do you recall the Court telling you the maximum
16 for each charge that you were charged with that they could give
17 you?

18 A. Yes, sir.

19 Q. Okay. And you signed the sentencing sheet after the
20 judge sentenced you, correct?

21 A. No, I signed it before. I signed it with Mr. Swilley
22 before we came in front of the judge.

23 Q. Last question. What would the basis of an appeal be?

24 A. Wrongful conviction, ineffective assistance of counsel.
25 For an appeal? Yeah. Wrongful conviction and ineffective

1 assistance of counsel.

2 Q. Thank you.

3 MR. BARLOW: Nothing further.

4 **REDIRECT EXAMINATION**

5 BY MR. FOWLER:

6 Q. You stated that you were in an emotional state that day,
7 correct?

8 A. Yes, sir.

9 Q. And that would possibly prohibit you from thinking
10 clearly about what you signed and entered that day; is that
11 correct?

12 A. Yes, sir. And can I also state for the record, too,
13 what would you do if you just tried to fire an attorney --

14 THE COURT: You can't ask questions. You're not here
15 to ask questions.

16 A. Okay. I just tried to fire my attorney twice.

17 Q. Answer the question.

18 A. Okay.

19 Q. You were in an emotional state?

20 A. Yes, sir.

21 Q. You answered the question. And also, there have been
22 several items that have come to your attention since that plea
23 at that time; is that correct?

24 A. Yes, sir.

25 MR. FOWLER: No further questions, Your Honor.

1 MR. BARLOW: Nothing from the State, Your Honor.

2 THE COURT: Mr. Hudson, you can step down. Call your
3 next witness, Mr. Fowler.

4 MR. FOWLER: If I may have just one moment with my
5 client? After consulting with my client, no further questions.

6 THE COURT: Okay. Mr. Barlow?

7 MR. BARLOW: Thank you, Your Honor. The State would
8 call Mr. Matthew Swilley.

9 MATTHEW SWILLEY WAS DULY SWORN AT THIS TIME AND
10 TESTIFIED AS FOLLOWS:

11 DIRECT EXAMINATION

12 BY MR. BARLOW:

13 Q. Good afternoon Mr. Swilley.

14 A. How are you doing?

15 Q. Good. Thank you. How are you?

16 A. Very good.

17 Q. Alright. How long have you been practicing law?

18 A. Passed the bar in 2009 and began practicing shortly
19 thereafter.

20 Q. How much of that has been in criminal law?

21 A. Almost entirely.

22 Q. Were you retained or appointed?

23 A. I was appointed.

24 Q. And roughly how long before his guilty plea were you
25 appointed?

1 A. I was appointed in early 2018.

2 Q. And you received discovery in this case?

3 A. We did.

4 Q. Did you review the discovery with Mr. Hudson?

5 A. Yes.

6 Q. Could you give us a brief overview of your understanding
7 of the State's evidence?

8 A. On Christmas Eve the State alleged that Mr. Hudson along
9 with other individuals traveled to the home of Mr. Johnny
10 Cameron who I believe was known to be a bootlegger of some
11 sort. It was alleged that there was an attempted robbery, kind
12 of an attempt to force entry through the front door of the
13 trailer down the Lake City section of Florence. Mr. Cameron
14 was shot during this forced entry, and subsequently, expired
15 after the assailants had, I guess, left the residence. I
16 believe it was alleged they were in Mr. Hudson's vehicle which
17 was without a muffler and it was very loud and I think some
18 other individuals were able to identify that, and I think
19 eventually that led to Mr. Hudson and the other individuals.
20 Mr. Hudson was arrested, gave a statement to Investigator
21 Tilton, or a video statement, where I think he told
22 Investigator Tilton that he was present but that he did not go
23 into the home, and I think that subsequently he was arrested.
24 Q. Were you able to craft a defense strategy based off of
25 that?

1 A. We did -- I did -- well, we did do beforehand, I don't
2 think that Mr. Hudson was, I guess, the primary target of the
3 State, I believe, at the beginning. I discussed the matter
4 with Mr. White and discussed the matter with Mr. Hudson to see
5 if, you know, he wanted to cooperate. I think it was
6 anticipated that the individual who actually shot Mr. Cameron
7 was going to end up going to trial and then see if Mr. Hudson
8 wanted to cooperate. We did give a -- he did agree to speak
9 with Mr. White and Investigator Tilton at the Sheriff's Office
10 at some point, I believe, it was in 2018, and that did not go
11 very well. Mr. Hudson, I guess, was inconsistent with a lot
12 of things that he said, and it was not a fruitful endeavor.

13 Q. Well, let's jump right into some of the allegations.
14 You've already said that you reviewed discovery with him.
15 There was some testimony about V.A. appointments. Do you
16 recall that?

17 A. I know there was some issue with the V.A. I don't
18 believe really, I can't recall anything of any substance about
19 him getting any kind of V.A. treatment. I did get some
20 records, I think some military records and mental health
21 records from the V.A. after the guilty plea for the motion to
22 reconsider sentence, and those were provided to the Court. I
23 think that I've provided that. The e-mail that I provided to
24 Judge Brown and his clerk, I think I forwarded to you and Mr.
25 Fowler, as well.

1 Q. Let me ask you, is it within your purview to facilitate
2 V.A. treatment through the county jail?

3 A. I mean, if I could do anything to help my client I can,
4 but I just, you know, you don't -- it's kind of hard to
5 coordinate that type of stuff. I figured if you had
6 appointments, mental health appointments or medical
7 appointments, the jail is supposed to coordinate those.

8 Q. Did you have any reason to have Mr. Hudson mentally
9 evaluated?

10 A. I believed Mr. Hudson was competent, you know, under
11 M'Naghten and Blair. There were no questions in my mind about
12 his competency, so I didn't think we needed an evaluation.

13 Q. There were some inconsistent statements that there was
14 testimony on. Do you recall those inconsistent statements of
15 his, I believe it was his co-defendants?

16 A. I think he mentioned about the cykes in the jail that
17 were intercepted by the corrections officers. Those were
18 recepted, I think they given to Mr. White, and I believe they
19 were turned over in supplemental discovery to me.

20 Q. Were there any ballistic reports that you can recall?

21 A. Not that I can recall.

22 Q. Was it ever alleged that Mr. Hudson was the shooter?

23 A. It was alleged that he fired a shot, I believe, and I
24 think he admitted to that in the second interview at the
25 Sheriff's Office, but I don't think it was ever alleged that he

1 was the, I guess for lack of a better term, trigger man. I
2 don't think it was ever alleged that what he did, shot -- that
3 he physically killed Mr. Cameron. I don't think it was ever
4 alleged that that was the scenario. I think that the State was
5 moving forward on an accomplice liability theory.

6 Q. Would it surprise you if the State found two gun shell
7 casings versus a statement saying that there were five
8 gunshots?

9 A. Would it surprise me? No.

10 Q. And did you have any reason to have a polygraph done on
11 Mr. Hudson?

12 A. No. I didn't believe that that would be fruitful for
13 us, particularly after the meeting we had at the Sheriffs, you
14 know, with Mr. Tilton and Mr. White.

15 Q. Did you talk Mr. Hudson out of going to trial?

16 A. Well, Mr. Hudson, he didn't, I don't think he took a lot
17 of stock in what I was telling him a lot of times. I had my
18 investigator -- I think he was doing what his mother was
19 telling him to do. I had my investigator go meet with his
20 mother, who was very cooperative with us when we met with her,
21 and he went out, I think, to her home and showed her Anthony's
22 initial interview where he, you know, admits to being present
23 at the scene and not going in, and I think that really -- the
24 day of the plea, I think, you know, we did have a FaceTime with
25 his mom, and she said, you know, I've seen your interview, you

1 need to enter into a guilty plea, and he agreed at that point.

2 Q. Did you ever tell him he would get ten years?

3 A. No, I never guaranteed him anything, but I did tell him
4 I would anticipate, you know, you serving an actual amount of
5 about ten years more. I was truly flabbergasted when Judge
6 Brown imposed the sentence, it's very unfortunate.

7 Q. Do you control the sentencing?

8 A. I wish I did, but no, I don't.

9 Q. Did the Solicitor ever make any plea deal, did he ever
10 come to you with any numbers?

11 A. We had -- not with any hard offers. We had discussed,
12 and I had been really optimistic at first, you know, at the
13 very beginning before they sat down with Anthony, that we had
14 discussed some kind of, maybe, like, strong armed robbery, you
15 know, nonviolent type plea, that's why I was trying to sway him
16 that way, but no, I don't think we ever got -- I think the only
17 plea offer we ever got was straight up to voluntary
18 manslaughter and armed robbery.

19 Q. Did Mr. Hudson ever ask you to appeal?

20 A. Not that I can recall.

21 MR. BARLOW: Court's indulgence.

22 THE COURT: Take your time.

23 BY MR. BARLOW:

24 Q. And did you have any reason to doubt his competency the
25 day he pled?

1 A. No.

2 Q. Do you stand by your representation today?

3 A. What do you mean by, stand by my representation?

4 Q. Do you feel that your representation was competent?

5 A. Yeah. I mean, there's things I wish I had done
6 differently, certainly.

7 Q. That's hindsight?

8 A. Right.

9 Q. Do you see today looking back on it at that time through
10 that lens, do you feel that your representation was competent?

11 A. Yes.

12 MR. BARLOW: Thank you. Nothing further.

13 **CROSS-EXAMINATION**

14 BY MR. FOWLER:

15 Q. So you just said that you feel like your representation
16 was competent, right?

17 A. Yes.

18 Q. You were in the courtroom the entire time of Mr.
19 Hudson's direct examination, correct, right?

20 A. Yes.

21 MR. FOWLER: And if I may approach the witness, Your
22 Honor?

23 THE COURT: You may.

24 Q. I believe this is entered in as Exhibit 1. Is that your
25 signature at the bottom of the page?

1 A. It is.

2 Q. And you sent that letter to Mr. Hudson, correct?

3 A. That's correct.

4 Q. And what is the -- well, the first three sentences, I
5 guess?

6 A. I'm in receipt of your last correspondence, I was
7 sincerely shocked at the sentence that was handed down by the
8 judge at your plea hearing. I did not expect him to sentence
9 to you that much time.

10 Q. Okay. If I may have that back, please? In terms of
11 your representation, if you feel like you were competent why
12 were you shocked, from your own handwriting, basically, of the
13 judge's sentencing that was handed down?

14 A. Well, I didn't think that it was really commiserate with
15 in role that Mr. Hudson had played in the homicide. I think he
16 played kind of an ancillary role, so to speak. I mean, he did
17 allow his car to be used. I think he was influenced by some of
18 the co-defendants at the time. I certainly don't think that he
19 was the ring leader, so to speak, and I'd like to think that it
20 was articulated to Judge Brown, but it didn't -- I don't he
21 really was in agreement with that. I really -- I anticipated
22 it being somewhere around a 15-year sentence, is what I had
23 anticipated.

24 Q. So with that being said, you did know that going in he
25 could receive the maximum amount, right?

1 A. Yes, it was possible.

2 Q. And you still, basically, brought him into an open-ended
3 plea with the judge where he could, even if you feel like he
4 was an ancillary actor in this, he could still get a maximum
5 sentence; is that correct?

6 A. Yes.

7 Q. So do you feel like you should have done a negotiated
8 plea at this point?

9 A. Well, I would have liked to but we were never offered a
10 negotiated plea.

11 Q. Did you ever ask for it?

12 A. We had discussed it, yeah, but --

13 Q. Discussed it with who?

14 A. Ryan White.

15 Q. What did he say? Well, strike that. So you never --
16 there was never any negotiated plea agreed to between you and
17 the State, right?

18 A. Now that I recall, we may have had a conversation about
19 it, but I truly felt comfortable going forward -- at the time,
20 going forward with an open plea versus a negotiated plea or a
21 recommendation from him. I want to say based on my
22 recollection he was going to ask -- he was asking for, you
23 know, time in the twenties, and certainly I wasn't to going to
24 agree to that because I thought we could do better than that in
25 an open plea.

1 Q. In terms of, I did not expect the sentence -- strike
2 that. It says: What I plan on doing at this point is moving
3 for a reduction in your sentence by gathering some mitigation
4 materials. Tell me about that. What did you do in terms of a
5 reduction of the sentence?

6 A. I made a written motion for a reduction of sentence. I
7 went and got some records, I believe, of Mr. Hudson, and I
8 presented those to the judge via e-mail, you and Mr. Barlow
9 have been afforded that e-mail, and I presented that to Judge
10 Brown, I think he kind of sat on it for a long time and then
11 when it came back up I think he asked for me to send it again,
12 I sent it again, and then he issued a written order, I guess,
13 denying my motion after that.

14 Q. But you could have just simply appealed it, couldn't
15 you?

16 A. I could have done that, yeah.

17 Q. But you didn't, did you?

18 A. No.

19 Q. Even though you said you were shocked at the sentence
20 that was handed down, right?

21 A. Right, yes, that's correct.

22 Q. So why didn't you appeal it?

23 A. Because I didn't think there was any way the Court of
24 Appeals was going to reverse it, you know, based upon just the
25 issue of sentencing. I thought we had a better chance of going

1 back before the judge, asking him to reconsider and then to
2 reconsider some of this mitigating, to present it to him, I
3 didn't think there was virtually any chance that the Court of
4 Appeals would have -- I mean, it was a voluntary guilty plea
5 and the sentencing is in discretion of the judge so I didn't
6 believe that the Court of Appeals would have --

7 Q. But that was the decision for the Court of Appeals, not
8 you, right?

9 A. Yes.

10 Q. In terms of the jailhouse cykes, or letters, or whatever
11 is said in the transcript, you didn't do any investigation on
12 that, did you?

13 A. No. I got copies of the cykes. I didn't do -- I mean,
14 I didn't do any further investigation of the circumstances
15 around it.

16 Q. But that could have been helpful in this case, right?

17 A. I don't know.

18 Q. Did you know that he had PTSD?

19 A. I know that he had told me about some post-traumatic
20 stress disorder, I know he had told me about that.

21 Q. Did he explain to you the issues about him being around
22 guns or inability, perhaps, to fire a gun?

23 A. No. We never discussed anything of that nature.

24 Q. So he told you about the PTSD, but you did not send him
25 to Columbia or through whatever channels to get a mental health

1 evaluation, right?

2 A. That's correct.

3 Q. On page eight, lines 17 and 18, it says, from Mr.

4 Hudson: And he continued, you, Mr. Swilley, to talk me out of
5 going to trial. Why did you talk him out of going to trial?

6 A. If he was convicted of murder he would be facing 30 to
7 life.

8 Q. Well, he got 28 years based on your plea deal with
9 the -- or before the Court, right?

10 A. That's correct.

11 Q. It says here, also, in the transcript, lines 19 through
12 21: It best that we not go to trial because if the Solicitor
13 do come with a plea it will be criminal conspiracy five to ten
14 years. So where did Mr. Hudson -- how did he get that criminal
15 conspiracy from you? Did he? Did you talk about that?

16 A. I don't think, no, we were never issued a plea to just
17 criminal conspiracy. I mean, I would have advised him to take
18 that if that were the case, but, no, that was never an offer.

19 Q. Okay. On Direct, you said that you did not control the
20 sentencing, but you could have worked out a negotiated sentence
21 with the Solicitor; is that correct?

22 A. I don't know. I mean we had discussed it, but I don't
23 know if he would have agreed to a negotiated sentence or not.

24 Q. Well, I guess what I'm saying is that if you were
25 shocked at the sentence that he got and you felt like he was an

1 ancillary character in all this, that perhaps he should not be
2 walking out of there with a 28-year sentence instead of a five
3 to ten; is that right?

4 A. Well -- .

5 Q. Go ahead.

6 A. If I understand your question correctly, I think, yeah,
7 I didn't think he deserved a 28-year sentence. I don't
8 think -- I still don't.

9 MR. FOWLER: If I may have a moment, Your Honor.

10 THE COURT: Sure.

11 MR. FOWLER: Your Honor, after consulting with my
12 client, no further questions.

13 THE COURT: Anything else?

14 MR. BARLOW: Your Honor, nothing further.

15 THE COURT: Mr. Swilley, he was indicted on murder;
16 is that right?

17 THE WITNESS: That's correct, Your Honor.

18 THE COURT: Thirty to life, day for day?

19 THE WITNESS: That's correct.

20 THE COURT: And he was offered a plea deal of
21 voluntary manslaughter which is, what, 85 percent, 0 to -- or
22 two to 30?

23 THE WITNESS: Two to 30; that's correct.

24 THE COURT: Two to 30. So there was an incentive for
25 the plea. I understand your testimony, you didn't like what

1 the judge gave, but tell me how many times has that happened to
2 you?

3 THE WITNESS: Happened to me?

4 THE COURT: Yeah.

5 THE WITNESS: I don't know if I could count that many
6 times, Your Honor. Well, no --

7 THE COURT: Sentencing is within the discretion of
8 the judge.

9 THE WITNESS: Yes, ma'am.

10 THE COURT: And you explained that to your client?

11 THE WITNESS: I did, Your Honor.

12 THE COURT: And at any time did he seem to you to
13 need a mental evaluation?

14 THE WITNESS: No, Your Honor.

15 THE COURT: Did he ever ask you for a mental
16 evaluation?

17 THE WITNESS: I don't believe so.

18 THE COURT: Did he -- when you went through all the
19 discovery with him did he appear to understand it?

20 THE WITNESS: He did.

21 THE COURT: And as far as a negotiated plea, it's
22 usually the Solicitor who offers you a negotiated plea, is it
23 not?

24 THE WITNESS: Typically, yes, Your Honor.

25 THE COURT: And was there a negotiated, I know you

1 said you all talked about it, but were you ever, or Mr. Hudson,
2 ever offered a negotiated plea?

3 THE WITNESS: No, Your Honor.

4 THE COURT: That was not on the table?

5 THE WITNESS: No, Your Honor.

6 THE COURT: Do you know of any way that you could
7 make it be on the table?

8 THE WITNESS: No. No.

9 THE COURT: Thank you. Anything else from the
10 lawyers?

11 MR. BARLOW: Your Honor, the State rests.

12 THE COURT: Alright. May I excuse Mr. Swilley,
13 please?

14 MR. BARLOW: No objection from the State.

15 MR. FOWLER: No objection.

16 THE COURT: Mr. Swilley, thank you.

17 THE WITNESS: Thank you, Your Honor.

18 THE COURT: I will take it under advisement and issue
19 an order.

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25 CERTIFICATE

1 STATE OF SOUTH CAROLINA

2 COUNTY OF FLORENCE

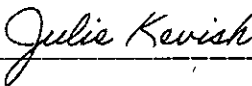
3 I, Julie A. Kevish, Official Court Reporter for the
4 State of South Carolina, do hereby certify that the foregoing
5 is a true, accurate and complete Transcript of Record of the
6 proceedings had and evidence introduced in the Court of Common
7 Pleas for Florence County, South Carolina, on the 13th of June,
8 2023.

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

11 June 13, 2023

12

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JULIE A. KEVISH
OFFICIAL COURT REPORTER

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11/9/2019

Mr. Anthony Markell Hudson
SCDC #01746388
Kirkland Correctional Institution
4344 Broad River Road
Columbia, SC 29210

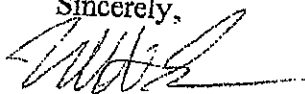
RE: State of South Carolina v. Anthony Markell Hudson.
Warrants: 2017A2110201151
Charge: Murder

Anthony:

I am in receipt of your last correspondence. I was sincerely shocked at the sentenced that was handed down by the Judge at your plea hearing. I did not expect him to sentence you to that much time. What I plan on doing at this point is moving for a reduction in your sentence by gathering some mitigation materials. I have included a copy of the written motion that I filed after sentencing. The records that I am seeking include your school records, mental health records, and VA records. I have enclosed a form that I need you to sign and return to me in the self-addressed stamped envelope. This will enable me to obtain the records that I need to present to the Court and try to get your sentence reduced.

Also, Charlie Roberson has not been sentenced yet and may proceed to trial. That would give you a very good opportunity for a sentence reduction. I will keep you apprised of the status of that matter as I learn more. In the meantime, I will be gathering your records for mitigation. Please let me know if you have any questions or concerns. Thank you for your cooperation.

Sincerely,


Matt Swilley

MSS/enc.



FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE) FOR THE TWELFTH JUDICIAL CIRCUIT

Anthony M. Hudson, #381313) CASE NO. 2022-CP-21-821

Applicant)

v.)

State of South Carolina,)

Respondent.)

**ORDER OF DISMISSAL
WITH PREJUDICE**

This matter comes before the Court by way of Anthony M. Hudson's (Applicant) application for post-conviction relief (PCR) filed on April 11, 2022. Respondent, the State of South Carolina, filed its Return and Motion for a More Definite Statement on October 3, 2022, requesting an evidentiary hearing to resolve the claims as set forth in the application. On March 28, 2023, Applicant filed a Petition for Writ of *Habeas Corpus*. Respondent filed its Motion for Merger on April 10, 2023, requesting Applicant's Petition for Writ of *Habeas Corpus* be merged with this current PCR action. On April 17, 2023, the Honorable Michael G. Nettles, Chief Administrative Judge for Common Pleas, filed an Order of Merger, leaving this PCR action as the surviving action.

An evidentiary hearing was convened on June 13, 2023, at the Florence County Courthouse before the Honorable Debra R. McCaslin. Applicant was present and represented by Steven W. Fowler, Esquire. Assistant Attorney General D. Russell Barlow, II, represented Respondent. At the hearing, Applicant proceeded on the claims in his original and amended applications. In support of these claims, Applicant testified on his own behalf, and Respondent presented testimony from Matthew S. Swilley, Esquire (Plea Counsel).

CERTIFIED: A TRUE COPY
[Signature]
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to relief and, accordingly, denies and dismisses this action with prejudice.

PROCEDURAL HISTORY

The records before this Court establish Applicant is presently confined in the South Carolina Department of Corrections (SCDC). In November 2018, the Florence County Grand Jury indicted Applicant for Murder, Armed Robbery, Burglary—1st Degree, and Criminal Conspiracy (2018-GS-21-2120). Applicant was represented by Matthew S. Swilley, Esquire. Assistant Solicitor J. Ryan White prosecuted the case.

On August 30, 2019, Applicant appeared before the Honorable D. Craig Brown and pled guilty to the lesser included offenses of Voluntary Manslaughter and Attempted Armed Robbery. Judge Brown sentenced Applicant to concurrent terms of twenty-eight years' imprisonment for Voluntary Manslaughter and twenty years imprisonment for attempted armed robbery.

On September 4, 2019, Applicant filed a motion to reconsider the sentence. Judge Brown denied that motion on November 22, 2021, by filed order.

Applicant did not appeal.

FACTS GIVING RISE TO THE CONVICTION

The facts in support of the plea were articulated at Applicant's plea hearing by the Solicitor as follows:

This incident occurred on December 24, 2017, at the home of Johnny and Amos Cameron, Judge at [REDACTED] North Old Georgetown Road in Lake City, which is Florence County and that was Christmas Eve. Your Honor, the family was gathering at that home eating food celebrating the holidays. They were there pretty much all day long. I think there were as many as maybe 30 head just

having a good time and celebrating. One of the last people to leave was Johnny Cameron's daughter. About 30 minutes after she left, Mr. Amos Cameron, Johnny Cameron's brother, went into the bedroom to retire for the evening. About that time, he hears a loud car pull into the yard. He would describe it as being so loud like a race car, like a jet engine. Shortly, thereafter, Judge, they hear a knock at the door. They hear some commotion. Mr. Amos Cameron comes to the bedroom door. He looks out the door to the mobile home where they are residing. He sees his brother Johnny Cameron fighting with an individual who's masked and has a gun. Just then, he hears about four shots and some people, you know, run back out the door and Johnny Cameron stumble into kitchen shot very bad, Judge, and dies right there on the kitchen floor. This case was investigated by Roger Tilton who's with the sheriff's office is here today. They start looking into this car and how loud it is. They have very little to go on until some people on Facebook appear to be talking about the incident as if they know a lot about it, Judge. So they have some suspects in mind. One of them is Charlie Roberson who's on Facebook talking about it. They go to Mr. Roberson's home Investigator Roger Tilton along with Investigator Ben Price. While Investigator Tilton is at the front door speaking to the residents inside the house, Investigator Ben Price kind of goes around the side and he notices a vehicle, a burgundy vehicle with the muffler laying beside it. Mr. Hudson also lives there with Charlie Roberson. He comes to the door. They ask if he can crank it up and sure enough it's loud, Judge. They ask Mr. Roberson if he can come in. They actually find him there with a pistol in his book bag. They ask Mr. Roberson to come on down to the sheriff's office. They ask Mr. Hudson to come down to the sheriff's office both of them give statements, and the statements are that Mr. Hudson, Mr. Roberson, and a third co-defendant Carl McDowell were all hanging out in Lake City. They drive to Florence. They pick up a Mr. Justin Pringle and a Curtis Nelson. Mr. Nelson is about 50 years old. At that time they start plan to hit a lick, Judge, an arm robbery. They don't know exactly where they're going to go. They throw out several different places. It's Mr. Nelson, the older of the individuals, who has the idea to go to Mr. Johnny Cameron's home because Mr. Cameron is know to be a bootlegger, Judge. He sells beer and potato chips, and so they go there, Judge. And at that time they pull up in Mr. Hudson's vehicle, three of them get out of the car. Mr. Hudson is one of the three individuals who goes to the door where Mr. Johnny Cameron is ultimately shot to death. The two individuals in the car are Carl McDowell who gives a statement and a Curtis Nelson who does not. Judge, there's a lot of evidence in this case, but most notably against Mr. Hudson is his statements. You know, he gives a statement to law enforcement initially and that statement

is damning. However, he indicates that he did not leave the vehicle. Well, you know, they do some more investigation, they don't believe that's true. They bring him back in. At that time he admits that he is one of the three that gets out of the vehicle and actually admits that he's the one that knocked on the door. Judge, but we don't believe at this time that he's the one that fired the gun that killed Mr. Cameron. We believe that Mr. Pringle had the .40 caliber that fired and killed Mr. Cameron, and the pathologist will testify that the bullet holes in Mr. Cameron were consistent with a .40 caliber handgun. The other two handguns were the .9 millimeter that was found on Charlie Roberson's person when they first came in contact with him. And then there was a .380 that was mentioned. We believe that .380 was in the hand of Mr. Hudson. Now, we're preparing this case, Judge, and we got ready to go to trial on the trigger man, Mr. Pringle, but at that time there was a curious thing about the case. We believe that the .40 cal was the one that shot and killed - - we're pretty certain that that was the one that Mr. Pringle used to kill Mr. Cameron, but there was a bullet hole in the mobile home that was inconsistent and it was a smaller caliber bullet. And we didn't know who fired that bullet. So we were talking to Mr. Hudson as well the other co-defendants to try to get them to cooperate, and we went out to the sheriff's office. It was me, Investigator Tilton, Investigator Street from our office, Mr. Swilley and Mr. Hudson who sat down in preparation for the trial against the trigger man. At that time Mr. Hudson tells us something he hadn't told us before that when he went to the door and all the commotion, he is actually the one that fired that small caliber bullet and he's lucky that it missed Mr. Cameron. Judge, we did everything we could to try to get Mr. Hudson to cooperate. We would go out there several times, but I can't say that he, you know, cooperated with the State in preparations for a trial. In fact for the first trial, we were making preparations to treat him as a hostile witness. Luckily for everybody, I think the trigger man ended up pleading guilty. He was sentenced to 30 years. Judge, a few months later, we got ready for that 50-year-old co-defendant, Mr. Nelson. We believe he was the master mind behind all this, and we, again, went to talk to Mr. Hudson. And at that time he, again, became kind of combative towards us and discussions broke down. And we, again, began to prepare him as a hostile witness. Luckily for everybody, Mr. Nelson pled guilty and he received a 30 year sentence. Judge, you know, we're just kind of going one by Judge, you know, we're just kind of going one by one over the co-defendants, and Mr. Hudson is the next one to fall. There be two co-defendants after this, and I can't say that he's as culpable as maybe that trigger man, but only because he missed.

(Plea Tr. pp. 11-16).

CURRENT ACTION BEFORE THIS COURT

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

1. Hill v. Lockhart: U.S. Supreme Court Case Law
2. There is evidence that which warrants a trial: Inconsistent statements that are exculpatory evidence
3. Ineffective assistance of counsel

As relief, Applicant requests "sentence reduction, lesser charge, parole."

On March 28, 2023, Applicant filed a Petition for Writ of *Habeas Corpus*, alleging that he is being held in custody unlawfully for the following reasons:

1. Ineffective Assistance of Counsel
 - a. Failure to file an appeal.
2. Involuntary Guilty Plea

On April 5, 2023, Respondent moved to have Applicant's *habeas* petition and PCR application merged. On April 18, 2023, the Honorable Michael G. Nettles filed an Order of Merger merging Applicant's PCR application with the *habeas* petition.

Before this Court are the Florence County Clerk of Court records, Applicant's SCDC records, Applicant's guilty plea transcript, Applicant's *habeas corpus* records, and the records of this PCR action.

INEFFECTIVE ASSISTANCE OF PLEA COUNSEL

The Uniform Post-Conviction Procedure Act¹ (the Act) provides that any person who has been convicted of a crime may seek post-conviction relief based upon the following types of allegations:

¹ S.C. Code Ann. §§ 17-27-10 to -160.

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

S.C. Code Ann. § 17-27-20(A).

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is insufficient to warrant granting relief. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. Strickland v. Washington, 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness and (2) the applicant sustained prejudice due to counsel's deficient performance. Id. at 687-88; Cherry V.

State, 300 S.C. 115, 117—18, 386 S.E.2d 624,625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[without proof of both deficient performance and prejudice to the defense... it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea. Hill v. Lockhart, 474 U.S. 52 (1985), extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel. See Padilla v. Kentucky, 559 U.S. 356,373 (2010) (recognizing that the guilty plea process is a "critical phase of litigation" for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel's performance under the first prong of Strickland remains unchanged, the applicant must show that counsel's representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000).

An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice to plead guilty was not "within the range of competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56. However, the second, or "prejudice" prong "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59.

This inquiry "focuses on a defendant's decisionmaking" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 367 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and observed the witnesses, which allowed the Court to evaluate and scrutinize their credibility.

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRCP (stating that in a post-conviction relief action, "[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) ("In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief."); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) ("The burden

of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.").

Accordingly, set forth below are the relevant findings of facts and conclusions of law as required by § 17-27-80 of the South Carolina Code:

INITIAL FINDINGS

As a matter of general impression, this Court finds Plea Counsel's testimony at the evidentiary hearing credible and persuasive, where he presented well-recalled testimony of relevant background, facts, and discussions leading up to and during the plea hearing. This Court finds Applicant's testimony at the evidentiary hearing generally not credible. This Court further finds applicable the strong presumption that at all stages of Plea Counsel's representation of Applicant, he rendered adequate assistance and exercised reasonable professional judgment in his representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, supra). The United States Supreme Court has cautioned that "every effort be made to eliminate the distorting effects of hindsight" and evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689, 104; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

From the record, this Court makes the following findings: 1. Applicant affirmed he understood the charges and sentences he faced (Plea Tr. pp. 3-11); 2. Applicant affirmed he understood the details and circumstances of a straight-up plea (Plea Tr. pp. 5-8); 3. Applicant affirmed he was satisfied with Plea Counsel (Plea Tr. pp. 9-11); 4. Applicant affirmed he understood his right to a jury trial and right to present defenses and that he waived those rights by pleading guilty (Plea Tr. p. 11); 5. Applicant affirmed he had enough time with his attorney (Plea Tr. p. 10); 6. Applicant affirmed Plea Counsel answered all questions about his case (Plea Tr. p. 10); 7. Applicant affirmed no promises were made to him, and his decision to plead guilty was

voluntary (Plea Tr. p. 10); 8. Applicant affirmed he was not on drugs, and nothing affected his ability to understand the plea proceedings (Plea Tr. p. 4); 9. Applicant affirmed he understood the minimum and maximum range of sentencing for both charges (Plea Tr. p. 4; p. 6); 10. Applicant agreed with the allocution of the facts surrounding the State's case against him, and he still wanted to plead guilty (Plea Tr. pp. 11–17); 11. Applicant's plea was qualified as freely, knowingly, and voluntarily entered into. (Plea Tr. p. 17).

INEFFECTIVE ASSISTANCE OF PLEA COUNSEL ALLEGATIONS ON THE MERITS²

Allegation: Failure to Investigate

Applicant alleges Plea Counsel was constitutionally ineffective for failing to investigate. Specifically, Applicant avers Plea Counsel did not investigate the kite exchanges between his co-defendants, and Plea Counsel should have investigated his mental health.

"[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation." Strickland, 466 U.S. at 690-91. "In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." Id. at 691. "In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments." Id.

"The reasonableness of counsel's actions may be determined or substantially influenced by the defendant's own statements or actions." Id. "Counsel's actions are usually based, quite

² This Court notes that Applicant was ordered to provide a More Definite Statement to Respondent on October 20, 2022, by the Honorable H. Steven DeBerry, IV. As of the date of this evidentiary hearing, Applicant failed to comply with Judge DeBerry's order. This Court will address the allegations in the order they were raised at the evidentiary hearing.

properly, on informed strategic choices made by the defendant and on information supplied by the defendant." Id. "In particular, what investigation decisions are reasonable depends critically on such information." Id.

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

1. Failure to Investigate Kites³ Exchanged by Co-Defendants

Applicant alleges Plea Counsel was constitutionally ineffective for failing to investigate the kites exchanged by his co-defendants. Specifically, Applicant avers that if Plea Counsel had investigated the kites, they would have shown his co-defendants were conspiring against Applicant. This Court disagrees and finds this allegation is without merit.

³ "'Kite' is a prison term for an informal message or a complaint. According to one theory, the term originated in the mid-1800s when prisoners were not allowed to speak and instead passed messages to each other using Kite branded cigarette rolling papers. Another theory holds that the word came from the practice of people communicating with others by attaching a note to a string and swinging it to their friend's cell, much like a kite." <https://prisonjournalismproject.org/category/kites>.

At the August 8, 2019, hearing before the Honorable Thomas A. Russo, Applicant moved to have Plea Counsel relieved because Plea Counsel had not investigated the kites. (August 8th Tr. p. 5). Applicant testified that his co-defendants were passing kites to each other and discussing changing their statements and who to implicate in the crime. (August 8th Tr. p. 7). Applicant testified that at least one of the kites was intercepted by a prison guard and turned in. Id. Plea Counsel informed the court that he had the kites that were intercepted, and Applicant had seen those kites. (August 8th Tr. p. 101).

Assistant Solicitor addressed the kite issue in the following colloquy:

MR. WHITE: And, Judge, if I may address the kite situation, those kites were damning in regards to the two co-defendants, who have since been convicted. The State, you know, definitely used those against those particular individuals, you know.

THE COURT: Nothing to be used against Mr. Hudson?

MR. WHITE: I -- and I don't want to speak out of turn, but I don't believe -- I want to say that when they -- they dumped the rooms, they did search warrants on the rooms, he kind of got off scott-free. I mean there wasn't anything incriminating as to his particular case. So --

THE COURT: Yeah. Okay.

MR. WHITE: -- that's sort of it there.

(August 8th Tr. p. 11).

At the evidentiary hearing on direct examination, Applicant testified that Plea Counsel should have investigated the notes exchanged by his co-defendants because they would have shown his co-defendants were "conspiring against" him to implicate him in the crime. (PCR Tr. p. 10). Applicant testified that "it was two of [his] co-defendants just saying that [he] and another co-defendant [were] the mastermind behind everything, and [they] took part in doing whatever the crime was." Id.

This Court finds the combination of the record and Applicant's failure to present any

evidence to this Court that Applicant has failed to meet the burden of showing Plea Counsel was constitutionally ineffective. See Campbell v. Polk, 447 F.3d 270, 279 fn.2 (4th Cir. 2006). Furthermore, Applicant failed to present "any evidence of how additional preparation or communication would have resulted in a different outcome." Smith v. State, 404 S.C. 493, 500, 745 S.E.2d 378, 382 (Ct. App. 2012); see Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998) (explaining that, where an applicant failed to present any evidence of what counsel could have discovered or what other defenses he would have requested counsel pursue had counsel more fully prepared for the trial, applicant failed to show his counsel's lack of preparation prejudiced him); Harris v. State, 377 S.C. 66, 75, 659 S.E.2d 140, 145 (2008) (finding that, when there is evidence counsel met with a defendant in preparation for trial and there is no evidence additional preparation on the part of counsel would have affected the outcome at trial, counsel cannot be said to have been ineffective), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018).

Moreover, to whatever extent Applicant was not entirely satisfied with the amount of time spent with Plea Counsel or his failure to investigate the kites, he was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to proceed with his guilty plea. (Plea Tr. pp. 8–10); see Dalton v. State, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) ("[S]tatements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements.").

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

2. Failure to Investigate Mental Health

Applicant alleges Plea Counsel was constitutionally ineffective for failing to investigate his mental health. Specifically, Applicant avers that his Veteran's Administration (V.A.) file would have shown he could not have participated in a crime where a gun was used. This Court finds this allegation is without merit.

As is the case with any other allegation that a defense attorney failed to adequately investigate some matter, an applicant must present some proof of identifiable mental health issues that undermine his or her competency; mere speculation and conjecture by the applicant is insufficient to establish prejudice. Garren v. State, 423 S.C. 1, 13-14, 813 S.E.2d 704, 711 (2018).

At Applicant's guilty plea hearing, Applicant testified that he had been treated for alcohol substance abuse while in the military. (Plea Tr. p. 3). Applicant testified that he had no physical, emotional, or nervous problems that would prevent him from understanding what was going on during the plea. (Plea Tr. p. 4). Applicant testified that he was satisfied with Plea Counsel's representation and Plea Counsel had done all he had asked him to do. (Plea Tr. p. 9).

At the evidentiary hearing on direct examination, the following colloquy occurred with Applicant:

- Q. You're a military vet, correct?
- A. Yes, sir.
- Q. And I certainly thank you for your service. In page seven, lines 14 through 19, it talks about you being a military vet and it says on page 16 and 17: I ask him to see as far as what he could do possibly to make my V.A. appointments. Now, what does his V.A. appointments have to do with his representation of you?
- A. At the time I was in the process of getting all my V.A. benefits started up and going. I had a couple appointments while I was in the county and I asked him to look into that as far as what process do I have to go by as far as rescheduling my appointments or getting them because I've been diagnosed with PTSD, I did five and a half years in the

military. As far as I know I got sentenced to mental health counseling so I could tell the judge knew I had some type of, you know, mental issues, but Mr. Swilley never checked into that, looked into it, as far as my knowledge I never heard anything about it.

Q. So you feel like -- now, were you diagnosed with PTSD -- by who?

A. The military.

Q. So the military said, in your words, you had PTSD?

A. Yes, sir.

Q. What is that? Post Traumatic Stress Disorder?

A. Yes, sir.

Q. Do you feel like Mr. Swilley should have helped you work with the V.A. on some things?

A. Basically, it was, I guess, what I'm trying to say is for my mental health status as far as what the military had to say as far as my rehabilitation and mental health status.

Q. So you feel like Mr. Swilley should have looked into your mental health status through the Veteran's Administration; is that correct?

A. Yes, sir.

Q. He did not do that, did he?

A. No, sir.

Q. Do you feel like he should have?

A. Yes, sir.

Q. Starting on line 20 -- well, first of all, is there anything about your PTSD or Mr. Swilley's interaction, or lack thereof, with the Veteran's Administration that you'd like to bring to the Court's attention?

A. From my knowledge of my medical records from the military, certain interaction as far as with -- socially, it describes how I interact socially with other people. It describes how I react to loud noises and stuff like that, so what I'm saying is, putting it towards this case, me being around a gun or anything like that would have caused some type of reaction as far as would I be able to actually pull a gun or take part into some type of crime. Me socializing, I don't really socialize, you know like that, so as far as me with this group of individuals, I'm not going to sit there and talk to them or plan anything with them, I'll be off in my own little world, you know, doing my own little thing.

Q. So you're saying that you could have an adverse reaction to just being around a gun, possibly, correct?

A. Not just being around the noise, like, really the noise that, like -- okay, they say there was gun fire. Me, I would have reacted. I would have probably took cover or did something,

you know, to as far as mess up whatever they had going on at that time.

Q. And Mr. Swilley did nothing to look into that?

A. No, sir.

Q. Did he have you take a mental health evaluation?

A. No, sir.

Q. Do you feel like you should have?

A. At the time, yes, sir, because the way I look at it, if Judge Brown sentenced me to mental health counseling then that means some type of mental health issue was brought up and that he felt like I should get it looked at while I'm incarcerated.

Q. And that could have helped you in your defense, correct?

A. Yes, sir.

Q. Do you feel like his lack of interaction with your mental health records or evaluation served as ineffective assistance of counsel?

A. Yes, sir.

(PCR Tr. pp. 11-14).

On direct examination, Plea Counsel credibly testified that he did get the V.A.'s medical and mental health records for the motion to reconsider, which he provided to the court. (PCR Tr. p. 36). Plea Counsel credibly testified that if he could help his client in any way, he would, but it is his understanding that any doctor's appointments would be handled by the jail. (PCR Tr. p. 37). Plea Counsel credibly testified that he believed Applicant was competent under McNaghten⁴ and Blair⁵—that there was no question about his competency, so he did not think they needed an evaluation. Id.

As an initial matter, this allegation was first raised in testimony provided at the evidentiary hearing. This Court finds this issue is not sufficiently meritorious or substantial to justify excusing Applicant's procedural default in failing to properly plead the issue in his application or any subsequent amendment. Applicant failed to present this Court with substantive evidence to

⁴ M'Naghten's Case, 8 Eng.Rep. 718 (1843).

⁵ State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981).

support a potentially meritorious claim that he failed to amend into the application, but rather asserts a claim that is breezily unburdened by any meaningful factual support.

The merits of the claim as they are presented to this Court reinforce the Court's finding of procedural default. The plea transcript reflects Applicant's complete understanding of events as they were occurring, and his answers to the plea court's questions reflect that he was paying attention and knew what was happening. While Applicant testified at the evidentiary hearing that the V.A. records would show that he could not have committed this crime because he was not social and reacted to noises, Applicant provided no medical or mental health records to this Court to support his claim. Therefore, this Court finds Applicant has failed to present any evidence to meet his burden under Strickland or Hill, and failed to demonstrate any reason why he should be relieved of his procedural default.

Furthermore, even if this claim were not procedurally barred, Applicant has failed to provide this Court with any meaningful evidence to substantiate his claim. As noted previously, Applicant bears the burden of proving his claims—including presenting evidence to the Court. Here, Applicant testified at length about medical and mental health records that were pertinent to his defense. Yet, Applicant provided nothing but his self-serving testimony and conjecture as to how the purported records would have supported his claim. Mere speculation and conjecture are not enough to prove prejudice.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

3. Failure to Investigate Discovery and Review Discovery⁶

Applicant alleges Plea Counsel was constitutionally ineffective for failing to investigate and thoroughly review discovery with him. This Court finds this allegation is without merit.

As provided *supra*, in order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)), abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). Likewise, in order to prevail on a claim that counsel did not review discovery with applicant, the applicant must demonstrate prejudice by showing what evidence could have been discovered or what other defenses could have been pursued. Id.

Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. Id. (citing Davis v. State, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is insufficient to support a relief grant. Id., 377 S.C. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

At the evidentiary hearing on direct examination, Applicant testified that he felt like "various issues" should have been looked into "because it [did not] add up." (PCR Tr. p. 14). Applicant testified that one of the issues was that one of the co-defendants said he never got out

⁶ This allegation was first raised at the evidentiary hearing and not within Applicant's original pleadings.

of the car, and Applicant contemplated how the co-defendant could see anything in the dark if he was inside the car. Id. Applicant testified that he never saw the ballistic reports but went on to testify that the trajectory of the gunfire was in a straight line. Id. Applicant contemplated how the gunfire was in a straight line if he was in front of the shooter. Id.

Notably, Applicant testified that "[n]o one ever breached the door, the doorway . . . that didn't add up as far as [his] knowledge of how everything went." Id.

Applicant went on to testify that Plea Counsel did review discovery with him, but not thoroughly. (PCR Tr. p. 15). Applicant testified that no evidence was found linking him to the crime. Id. Applicant testified that he tried to contact Plea Counsel to inform him that he had lied about things previously and that he wanted to clear it up with Plea Counsel, but Plea Counsel would not return his phone calls. (PCR Tr. pp. 16-17). Applicant testified that he requested a polygraph from Plea Counsel and the Solicitor, but he was told it was inadmissible. (PCR Tr. p. 18). Applicant testified that the polygraph would have proved whether or not he was telling the truth. Id.

On direct examination, Plea Counsel credibly testified that he reviewed discovery with Applicant. (PCR Tr. p. 35). Plea Counsel credibly testified that it would not have been fruitful to have a polygraph done. (PCR Tr. p. 38).

The Court, *sua sponte*, asked Plea Counsel if he reviewed the discovery with Applicant and if he appeared to understand it, to which Plea Counsel credibly replied, "He did."

This Court finds Applicant failed to identify precisely what Plea Counsel did not explain or disclose to him from materials provided in discovery or what, if anything, could have been achieved had Plea Counsel spent more time with him in consultation regarding the contents of the evidence. See Smith v. State, 404 S.C. 493, 500–501, 745 S.E.2d 378, 382 (Ct. App. 2012) (noting

that an applicant must present evidence to show how additional time spent in consultation regarding discovery would have resulted in a different outcome).

This Court further notes Applicant's representation to the plea judge that he was completely satisfied with Plea Counsel and that Plea Counsel had answered all of Applicant's questions. Applicant also represented to the plea court that Plea Counsel had done everything he was asked to do. (Plea Tr. pp. 9-10); see Dalton v. State, 376 S.C. 130, 137- 38, 654 S.E.2d 870, 874 (Cl. App. 2007) ("[S]tatements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements.").

Moreover, to whatever extent Applicant was not entirely satisfied with Plea Counsel's discovery investigation or his time spent reviewing discovery, Applicant was presented an opportunity to express his dissatisfaction to the plea court, knowingly opted not to do so, and instead chose to proceed with his guilty plea.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

Allegation: Involuntary Guilty Plea

Applicant contends his guilty plea was involuntary because he relied on erroneous advice from Counsel regarding the potential sentence he could have faced, and that he was emotionally unfit to sign a plea agreement. Applicant cites Hill v. Lockhart specifically, asserting that the voluntariness of his plea depends on whether Plea Counsel's advice to enter an open plea was within the range of competence required of criminal attorneys. This Court finds this allegation is without merit.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of the plea and the charges against him or her. Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); see also Boykin v. Alabama, 395 U.S. 238, 243 (1969) (Courts must make sure defendants have "a full understanding of what the plea connotes and of its consequence. When the judge discharges that function, he leaves a record adequate for any review that may be later sought, and forestalls the spin-off of collateral proceedings that seek to probe murky memories."). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence presented at the PCR hearing. See Harres v. Leake, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial instead. Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001); Richardson v. State, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

After a review of the record and testimony at the evidentiary hearing, this Court finds Plea Counsel's representation was well within the range of competence required of criminal attorneys. Also, this Court finds Applicant understood the proceedings, interacted intelligently with the plea court, and entered his guilty plea knowingly, voluntarily, and intelligently. At the plea hearing, the plea judge explained to Applicant the constitutional rights he was waiving by pleading guilty, including his rights to remain silent and confront and cross-examine the State's witnesses and

present any defenses. (Plea Tr. pp. 4-8). Applicant informed the court that he understood the charges he was pleading to, he understood the range of sentencing the plea court could impose, and the implications of being convicted of a crime classified as violent. (Plea Tr. pp. 4-7). Applicant advised the court he had no emotional, physical, or nervous problems preventing him from understanding the agreement and that he had not been threatened, pressured, intimidated, or promised anything in exchange for his guilty plea. (Plea Tr. p. 4; p. 10). Lastly, Applicant affirmed that he was pleading guilty of his own free will. (Plea Tr. p. 11).

Further, this Court finds Applicant has failed to present any valid reason why he should be able to depart from the above statements made during his guilty plea. See Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975), overruled on other grounds by United States v. Whitley, 759 F.2d 327 (4th Cir. 1985) (finding that the accuracy and truth of an accused's statements at a guilty plea proceeding are "conclusively" established unless he makes some reasonable allegation why this should not be so).

Based on the foregoing, this Court finds Applicant's guilty plea was knowingly, voluntarily, and intelligently entered into. Accordingly, Applicant's request for relief by way of this allegation is **DENIED**.

Allegation: Failure to File an Appeal

Applicant alleges that he was denied the right to a direct appeal of his plea and sentence. This Court finds this allegation is without merit.

Though counsel is required to make certain that a defendant is made fully aware of his or her right to appeal after a trial, a different standard applies to a guilty plea:

Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is

no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008) (citations omitted); see also Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (imposing the duty to consult when there is reason to think either that a rational defendant would want to appeal or that the particular defendant reasonably demonstrated interest in doing so); contra Frazer v. South Carolina, 430 F.3d 696 (4th Cir. 2005) (reading Flores-Ortega to mean counsel generally has a duty to consult with his client regarding whether to pursue an appeal). Therefore, in a collateral action attacking a guilty plea, the "bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief." Jones v. State, 382 S.C. 589, 596, 677 S.E.2d 20, 23-24 (2009) (quoting Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995)).

Where an Applicant reasonably demonstrates an interest in appealing, or where there is a reason to think a rational defendant would want to appeal, and where Counsel fails to either initiate that appeal or comply with Anders⁷ procedure, "White permits consideration of the full trial record on [an] issue in conjunction with appellate review of the PCR proceeding under an exception to the prohibition against appellate courts considering appeals in the absence of notice of direct appeal given and timely served."⁸ Smith v. State, 309 S.C. 413, 415, 424 S.E.2d 480, 481 (1992) (citing Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986)).

At the evidentiary hearing and on direct examination, Applicant testified that he asked Plea Counsel to do "some type of appeal." (PCR Tr. p. 26). Applicant testified that Plea Counsel told him he would file a motion to reconsider. Id. Applicant testified that he asked Plea Counsel to file an appeal and thought the motion to reconsider was an appeal. Id.

⁷

⁸ White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

On cross-examination, Applicant testified that the basis of his appeal would have been "wrongful conviction and ineffective assistance of counsel." (PCR Tr. pp. 32-33).

On direct examination, Plea Counsel credibly testified that he did not recall Applicant requesting that he file an appeal. (PCR Tr. p. 39).

On cross-examination, Plea Counsel testified to the following:

- Q. In terms of, I did not expect the sentence – strike that. It says: What I plan on doing at this point is moving for a reduction in your sentence by gathering some mitigation materials. Tell me about that. What did you do in terms of a reduction of the sentence?
- A. I made a written motion for a reduction of sentence. I went and got some records, I believe, of Mr. Hudson, and I presented those to the judge via e-mail, you and Mr. Barlow have been afforded that e-mail, and I presented that to Judge Brown, I think he kind of sat on it for a long time and then when it came back up I think he asked for me to send it again, I sent it again, and then he issued a written order, I guess, denying my motion after that.
- Q. But you could have just simply appealed it, couldn't you?
- A. I could have done that, yeah.
- Q. But you didn't, did you?
- A. No.
- Q. Even though you said you were shocked at the sentence that was handed down, right?
- A. Right, yes, that's correct.
- Q. So why didn't you appeal it?
- A. Because I didn't think there was any way the Court of Appeals was going to reverse it, you know, based upon just the issue of sentencing. I thought we had a better chance of going back before the judge, asking him to reconsider and then to reconsider some of this mitigating, to present it to him, I didn't think there was virtually any chance that the Court of Appeals would have -- I mean, it was a voluntary guilty plea and the sentencing is in discretion of the judge so I didn't believe that the Court of Appeals would have --
- Q. But that was the decision for the Court of Appeals, not you, right?
- A. Yes.

(PCR Tr. pp. 43-44).

The Court finds Applicant has not met his burden of proving that he requested an appeal by a preponderance of the evidence. See Rule 71.1(e), SCRCR. Because Applicant has not shown that he actually requested an appeal, Plea Counsel was not ineffective for failing to file one. See Kinard v. State, 418 S.C. 478, 481, 795 S.E.2d 15, 16 (2016).

Furthermore, based upon the record before this Court and testimony presented at the evidentiary hearing, this Court finds Applicant has failed to show extraordinary circumstances existed that would have warranted an appeal. Plea Counsel credibly testified that based on the guilty plea and sentencing alone, he did not see a basis for an appeal that the Court of Appeals would reverse. After a thorough review of the record, this Court agrees with Plea Counsel.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel or any prejudice flowing therefrom. Thus, this allegation must be **DENIED** and **DISMISSED**.

[CONCLUSION PAGE FOLLOWS]

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED and DISMISSED WITH PREJUDICE**.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 9 day of October, 2023.

Debra McCaslin
 THE HONORABLE DEBRA R. MCCASLIN
 Presiding Judge
 Twelfth Judicial Circuit

FILED

Flourence, South Carolina

CERTIFIED A TRUE COPY
Donna Paula Ottana
 CLERK OF COURT C.P. & G.S.
 LORENCE COUNTY, S.C.

FORM 4

FILED

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NUMBER 2022CP2100821

Anthony Hudson

2023 OCT 17 AM 9:15 South Carolina State Of

DORIS POULOS O'HARA
CCCP & GS

PLAINTIFF(S)

FLORENCE COUNTY DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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

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

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

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

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

Circuit Court Judge

Judge Code

10/17/2023

Date

For Clerk of Court Office Use Only

This judgment was entered on October 17th, 2023, and a copy mailed first class or placed in the appropriate attorney's box on October 18th, 2023, to attorneys of record or to parties (when appearing pro se) as follows:

CPFORM4Cm
SCCA SCRPC Form 4C: (Revised 2/17)

CERTIFIED A TRUE COPY

CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY S.C.

Steven Willard Fowler 730 Main Street Unit #237-North
Myrtle Beach, SC 29582

D Russell Barlow II PO Box 11549 Columbia, SC 29211

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Dorothy P. O'Hara

Court Reporter

Doris Poulos O'Hara - Clerk of Court

Court Reporter:

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

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

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

WITNESSES

Roger W. Tilton

Florence County Sheriff

White

ARREST WARRANT NUMBER

2017A2110201151

2018GS2102120A

2018GS2102120B

2018GS2102120C

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

11-20-18

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-21-02120

The State of South Carolina

County of

FLORENCE

COURT OF GENERAL SESSIONS

NOVEMBER

TERM

2018

THE STATE

vs.

ANTHONY MARKELL HUDSON

Indictment for

**MURDER;
ARMED ROBBERY;
BURGLARY—FIRST DEGREE; AND
CRIMINAL CONSPIRACY**

2018 NOV 20 PM 12:47
DORIS R. CULLEN, CLERK
COURT A-63
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

INDICTMENT FOR

MURDER;
 ARMED ROBBERY;
 BURGLARY—FIRST DEGREE; AND
 CRIMINAL CONSPIRACY

At a Court of General Sessions, convened on NOVEMBER 20, 2018 the Grand Jurors of FLORENCE County present upon their oath:

COUNT ONE- MURDER

CDR: 0116 16-03-0010,0020

That ANTHONY MARKELL HUDSON did in Florence County, on or about December 24, 2017, willfully, feloniously, and intentionally kill the victim, Johnny Cameron, with malice aforethought, either express or implied, by means of a gunshot, and the victim did die as a proximate result thereof on or about December 24, 2017 in Florence County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

COUNT TWO- ARMED ROBBERY

CDR: 0139 16-11-0330(A)

That ANTHONY MARKELL HUDSON did in Florence County on or about December 24, 2017, while armed with a deadly weapon, to wit: a handgun, take and carry away personal property of Johnny Cameron from or in the immediate presence of Johnny Cameron with intent to deprive Johnny Cameron of possession by use of force, threats or intimidation, in violation of Section 16-11-0330(A), S. C. Code of Laws, 1976, as amended.

COUNT THREE - BURGLARY—FIRST DEGREE

CDR: 0079 C/L 16-11-311, 16-1-80,16-1-60

That ANTHONY MARKELL HUDSON did in Florence County on or about December 24, 2017, willfully and unlawfully attempt to enter the dwelling of Johnny Cameron located at [REDACTED] North Old Georgetown Rd., Lake City, SC, without consent and with the intent to commit a crime therein, and the defendant entered or remained during the nighttime and was armed with a deadly weapon in violation of the Common Law and Section 16-11-311, S. C. Code of Laws, 1976, as amended.

ATTACHED TO AND BECOMING A PART OF THE ORIGINAL INDICTMENT FOR MURDER; ARMED ROBBERY; BURGLARY—FIRST DEGREE; AND CRIMINAL CONSPIRACY, WITH THE AFORESAID NAME(S) OF ANTHONY MARKELL HUDSON SHOWN THEREON:

COUNT FOUR- CRIMINAL CONSPIRACY

CDR: 0049 16-17-0410

That ANTHONY MARKELL HUDSON did in Florence County on or about December 24, 2017 combine with Curtis Roy Nelson, and/or with other persons, for the purpose of accomplishing a criminal or unlawful object or an object that is neither criminal nor unlawful through criminal or unlawful means, to wit: Armed Robbery, in violation of Section 16-17-410, 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.



E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR