

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Spartanburg County

Honorable Brian M. Gibbons, Circuit Court Judge

RECEIVED

Feb 20 2024

S.C. SUPREME COURT

RANDALL PRICE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001625

APPENDIX

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:

STATE’S EXHIBIT NO. 1 (PHOTOGRAPH)

1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

IN THE GENERAL SESSIONS
7th JUDICIAL CIRCUIT

3 STATE OF SOUTH CAROLINA,
4
5 Plaintiff,

COPY

6 vs.

CASE NO. 2020-GS-42-2595

7 RANDALL DAVID PRICE,
8 Defendant.

9
10 HEARING BEFORE: HONORABLE LETITIA H. VERDIN

11 DATE: December 8, 2021

12 TIME: 2:43 PM

13 LOCATION: Spartanburg County Judicial Center
14 180 Magnolia Street
15 Spartanburg, SC 29306

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

18
19 APPEARANCES:

20 ATTORNEYS FOR THE PLAINTIFF
21 BARRY BARNETTE, ESQ.

22 ATTORNEYS FOR THE DEFENDANT
23 STEVE W. SUMNER, ESQ.
24 and SCOTT TODD, ESQ.
25

STATE vs. RANDALL DAVID PRICE

I N D E X

CERTIFICATE OF REPORTER Page 18

E X H I B I T S

FOR I.D. IN EVD.

STATE EXH. 1, MAIT report

3

8

STATE EXH. 2, DVD

3

8

STATE EXH. 3, SC DMV Certification

3

8

STATE EXH. 4, CD recording

3

8

STATE vs. RANDALL DAVID PRICE

1 (STATE EXH. 1, MAIT report, was marked for
2 identification.)

3 (STATE EXH. 2, DVD, was marked for identification.)

4 (STATE EXH. 3, SC DMV Certification, was marked for
5 identification.)

6 (STATE EXH. 4, CD recording, was marked for
7 identification.)

8 MR. BARNETTE: Case of State versus Randall David
9 Price.

10 May it please The Court, Your Honor. This is the
11 case of State versus Randall David Price. He's pleading guilty
12 to 20-GS-42-2595. It's a hit and run with death, Your Honor.
13 It has been true billed to the Grand Jury, Your Honor. It is a
14 serious offense in this case, Your Honor. It is without
15 negotiations or recommendations. Straight up plea in this
16 case, Your Honor. It has been true billed.

17 I do have five exhibits or four exhibits I've
18 shared. This is the MAIT team report, one part of it, Your
19 Honor. I did it on paper so you can quickly review.

20 MR. SUMNER: There's no objection to the exhibits.
21 Solicitor Barnette has already shared them with me, Your Honor,
22 so there's no objection to any exhibits he wishes to make.

23 MR. BARNETTE: State Exhibit 2, Your Honor, is the
24 MAIT team report on this. I just printed the one report off
25 from this.

STATE vs. RANDALL DAVID PRICE

1 State Exhibit 3, Your Honor, is his driving record
2 in this case. You'll have that, too.

3 State Exhibit 4, Your Honor, the victim's mother
4 could not be here today, so we want you to hear that and play
5 that at the appropriate time.

6 THE COURT: I appreciate that.

7 MR. BARNETTE: I do have a statement from Stacy
8 Taylor. She's present here. I'm going to have everybody stand
9 up at the appropriate time, Your Honor. I would like to move
10 these four exhibits into evidence, Your Honor, make them part
11 of the facts at this time. I don't think there's any objection
12 by Mr. Sumner.

13 THE COURT: No objection.

14 MR. BARNETTE: May I approach the bench, Your
15 Honor?

16 THE COURT: Yes, sir. Thank you.

17 Mr. Price, you are here today to plea to hit and
18 run resulting in death. That's 2020-GS-42-2595. That carries
19 one year up to 25 years. And as the Solicitor alluded to,
20 that's a serious offense. Is that your understanding?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Have you discussed this charge with
23 your lawyers?

24 THE DEFENDANT: Excuse me?

25 THE COURT: Have you discussed this charge with

STATE vs. RANDALL DAVID PRICE

1 your lawyers?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Are you happy with what your lawyers
4 have done for you?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Are you under the influence of drugs or
7 alcohol here today?

8 THE DEFENDANT: Absolutely not.

9 THE COURT: Has anybody forced you to plea guilty?

10 THE DEFENDANT: No.

11 THE COURT: Has anyone promised you anything to get
12 you to plea guilty?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: When you plea guilty, you give up
15 certain Constitutional rights; one is your right to remain
16 silent about this charge. Do you know that?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: You also give up your right to a jury
19 trial. At that trial your attorneys could call witnesses for
20 you, cross-examine witnesses against you, and the State would
21 have to prove your guilt beyond a reasonable doubt.

22 When you plead guilty, you give up your right to a
23 jury trial; do you understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: How do you plea to this charge? Guilty

1 or not guilty?

2 THE DEFENDANT: I plead guilty.

3 THE COURT: You have ten days from today's date to
4 appeal this plea, if you so choose. You must do so in writing
5 to This Court.

6 Solicitor.

7 MR. BARNETTE: May it please The Court, Your Honor.
8 In this case, this occurred on October 2, 2020, approximately
9 11:00 p.m. or a little bit shortly after that, Your Honor. A
10 collision report on Highway 11 near Harvey Gosnell Road. It
11 was investigated by the Highway Patrol, Your Honor. The
12 collision involved a vehicle that left the scene after striking
13 a moped, causing fatal injuries to the operator in this case,
14 Your Honor. I have a copy of the MAIT team report where they
15 show the dynamics of this and so forth to that.

16 The moped was a black-and-red moped, Your Honor.
17 It was owned and operated by Dalton Taylor Greer, Your Honor,
18 at that time. It was hit by a 2020, through the investigation,
19 Chevrolet Silverado truck, Your Honor. Wind up being the owner
20 and registered to Randall Price, which is the Defendant in this
21 case, Your Honor.

22 Basically, when they arrived there, Your Honor, it
23 was approximately three miles south of the City of Campobello
24 here in Spartanburg County, Your Honor. When they reviewed it,
25 Your Honor, basically they found -- you'll see this on the

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1 pictures. I believe it's on page 5. They show the point of
2 impact, and they'll show the tire marks about where, basically,
3 Mr. Dalton was found and where actually the moped was drug for
4 about a mile, mile-and-a-half.

5 He got rid -- basically the moped was got rid of at
6 that time. He was left there in the road. Basically, they got
7 information, Highway Patrol did. They went to Mr. Price's
8 residence, Your Honor. They saw the white truck in there, Your
9 Honor. They had parts of the truck at the scene, they
10 gathered. They went ahead and talked to Mr. Price at the time,
11 Your Honor. He was placed under arrest. Basically, he did
12 make one statement: He died at the scene. This is on body cam
13 before he invoked his rights at that point.

14 They actually got -- and you'll see by the MAIT
15 team report, they matched the pieces to the truck; to the truck
16 itself.

17 The speed limit was 55, Your Honor. He was going a
18 high rate of speed. Actually the box shows he actually
19 accelerated at one point before making contact.

20 I'd like to -- through their investigation, Your
21 Honor, they made the charges. I'd like to hand these items up
22 to you. And then I'll play the mother's statement at the
23 appropriate time, Your Honor.

24 THE COURT: Mr. Price, you heard the facts as
25 stated by the Solicitor. I'll ask you again: How do you plea?

STATE vs. RANDALL DAVID PRICE

1 Guilty or not guilty?

2 THE DEFENDANT: I plea guilty.

3 THE COURT: I'll accept the plea as being freely
4 and voluntarily made with the advice of extremely competent
5 Counsel, with whom you say you're well satisfied with, and does
6 have a substantial factual basis.

7 MR. BARNETTE: Your Honor, I'd like to make those
8 exhibits part of the evidence in the facts of the case.

9 THE COURT: They're so entered.

10 (STATE EXH. 1, MAIT report, was entered into
11 evidence.)

12 (STATE EXH. 2, DVD, was entered into evidence.)

13 (STATE EXH. 3, SC DMV Certification, was entered
14 into evidence.)

15 (STATE EXH. 4, CD recording, was entered into
16 evidence.)

17 MR. BARNETTE: Your Honor, I do have the family
18 members here. Please stand up.

19 Your Honor, I believe they have a couple signs
20 they'd like to show The Court.

21 (Audience members complied.)

22 MR. BARNETTE: Your Honor, he was the victim in the
23 case. That way they want to make sure you saw him and see who
24 he was.

25 Y'all please have a seat.

STATE vs. RANDALL DAVID PRICE

1 Your Honor, I do have a statement from Stacey
2 Taylor, if I can pass it up. I shared that with Mr. Sumner.

3 MR. SUMNER: I've already seen it. You can
4 certainly review that, Your Honor, for sure.

5 MR. BARNETTE: During that time, Your Honor, if I
6 can go ahead and play the statement from the victim's mother in
7 this case.

8 THE COURT: Please.

9 (A pause transpired.)

10 MR. BARNETTE: Your Honor, I'd like to play State's
11 Exhibit 1 at this time and publish it.

12 THE COURT: Please.

13 (Audio recording was played. A transcript was not
14 produced.)

15 MR. BARNETTE: There is one family member that
16 would like to speak, Your Honor. Your Honor, I'd like to ask
17 his sister, Jenna Taylor, to come up.

18 Tell her your name.

19 MS. TAYLOR: Jenna Taylor.

20 MR. BARNETTE: You have to speak louder so she can
21 hear you.

22 MS. TAYLOR: Jenna Taylor.

23 THE COURT: Yes, ma'am.

24 MS. TAYLOR: I'm Dalton's sister. All we want is
25 justice. We have suffered this past year. Christmas is coming

1 up. It won't be the same. It wasn't the same last year.

2 I did want to say that, if the situation was
3 reversed, my brother would've did the right thing. He would've
4 got out of the vehicle and helped that person. He had a big
5 heart. I mean, a really big heart. And he would've never left
6 somebody laying there like Randall Price did.

7 If Randall would've got out of the car, I think I
8 would've looked at the situation ten times more different. I
9 knew my brother would've had somebody there by his side. No,
10 Dalton had to die by himself. In the dark. And it was cold
11 that night. And I could only imagine what was going through
12 his head.

13 And he probably thought the man was going to get
14 out and help him, and he didn't. He kept going. And then
15 tried to hide the evidence, and then even lied about it.

16 We have been through so much. And all we want is
17 justice. That's just all we want. There's nothing else we can
18 do. My brother is never coming back. I've had to learn how to
19 fight by myself. I can't turn to my mom and dad because
20 they're suffering with me. It's just so unfair.

21 I have two daughters. They're three and five.
22 They ask about my brother every day. They call him Bubba.
23 They don't understand why he's not coming back. I get that
24 accidents are accidents. What he did was wrong. He left him
25 there.

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1 He was coming to my house and he never made it.
2 There's so much more I need to say. I'm not going to be able
3 to get it all out here today. Thank you for listening to me.

4 THE COURT: Thank you for being here. I'm so sorry
5 for your loss. He sounds like he was a wonderful man, seeing
6 folks that have shown up on his behalf today and what you-all
7 have done to memorialize him. He must've been a really awesome
8 person.

9 MS. TAYLOR: He was. He was only 27. Wasn't long
10 enough.

11 THE COURT: Not long enough by a long shot. I'm
12 just so sorry for y'all's loss. Thank you so much for being
13 here.

14 MS. TAYLOR: Thank you.

15 THE COURT: Thank you.

16 MR. BARNETTE: Your Honor, that would be our
17 presentation.

18 THE COURT: Just one moment.

19 (A pause transpired.)

20 THE COURT: Mr. Sumner.

21 MR. SUMNER: May it please The Court. Steve Sumner
22 and Scott Todd for the Defendant, Randy Price. First of all, I
23 want to say I know it's a very difficult thing. We extend our
24 sympathies to the family. I know it took a lot of courage for
25 that young lady, and I certainly applaud her being able to come

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1 forward and speak with you.

2 Your Honor, I know we've had an extensive status
3 conference about this case. And a lot of the facts of this
4 came out to you in that file review, so I'm not going to
5 reiterate those. I'll just ask you to think about what was
6 said earlier to you as you think about what would be
7 appropriate here.

8 I want to ask -- the second thing I want to ask,
9 stand, if you're with Randy Price, if you would. Just stand.

10 (Audience members complied).

11 MR. SUMNER: And, Your Honor, I think that you
12 know -- thank you-all so much for being here. You-all can have
13 a seat.

14 Judge, I think you know what they would say. And
15 everything that came out in the status conference about his
16 career and about what he's done with his family and as a father
17 and as a husband and as a friend and as an employee, you
18 already are aware of. So I don't feel the need to go over that
19 unless you have questions about it.

20 If The Court doesn't have any questions regarding
21 the status conference that was held earlier or any of his
22 background, I will ask you if you do. If you do, I'm glad to
23 answer them. If you don't, I'm going to turn it over to
24 Mr. Price for a second. And then we'll conclude our
25 presentation. I know it seems brief. I just didn't want to --

STATE vs. RANDALL DAVID PRICE

1 I did not feel the necessity, neither did Attorney Todd or
2 myself, to go back over things that The Court is already aware
3 of regarding the file of this case. Would that be correct,
4 Your Honor?

5 THE COURT: Yes, sir.

6 MR. SUMNER: Thank you.

7 THE COURT: I feel like -- I will say we had a
8 status conference in which we went over the facts of the case
9 with both defense Counsel and with the Solicitor.

10 MR. SUMNER: Yes, ma'am, we were all there. I
11 appreciate that. I'm going to turn it over to Mr. Price at
12 this point.

13 Say anything that you would like to the family and
14 direct your comments, please, to the judge, if you would,
15 please, sir.

16 THE COURT: Yes, sir.

17 THE DEFENDANT: I want the family to know that this
18 has been one of the hardest times in my life. I wouldn't even
19 dare to try to tell you about it. I know I have not suffered
20 to the point that you guys have. I just want you to know that
21 I am just really so sorry for your loss and your mother's
22 agony.

23 She said something in the bond hearing that just
24 ripped my soul out. And I lost a lot of night's sleep over.
25 It was about referring to my son and hers. I just want you

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1 guys to know I am really, really, just really, truly --

2 THE COURT: Please direct your comments to me.

3 MR. SUMNER: Look this way.

4 THE DEFENDANT: I just want them to know I really
5 am sincere.

6 MR. SUMNER: I know that.

7 THE DEFENDANT: If I could change anything, I
8 would've been out there and took the hit rather than him. I
9 would do it in a second. There's no way I wouldn't. I just
10 would. That's all I have to say.

11 MR. SUMNER: Judge, I think you know, if he
12 continued, what that would be. I will say to Solicitor
13 Barnette and to the family that Mr. Price has asked me
14 continuously from the time that I began to represent him about
15 approaching the family. Just because there's pending
16 litigation, it just couldn't happen. He asked me, called me
17 multiple times: I want to reach out to them.

18 It just was not something -- the way our system is
19 set up right now, just not something that could happen. I did
20 want to say that to The Court.

21 I know he generally lost about 50 or 60 pounds or
22 maybe more. Judge, that would really conclude our
23 presentation. We just ask you to be as merciful as you can and
24 think about everything that's come before you today and in
25 earlier status conferences. We just extend our deepest

STATE vs. RANDALL DAVID PRICE

1 sympathies to the family. This was a horrific, horrible
2 tragedy. Obviously, I know you've heard these before, it's bad
3 all the way around. I don't know of anything else I can say.

4 THE COURT: Anything else from the State?

5 MR. BARNETTE: No, ma'am.

6 THE COURT: Did he have any time in jail?

7 MR. BARNETTE: He was in jail. I know he got bond.

8 THE DEFENDANT: Thirty-five days.

9 MR. SUMNER: I think it was around 30 or 35 days.

10 MR. BARNETTE: He had the bond hearing, Judge -- he
11 was arrested on October 3rd. The bond hearing was held October
12 22nd. I think the bond was issued on Monday.

13 MR. SUMNER: I believe you're correct. I think
14 that hearing was on Sunday maybe. I think it was by Zoom
15 maybe.

16 MR. BARNETTE: It was actually on Friday. It was
17 actually Zoom during COVID.

18 MR. SUMNER: It's been a while ago, Your Honor.

19 THE COURT: The 5th and then --

20 MR. BARNETTE: He had been in 22 days. October 3rd
21 to October 25th.

22 MR. SUMNER: Yes. We would stipulate to that,
23 Judge; 22 days.

24 THE COURT: These are certainly the most difficult
25 cases, I think. His sister put it best when she said: You

1 know, I know it's an accident but he didn't stop. And he left
2 him there.

3 Didn't set out to do it. Didn't plan to do it.
4 But then when he could have done the right thing, he didn't do
5 it. And you know that.

6 THE DEFENDANT: Yes, ma'am.

7 MR. SUMNER: We agree to that, Your Honor.

8 THE COURT: And didn't do it. That's the crux. I
9 know that there were a lot of circumstances regarding this
10 case. I take into account the fact that Mr. Price does not
11 have any prior record. I do take that into account. I take
12 into account that his driving record is what I would
13 characterize as very poor. I take into account the MAIT
14 accident -- the MAIT team's investigation report, which appears
15 to be extremely thorough and what it talks about in that
16 accident.

17 Mr. Price, I know the particular concern is -- you
18 know, I've had a number of these cases in which a person might
19 be somewhat confused as to what happened. This is not one of
20 those cases. Clearly you were aware of what happened and had
21 quite some time to stop. And I do note it was some time before
22 you were even arrested.

23 And your attorney has made a fine presentation on
24 your behalf. There's no doubt about that. A very fine
25 presentation on your behalf and has defended you extremely

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1 well. I do not think that the family -- everyone certainly
2 understands they're asking for the maximum sentence in this
3 case. I do have to weigh all the factors including what I've
4 given in other cases like this and weigh it out.

5 I would say that this is why you do not have any
6 record. The facts in this particular case, you know, I find it
7 to be egregious. The sentence of the Court is 12 years, credit
8 for 22 days. Good luck to you. Good luck to you-all.

9 MR. SUMNER: Thank you.

10 (The hearing was concluded at 3:05 p.m.)

11

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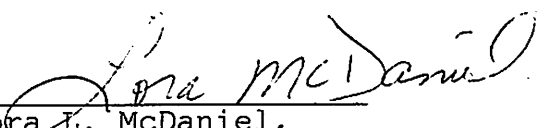
25

CERTIFICATE OF REPORTER

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

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

Witness my hand, I have hereunto affixed my official seal this 3rd day of January, 2022 at Spartanburg, Spartanburg County, South Carolina.



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

FORM 5

STATE OF SOUTH CAROLINA

County of SpartanburgRandall David Price 386694

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2022CP4200741

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 MacDougall Corr. Inst. 1516 Old Gilliard Rd Ridgeville SC 29472
2. Name and location of Court which imposed sentence Spartanburg
Gen. Sessions
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2020-65-42-2595/Hit & run
 - (b) _____

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CLERK OF COURT
SPARTANBURG COUNTY
ADMIN. COR.

FILED

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 (a) Dec 8 2021 / 12 yrs
 (b) _____
 (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. NI
 ii. _____
 iii. A
 (b) the result in each such Court to which you appealed:
 i. N
 ii. _____
 iii. A
 (c) the date of each such result:
 i. N
 ii. _____
 iii. A
 (d) if known, citations of any written opinion or orders entered pursuant to such results:
 i. N
 ii. _____
 iii. A
9. If you answered "no" to (7), state your reasons for not so appealing:
 (a) atly never filed an appeal
 (b) _____

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 CLERK OF COURT
 SEABOARD COUNTY
 JEFF W. DICK

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See attached sheet
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- | | |
|------|----------|
| i. | <u>N</u> |
| ii. | |
| iii. | |
| iv. | <u>A</u> |
- (b) the name and location of the Court in which each was filed:
- | | |
|------|----------|
| i. | <u>N</u> |
| ii. | |
| iii. | |
| iv. | <u>A</u> |

CLERK OF COURT
SOUTH CAROLINA
JUL 11 2008
3 PM 1:08

(c) the disposition thereof:

i.	N
ii.	
iii.	
iv.	A

(d) the date of each such disposition:

i.	N
ii.	
iii.	
iv.	A

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

i.	N
ii.	
iii.	
iv.	A

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

NO

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

(a) which grounds have been presented:

i.	N
ii.	
iii.	A

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

i.	N
ii.	
iii.	A

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) See 10 (a) Applicant first time presenting grounds
- (b) _____
- (c) _____
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? N/A
- (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? N/A
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A
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. Steve Summer 112 Manly St.
Greenville, SC 29601
- ii. _____
- iii. _____
- (b) the proceedings at which each such attorney represented you:
- i. Trial / Sentencing
- ii. _____
- iii. _____

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

New trial and any other RELIEF I am entitled to and the court deems just and fair

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

No

STATE OF SOUTH CAROLINA)

VERIFICATION

County of _____)

I, RANDALL DAVID PRICE, 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.

Randall D Price

SWORN to and subscribed before me this 24th
day of February, 2022.

[Signature] Lawson Ndd (L.S.)
Notary Public

My Commission Expires: 01-12-2031

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

I, RANDALL DAVID PRICE, 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.

Randall D Price
Applicant

SWORN or affirmed to and subscribed before me this
24th day of February, 2022.

Lauren Nole
Notary Public

My Commission Expires: 04-12-2031

2022 FEB 24 PM 3:08
 CLERK OF COURT
 1000 10th St
 Raleigh, NC 27601

The Hon. Clerk of Ct.
 Spartanburg Co.
 180 Magnolia St. Second Fl/Ste 500
 Spartanburg, SC 29306

DATE: 2/24/2022

Dear Hon. Clerk of Ct.

Please find enclosed for filing the
 matters mention in my proof of service.

Would you be so kind as to forward
 the Atty Gen's Office a filed copy
 and me one back please

And, please inform me whom has been
 appointed to my case.

Thank you

Sincerely

Randall Rie

cc R.D.P.

CLERK OF COURT
 SPARTANBURG COUNTY
 180 MAGNOLIA ST.
 SPARTANBURG, SC 29306
 2022 FEB -4 AM 8:30

FILED

INEFFECTIVE ASSISTANCE OF COUNSEL

Per the Bill of Right to the Federal Constitution I was denied the right to effective assistance of counsel, thereby my conviction and sentence violates the constitutions and laws of the United States, as guaranted by the 6th and 14th Amendments and South Carolina Const. Article I sec 3 and Sec 14 Also see Strickland vs Washington 104 S. Ct. 2052.

Here, Counsel Steve Sumner acts and or omissions including but not limited to PREJUDICED me, when counsel failed to properly investigate all the

193

FILED
2022 JUN -4 AM 8:30
CLERK OF COURT
HARRISBURG COUNTY
MAY 17, 2022

facts/issues upon my behalf surrounding my case.

I further argue, that with the aid of effective assistance of PCR counsel, I will prove my claims by the preponderance of evidence SEE: Martinez vs Ryan 132 S Ct. 1309; SCR Civil P. Rule 71.1 (d) and Rule 407 SCAER, Rule of Professional Conduct.

And I further argue that any grounds/issues set out in my original PCR application expressly or not argued, will be subject to amendment per S.C. Code Ann § 17-27-90 Also see S.C.R Civil P. Rule 71.1 (d) Thus I am ENTITLED to a FULL and FAIR

273

CLERK OF COURT
JAN 13 2017
10:30 AM
JAN 13 2017
10:30 AM
JAN 13 2017
10:30 AM

evidentiary hearing, as well as a ruling
 upon "ALL" my issues SEE: Odom v State
523 SE2d 753; Sharper v State 305 SE2d 247;
SC Code Ann § 17-27-80; Marler v State
653 SE2d 266; Bostick v Stevenson 589 Fed
 164.

DATE: 2/24/22

Respectfully submitted
 s/ Ronald D Pini

3 of 3

FILED
 2022 FEB -4 AM 8:30
 CLERK OF COURT
 SUPERIOR COURT
 MOBILE, ALA.

PROOF OF SERVICE

I Randall D Price do hereby certify that
 I have served the below Hon. Clerk of Ct.
 my PCR form; grounds and motion for costs/
 fees. By placing the above said into the United
 C.I. mail on this 24 day of FEB
 to be placed in the U.S. mail with postage
 prepaid

the Hon. Spartanburg Clerk of Ct.
 180 Magnolia St. Second Fl Ste 500
 Spartanburg, SC 29306

SWORN to before me
 this 24th day of February

Randall D Price

L D Laurens Notary
 Notary Public
 My Commission Expires 04-12-2031

NOTARY PUBLIC
 LAURENS COUNTY, SC
 L. D. PRICE

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS

#

2022-CP-42-00741

Applicant

NOTICE AND MOTION
TO AMEND

VS

The State

NOW COMES the above named Applicant who moves
this Hon court in the above entitled matter per
S.C. Code Ann § 17-27-90 to ADD the
below to his original PCR application
(6 (a) after a plea of guilty [✓]
10 (b) GUILTY PLEA WAS NOT VOLUNTARILY
NOR INTELLIGENTLY MADE

11 (b) My guilty plea was not voluntarily nor
intelligently made, and if it wasn't
for counsel unprofessional errors.
I would not have pled guilty and
would have insisted on going to
trial SEE: Hill v Lockhart 106 S Ct
366.

DATE: March 10th 2022

Respectfully submitted
s/ Randall R Rine

FILED
2022 MAR 17 PM 5:53
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA

PROOF OF SERVICE

I RANDALL D. PRICE do hereby certify that I have served the below Hon. Clerk of Ct. my amended PCR. By placing the above said into the MacDougall C. I. mail room on this 9th day of March 22 to be placed in the U.S. mail w/ postage prepaid

The Hon. Spartanburg Clerk of Ct.
180 Magnolia St. 244 / Ste 500
Spartanburg, SC 29306

SUBSCRIBED to before me
this 10th day of March 2022

Randall D Price

[Signature]
Notary Public
my Commission Expires 04-12-2031

FILED
2022 MAR 17 PM 4:53
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COY

DATE: March, 10th 2022

Re: pending PCR

Dear Hon. Clerk

Please send me back a filed copy
of my amended PCR.

Thanks

Sincerely
Randall D. Price

cc: R.P

FILED

2022 MAR 17 PM 4:53

CLERK OF COURT
SPARTANBURG COUNTY
ATTY VL COX

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Randall Price, #386694,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No. 2022-CP-42-00741

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

2022 MAY -5 AM 9:04

FILED

NOW COMES Respondent, moving for a more definite statement and making its return to the post-conviction relief (hereafter "PCR") application filed on March 3, 2022, by Randall Price (hereafter "Applicant"). Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its October 2020 term, the Spartanburg County Grand Jury indicted Applicant for traffic/hit and run with death (2020-GS-42-2595). Applicant was represented by Steve Sumner, Esquire. Solicitor Barry Barnette of the Seventh Circuit Solicitor's Office prosecuted the case. On December 8, 2021, Applicant appeared before the Honorable Letitia Verdin, circuit court judge, and pled guilty as indicted without any negotiations or recommendations. Judge Verdin sentenced Applicant to twelve years' imprisonment. Applicant did not pursue a direct appeal.

II. Statement of Facts

On October 2, 2020, a collision was reported involving a vehicle that left the scene after striking a moped and causing fatal injuries to the operator. (Tr. 6). Throughout the investigation

it was determined that Applicant was the other individual involved in the case. (Tr. 6). Investigators also determined the point of impact, where the victim was found, and that the moped was dragged about one to one and a half miles down the road before being abandoned. (Tr. 6-7). Officers went to Applicant's residence, found the white truck involved in the crash, placed Applicant under arrest, and Applicant stated that the victim died at the scene. (Tr. 6-7). Pieces of the truck left at the scene of the crash were matched to the truck itself. (Tr. 7). The investigation also revealed that Applicant was going at a high rate of speed and accelerated before making contact with the moped. (Tr. 7). After hearing the facts, Applicant pled guilty. (Tr. 7-8).

III. Current Action before the Court

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

1. Ineffective assistance of counsel:
 - a. Failure to investigate all of the facts/issues.

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

IV. Argument

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Effective assistance of counsel does not mean perfect or mistake-free representation. *See Weaver v. Massachusetts*, 137 S. Ct. 1899 (2017) ("[A] defendant has a right to effective representation, not a right to an attorney who

performs his duties ‘mistake-free.’” (citation omitted)); *Burt v. Titlow*, 571 U.S. 12, 24 (2013) (“[T]he Sixth Amendment does not guarantee the right to perfect counsel; it promises only the right to effective assistance[.]”); *Yarborough v. Gentry*, 540 U.S. 1, 8 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Instead, it simply means assistance that was objectively reasonable under prevailing professional norms. *Strickland*, 466 U.S. at 687-688.

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

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRCP (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”). Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.”

Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); see *Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel's strategic decisions are to be afforded "'strong presumption' of reasonableness that the defendant must overcome"); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel's performance remains highly deferential towards defense counsel with a strong presumption that counsel acted competently, because competent representation may be executed in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

Second, counsel's deficient performance must have prejudiced the applicant so that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Cherry*, 300 S.C. at 117-18. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. Importantly, "[t]he likelihood of a different result must be *substantial*, not just conceivable." *Harrington v. Richter*, 562 U.S. 86, 112 (2011).

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

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

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

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

A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and "may be accomplished by colloquy between the court and defendant, between the court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. at 34, 528 S.E.2d at 421 (citing *State v. Ray*, 310 S.C. 431, 437, 427 S.E.2d 171, 174 (1993)). "[T]he voluntariness of a guilty plea is not determined by an examination of the specific inquiry made by the sentencing judge alone but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing." *Dalton*, 376 S.C. at 138,

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

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

Beyond stating Counsel failed to investigate everything, Applicant has failed to state what exactly Counsel failed to investigate. Thus, a more definite statement is needed to ascertain whether or not this allegation has merit.

Respondent contends that Applicant likely cannot meet his burden of proof concerning his allegations of ineffective assistance of counsel. Still, the ineffective assistance of counsel allegations probably raise questions of fact that the record does not conclusively refute.

Accordingly, Respondent respectfully requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (“Where an application for

post-conviction relief alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court, a question of fact is raised which can only be resolved by an evidentiary hearing.”).

V. Motion for a More Definite Statement

Respondent moves for a more definite statement regarding Applicant's allegations. Applicant alleges that plea counsel was constitutionally ineffective. However, he does not explain exactly what Counsel did that constituted ineffective assistance of counsel. Applicant fails to set forth with specificity any facts and circumstances upon the claim is based. The Uniform Post-Conviction Procedure Act requires that applicants must “specifically set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976). In a PCR application, it is incumbent upon applicants to make at least a *prima facie* showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. *Welch v. MacDougall*, 246 S.C. 258, 143 S.E.2d 455 (1965); *Blandshaw v. State*, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

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

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

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.” Respondent moves pursuant to Rule 12(e), SCRPC, to require Applicant to provide a more definite statement of his claims.

Respondent moves to require Applicant to file an additional amended application well in advance of any evidentiary hearing concerning this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves

the right to move to dismiss the allegation.

VI. Other Allegations Denied

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

VII. Assertion of Rights to Notice of Amendments, Experts

Applicant should raise any claims he intends to raise at the PCR evidentiary hearing well in advance of the hearing. Here, Applicant's court-appointed attorney is the only individual authorized to file amendments to this application, given his representative capacity, Rule 11(a), SCRCP and *pro se* filings will not be considered at the PCR hearing. *State v. Devore*, 416 S.C. 115, 123, 784 S.E.2d 690, 694 (Ct. App. 2016) (*Pro se* filing is a nullity where person was represented by counsel); *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010) ("Since there is no right to 'hybrid representation' that is partially *pro se* and partially by counsel, substantive documents, with the exception of motions to relief counsel, filed *pro se* by a person represented by counsel are not to be accepted unless submitted by counsel.").

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent or, in the alternative, continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) ("In most PCR cases . . . we have refused to excuse the pleading and issue-preservation requirements that apply in all civil cases."); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) ("When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend

against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); *see also* Rules 15(a)-(b), SCRCP (explaining how to amend a pleading). Pursuant to Section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless the Court grants leave upon good cause shown. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits withheld until the last minute resulting in undue prejudice to Respondent.

VIII. Conclusion

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

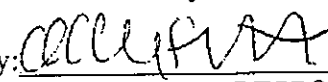
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

CHELSEY F. MARTO
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

FILED
2022 MAY -5 AM 9:05
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA

May 2, 2022

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Randall Price, #386694

Applicant,

v.

State of South Carolina

Respondent,

) IN THE COURT OF COMMON PLEAS
) FOR THE SEVENTH JUDICIAL
) CIRCUIT

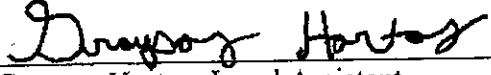
) Case No.: 2022-CP-42-00741

) Certificate 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:

Rodney Wade Richey, Esquire
Richey & Richey, PA
PO Box 10916
Greenville, SC 29603-0916

DATED this 2nd day of May 2022.



Grayson Horton, Legal Assistant
For Respondent

FILED
2022 MAY -5 AM 9:05
CLERK OF COURT
SPARTANBURG COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMONS PLEAS
FOR THE SEVENTH JUDICIAL CIRCUIT

Randall Price,
S.C.D.C. No: 386694

Case No: 2022-CP-42-741

Applicant,

**AMENDED
POST-CONVICTION RELIEF APPLICATION**

vs.

State of South Carolina,

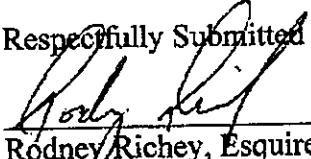
Respondent.

The Applicant, Randall Price, through his undersigned attorney, Rodney Richey, Esquire amends his Post-Conviction Relief applications as follows:

1. Trial Counsel was ineffective for having a pre-trial conference outside the presence of the Applicant;
2. Trial Counsel was ineffective for not allowing the Applicant to present mitigation evidence at the guilty plea.

Wherefore Applicant request a hearing on all the above issues and issues already plead in is application.

Respectfully Submitted


Rodney Richey, Esquire
RICHEY AND RICHEY, P.A.
Post Office Box 10916
Greenville, SC 29603
864-467-0503
864-467-0646 (fax)

Dated: July 8, 2022

2022 JUL 14 AM 9:01
FILED
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF SPARTANBURG	)	2022-CP-42-741
	)	
	)	
	)	
	)	
	)	
RANDALL DAVID PRICE,	)	
	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
THE STATE OF SOUTH CAROLINA,	)	
DEFENDANT.	)	
	)	

October 20, 2022
Spartanburg, South Carolina

B E F O R E:

THE HONORABLE BRIAN M. GIBBONS, JUDGE.

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

CHELSEY MARTO, ESQ.
Assistant Attorney General

RODNEY RICHEY, ESQ.
Attorney for the Applicant

AMBER PAYNE
Court Reporter, CVR

I N D E X

(SW) - Denotes State's Witness
 (AW) - Denotes Applicant's Witness

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P R O C E E D I N G S

(Whereupon, the hearing began at
9:55 a.m.)

THE COURT: All right. Madam A.G., if you'll
introduce the case.

MS. MARTO: Yes, Your Honor. First up today is
"Randall Price vs. The State of South Carolina,"
2022-CP-42-741. He's presently confined in the
South Carolina Department of Corrections. In
October 2020, he was indicted for a traffic/hit-and-
run with death.

He was represented by Mr. Steve Sumner.
Solicitor Barry Barnette prosecuted the case
December 8th, 2021. He appeared before Judge Verdin
and pled guilty as indicted without negotiation or
recommendation and was sentenced to 12 years
imprisonment. Applicant did not pursue a direct
appeal.

The application was filed March 3rd, 2022, and
the return was made May 2nd, 2022. And with that,
I'll turn it over to Mr. Richey.

THE COURT: All right. Mr. Richey.

MR. RICHEY: Thank you, Your Honor. We'll call Mr.
Lloyd Plumley.

THE COURT: All right. Sir, you can just have a

1 seat there.

2 (WHEREUPON, the witness was sworn.)

3 THE COURT: Thank you, sir. Just speak loudly into
4 the microphone.

5 DIRECT EXAMINATION OF LLOYD E. PLUMLEY

6 BY MR. RICHEY:

7 Q Sir, would you state your name, please?

8 A Lloyd E. Plumley.

9 Q Okay. Mr. Plumley, do you know Mr. Price?

10 THE COURT REPORTER: (To Mr. Richey) Excuse me.

11 Can he spell his name, please?

12 Q Spell your name for the court reporter.

13 A Huh?

14 THE COURT REPORTER: (To the witness) Can you spell
15 your name?

16 THE COURT: Spell your last name.

17 A P-l-u-m-l-e-y.

18 THE COURT REPORTER: Thank you.

19 Q Do you know Mr. Price?

20 A Yes, sir.

21 Q And how do you know him?

22 A We've been friends forever.

23 Q Okay.

24 A I can't even tell you how long.

25 Q Okay. You -- you are aware that Mr. Price was convicted

1 for leaving the scene; is that correct?

2 A Yes, sir.

3 Q Okay. And on the night this occurred, did you see Mr.

4 Price?

5 A Yes, sir.

6 Q Okay. And tell me when you saw him?

7 A It was late that evening.

8 Q Okay. And did he call you to his house, or did you go by

9 there?

10 A Yes, sir. I went by there.

11 Q And what was the purpose of you going there?

12 A His wife called me and said he had thought he hit a deer,

13 and the alarm was on his truck, and he couldn't get it

14 off.

15 Q Okay. And you went out there, correct?

16 A Yes, sir.

17 Q And when you got out there, what did you observe? What

18 did you see?

19 A Well, the front end was messed up on the truck and that

20 was -- you know, we looked at the truck and everything.

21 We didn't see no -- you know, nothing, blood, or anything

22 like that on it. So my son, I had him -- we couldn't get

23 the hood up, so he reached underneath there and

24 disconnected the battery.

25 Q Okay. And -- and did y'all -- did -- did you talk to Mr.

1 Price about what he had hit or what had happened or
2 anything to that extent?

3 A Yes. He -- he told me he hit a deer.

4 Q Okay. And did y'all leave his house at any point to go
5 anywhere to observe the scene or anything?

6 A Yes, sir. After we turned the alarm off, me and my son,
7 we went up the road looking in the ditches and everything
8 for a deer --

9 Q Okay.

10 A -- but we didn't see nothing.

11 Q And -- and did Mr. Price tell you where the -- this --
12 where he hit the deer? Did he tell you where it was,
13 approximately?

14 A Yes. Approximately, yeah.

15 Q And -- and you and your son went there and didn't see
16 anything?

17 A No, sir.

18 Q Okay. What time of day was this?

19 A Probably eleven.

20 Q Okay. Was it light or dark outside?

21 A Dark.

22 Q Okay. And -- and did -- you all turned on your truck
23 lights and all that and looked; is that correct?

24 A Yes. But I had a flashlight.

25 Q Okay. And so you were looking on the side of the road

1 and all this stuff?

2 A Yes, sir.

3 Q Was Mr. Price with you at that time?

4 A No, sir.

5 Q Okay. He was at home?

6 A Yes, sir.

7 Q Okay. And -- and you all went back and spoke to him what
8 you found or didn't find, right?

9 A No, sir. Not after that.

10 Q Okay. All right. But you did --

11 A We went on -- went on to the house.

12 Q Okay. I talked over you. I'm sorry. Say that again.

13 A After we looked, we just went on to the house.

14 Q To your house?

15 A Yes, sir.

16 Q Okay. But you didn't see any signs of anybody out there
17 in the road --

18 A No, sir.

19 Q -- or his truck or anything at all?

20 A No, sir.

21 Q Okay. Thank you.

22 MR. RICHEY: (To the witness) Answer any questions
23 the Attorney General will have for you.

24 THE COURT: Ms. Marto?

25 MS. MARTO: No questions, Your Honor.

1 THE COURT: (To the witness) Thank you, sir. You
2 can step down.

3 (WHEREUPON, the witness was excused.)

4 THE COURT: (To Mr. Richey) Call your next witness.

5 MR. RICHEY: We'll call Mrs. Price.

6 THE COURT: All right. Mr. Price (sic.)

7 Oh. Ma'am, you just have a seat there.

8 (WHEREUPON, the applicant was sworn.)

9 THE COURT: Thank you.

10 DIRECT EXAMINATION OF GINA KELLY PRICE

11 BY MR. RICHEY:

12 Q Ma'am, can you state your name, please?

13 A Gina Kelly Price.

14 Q And, Mrs. Price, do you know Mr. Price?

15 A Yes.

16 Q And how do you know him?

17 A He's my husband.

18 Q Okay. And -- and y'all were husband at the time --
19 husband and wife at the time this occurred, correct?

20 A Yes, sir.

21 Q Okay. Y'all still are, right?

22 A Yes, sir.

23 Q Okay. All right. And on -- on this night, did you have
24 any interaction with Mr. Price?

25 A Yes. I did.

1 Q Okay. Did he come home and describe an incident to
2 you --

3 A Yes.

4 Q -- about what happened?

5 A Yes. He did.

6 Q Okay. And -- and what -- what did he tell you happened?

7 A He said he was driving down the road, and off to the -- I
8 don't know. There's a building off to the right; I can't
9 remember what the name of the company is. But he said --
10 and -- that he saw a couple deer out there, and they had,
11 like -- he thought crossed in front of him. He wasn't
12 sure, because then he hit something, and his airbag went
13 off.

14 Q Okay. And -- and you all -- so he -- you were at home
15 when he came back, correct?

16 A Yes. I was.

17 Q Okay. And so did you all -- did you or him take any
18 steps to determine what had happened?

19 A Yes. The second he got home, we got in my car and went
20 back down the road to where he said the incident
21 happened.

22 Q Okay. And did y'all -- obviously, y'all stopped the car,
23 correct --

24 A Well, we --

25 Q -- at some point?

1 A -- we went -- well, we were on Highway 11.

2 Q Okay.

3 A And Highway 11's, you know --

4 Q Yeah.

5 A -- kind of busy, and --

6 Q Yeah.

7 A -- so we were lucky there wasn't anybody behind us when I
8 first started down the road there. And we were looking
9 off the side of the road to see if we could tell, first
10 of all, you know, we could see if -- where anything
11 happened. We saw a little bit of dirt in the road.
12 That's where we slowed -- like, we were, like, slowing
13 down, way down, turn -- you know, rolled the windows down
14 and looked and listened as best we could with our
15 headlights.
16 And then, somebody started coming up behind me, so we --
17 you know, we went on down the road.

18 Of course, we were still looking to the left-hand
19 side of the road -- right-hand side of the road to see
20 if, you know -- you know, if
21 anything -- we could see anything down a ways. We went
22 all the way to Campobello, and then when we came back at
23 that same area, we did the same thing. We slowed down,
24 rolled the windows down, and listened to see -- and
25 looked to see if we could see anything with the

1 headlights.

2 Q And so, when you were with Mr. Price, based off his
3 demeanor and attitude, do you believe that he actually
4 knew what he hit or when he hit? Do
5 you --

6 A No. I don't think he knew what he hit. He told me he --
7 he thought it was a deer. We were looking for anything
8 that he could have hit. And -- and that's -- I don't
9 know. That's -- I mean, we -- he had -- he had no idea
10 what he hit. I mean, he knew he hit something, but he
11 didn't know what he hit.

12 Q And -- and you have experience on that road, correct?

13 A Yeah.

14 Q A lot of it, right?

15 A A lot of experience. I take the Highway 11 a lot, and I
16 -- actually, a deer hit me, the side of my vehicle, on
17 the way to work one morning.

18 Q And -- and how long was that before this incident
19 occurred?

20 A Let's see. I think that was in 2016, possibly. It was
21 in -- it was right before Christmas.

22 Q So that -- so that doesn't surprise you when he came home
23 and said, "Hey, I might've hit a deer"? That wasn't --

24 A Oh, no. We see deer -- we see -- have seen deer dead on
25 that road all the time.

1 Q And -- and were you available at trial at this guilty
2 plea? Were you -- were you available? Were you there?

3 A At?

4 Q In the courtroom?

5 A Yes. Yes, sir.

6 Q You were there, and you were available --

7 A Yes, sir.

8 Q -- to testify and all that?

9 A Yes, sir.

10 Q And -- and was Mr. Plumley available that you recall?

11 A Yes.

12 Q Was he there?

13 A Yes, sir. He was there, as well.

14 Q Okay. And -- and do you believe that -- based off your
15 interaction with him, do you believe that -- that he was
16 deliberately trying to hide the fact that he hit
17 something?

18 A Oh, no, sir. We have a two-car garage. He pulled up in
19 the driveway, and -- and that's where the truck sat in
20 the driveway.

21 Q Okay.

22 A I mean, I don't -- I would assume if he wanted to hide
23 something that he would've either put it in the garage or
24 we have numerous friends around that he would have
25 probably parked it somewhere else. I don't know. But he

1 wasn't making any attempt to hide anything. He pulled it
2 up in the driveway, and that's where it stayed.

3 Q Did -- do you believe that -- that he -- his conduct was
4 egregious at the time? Meaning egregiously, not
5 simply --

6 MS. MARTO: Objection: Speculation.

7 THE COURT: Sustained.

8 Q Do you believe that that was a -- any deliberate intent
9 on his part?

10 MS. MARTO: Objection.

11 MR. RICHEY: Okay.

12 MS. MARTO: Objection: Speculation.

13 Q Okay. Let me ask it this way.

14 THE COURT: Sustained.

15 Q Did he try to conceal the car?

16 A No, sir.

17 Q Did he try to conceal what happened?

18 A No, sir.

19 Q Okay. Thank you.

20 MR. RICHEY: (To the witness) Answer any questions
21 the Attorney General will have, please.

22 CROSS-EXAMINATION OF GINA KELLY PRICE

23 BY MS. MARTO:

24 Q Good morning, ma'am. So you weren't with him when he hit
25 whatever it was, correct?

1 A I was not with him.

2 Q Then why would y'all circle back and forth looking for a
3 deer?

4 A We were looking to see what he hit.

5 Q So --

6 A He thought it was a deer. We just went back down the
7 road to see if we could see anything.

8 Q So were you unsure at that time what he hit?

9 A Well, yes. Unsure of what he hit, yes. Yes, ma'am.

10 MS. MARTO: (To the Court) Nothing further.

11 THE COURT: (To the witness) All right. Thank you,
12 ma'am. You can step down.

13 (WHEREUPON, the witness was excused.)

14 THE COURT: (To Mr. Richey) You can call your next
15 witness.

16 MR. RICHEY: Call Mr. Plumley, Jr.

17 THE COURT: Have a seat there, sir.

18 (WHEREUPON, the witness was sworn.)

19 THE COURT: Thank you. What's your first name?

20 THE WITNESS: Trey.

21 THE COURT: Trey?

22 THE WITNESS: Trey.

23 THE COURT: And your last name is Plumley?

24 THE WITNESS: Yes, sir.

25 THE COURT: All right. Yes, sir?

DIRECT EXAMINATION OF TREY PLUMLEY, JR.

2 BY MR. RICHEY:

3 Q Trey, you were out there that night too; is that correct?

4 A Yes, sir.

5 Q And -- and what did you do when you got out there?

6 A We -- when we first got there, we looked the truck over
7 to make sure, I mean, there wasn't nothing on it. We
8 didn't see anything. The truck looked just pretty banged
9 up from where he looked like he just ran into a ditch,
10 and we cut the alarm off.

11 Q Okay. And -- and, Mr. Price, was he at his home at the
12 time?

13 A Yes, sir.

14 Q And -- and he communicated with y'all what happened?

15 A Yes, sir.

16 Q And -- and he told y'all the location?

17 A Yes, sir.

18 Q What he believed that possibly could have happened?

19 A Yes, sir.

20 Q And y'all went to that location, and did y'all see
21 anything? Deer? person? anything?

22 A No, sir. We drove all up and down the road, back and
23 forth, shined the flashlights in the ditches, and we seen
24 nothing.

25 Q Thank you.

1 MR. RICHEY: (To the witness) Answer any questions
2 Attorney General will have for you.

3 THE COURT: All right.

4 CROSS-EXAMINATION OF TREY PLUMLEY, JR.

5 BY MS. MARTO:

6 Q So, sir, you and your father were recruited to go look
7 for a deer; is that correct?

8 A We was going to make sure that he didn't hit anything
9 that he didn't -- I mean, yes. We was going to make sure
10 that he didn't hit nobody.

11 Q So you were concerned that he hit someone?

12 A No. It's just he -- yeah. I mean, there may have been a
13 possibility. That's why we went and checked, yes. Yeah.

14 Q So the reason why you -- to the best of your knowledge,
15 the reason why you went to go look was to go look for a
16 person not a deer, correct?

17 A No. We was not going to look for a person. We was going
18 to make sure that -- we was going to look for a deer, to
19 see where he wrecked in the ditch, and we seen nothing.

20 Q But also to make sure he didn't hit a person, you just
21 said, right?

22 A Yes.

23 MS. MARTO: (To the Court) Nothing further.

24 THE COURT: (To the witness) Thank you, sir. You
25 can step down.

1 (WHEREUPON, the witness was excused.)

2 MR. RICHEY: No other questions. We call Mr. Price.

3 THE COURT: All right, sir. Come on up here.

4 (WHEREUPON, the applicant was sworn.)

5 THE COURT: Thank you, sir. Be seated. Thank you.

6 **DIRECT EXAMINATION OF RANDALL DAVID PRICE**

7 BY MR. RICHEY:

8 Q Sir, would state your name, please?

9 A Randall David Price.

10 Q And, Mr. Price, you are here today because you filed an

11 application for post-conviction relief; is that correct?

12 A Yes, sir.

13 Q And -- and you filed that because -- well, let me ask you

14 this: Who represented you in your charges?

15 A Mr. Sumner.

16 Q Okay. And -- and you believe pursuant to that

17 representation that he ineffectively represented you; is

18 that correct?

19 A Yes, sir.

20 Q And -- and you are asking this Court to vacate your

21 convictions based off his ineffective representation; is

22 that correct?

23 A Yes, sir.

24 Q Okay. You gonna have to take that mic and make sure

25 you're speaking up, okay? Let me see.

1 Sir, what were you charged with?

2 A Hit and run with death.

3 Q Okay. And did you and Mr. Sumner go over the charges
4 that you were facing?

5 A Yes, sir. We went over the statute, and -- but we never
6 went over the indictment.

7 Q Okay.

8 A I wasn't aware that I was gonna be held responsible --
9 legally responsible for the indictment along with the --
10 the statute.

11 Q Okay. What happened the night -- we've heard from the
12 Plumleys and your wife. What happened that night?

13 A I had -- I'd left the Links O'Tryon and headed over to --
14 to go to Campobello. And I went out New Cut Road, turned
15 right on Highway 11. And this was a new truck I had, and
16 I accelerated probably too hard and got to going up the
17 road and, you know, it was a long straightaway, and it
18 was a new truck, and I was just really being a little
19 irresponsible with the way I took off.

20 And so I went a ways and I hit -- I hit -- I seen
21 two deer on the left-hand side of the road. And when I
22 started to approach them, they were walking over to the
23 shoulder and I -- I glanced and, you know, I was watching
24 them, make sure they didn't come on out in front of me
25 and about that time I hit something. And I just assumed

1 it was another deer in front of them, because once the
2 airbag had deployed, it dazed and confused me and
3 actually hit me hard enough to knock my hearing aids
4 loose.

5 And I went back to -- once I came around to where I
6 knew kind of what was going on, I went up to turn around
7 as quickly as possible and pulled in -- I think it's
8 Caldwell Road. I pulled forward into it and back --
9 backed out into Highway 11 and came back to the scene of
10 the accident. And -- and I drove through it first on the
11 shoulder of the road looking and listening with -- with
12 my window down, and I stopped and got out and walked back
13 down and looked and listened and never heard or seen
14 anything.

15 And I got back in my truck and went to -- went to
16 home -- went home and told my wife what had happened, and
17 her and I discussed that. I told her I thought I'd hit a
18 deer up on Highway 11 and my truck was tore up. So her
19 and I went out and looked over -- looked it over.

20 Q You say "her," who was her?

21 A My -- my wife. My wife and I went out and looked it
22 over.

23 Q Okay.

24 A And we didn't see any blood or hair or anything on the
25 front of it. And it was a -- you know, it was a quite

1 bit of damage, very similar to what she said earlier with
2 her -- when she had the accident. Very similar to the
3 accident she had when she hit the deer. And -- but,
4 anyway, we went down -- I went down and turned around and
5 got back quick as possible and checked it out and didn't
6 see anything.

7 Went and got her, and then me and her jumped in her
8 car real quick and went back to the scene of the
9 accident. We pulled over, you know, to the edge of the
10 road and went up the road real slowly with the windows
11 down, looking and listening and didn't hear or see
12 anything. So we went on down the road, went on to
13 Campobello, just in case I was -- you know, I was
14 confused or whatever. And -- because I was really
15 confused when I got home.

16 And we turned around, came back to the -- the scene
17 of the accident, pulled over again on the shoulder of the
18 road, stopped, and I thought about where we'd hit the
19 deer -- where I thought I'd hit the deer. We didn't see
20 or hear anything. And we went back -- went back to the --
21 my house, which was about a mile and a half from the
22 accident scene.

23 And we called my friend, Lloyd, and his son, Trey,
24 and they came over to help get the caution lights and the
25 alarm or whatever it was cut off. And they were able to

1 do that, and they left and went back to the scene of
2 accident, and they didn't see or hear anything up there
3 either.

4 Q Let me ask you: Prior to this incident happened, what
5 type of criminal record did you have?

6 A I don't -- I didn't have one at all.

7 Q Okay. And -- and were you working?

8 A Yes, sir.

9 Q And where were you working?

10 A Tindall Concrete.

11 Q Okay.

12 A I've been in the concrete business for 35 years.

13 Q Okay. And what -- what type of work were you doing for
14 them?

15 A Sales. I was covering the -- from Maryland to basically
16 the North Carolina line and from the East Coast, wherever
17 we ended up to go west.

18 Q So you had a pretty good job at the time, correct?

19 A Yes, sir.

20 Q With no criminal record?

21 A Yes, sir.

22 Q And this is the first interaction you had with the
23 criminal justice system?

24 A Well, other than some traffic tickets.

25 Q Well -- okay. Other than the traffic tickets, this is --

1 A But as far as --

2 Q -- felonies and all?

3 A Yeah. No. Yeah. That was the first -- first time.

4 Q And -- and how long did you work at the concrete company?

5 A . I worked at Tindall for seven years, and I worked in the
6 ready-mix business for about seven years. And -- and
7 then I went to -- and I started out at Metromont
8 Materials, and I worked there for about 20-something
9 years.

10 Q Okay. And -- and so you and Mr. Sumner, y'all talked
11 about what you just testified to, correct?

12 A Yes, sir.

13 Q Did -- did Mr. Sumner talk to the Plumleys or your wife?

14 A I don't think either one. I -- he may have talked to my
15 wife, but I don't think he ever talked to Trey or Lloyd.
16 I know we had an investigator, Matt Sims --

17 Q Right.

18 A -- and he actually reached out to them.

19 Q Well -- well, let me ask you: Was he aware of their
20 story in the case?

21 A Yes, sir.

22 Q Did he know -- did he know what Mr. Plumley would testify
23 to in his summary?

24 A Well, he knew what I told him.

25 Q Okay. And so when you and Mr. Sumner, at some point, you

1 decide to plead guilty, correct?

2 A Yes, sir.

3 Q Okay. And tell me about your discussions with Mr. Sumner
4 about pleading guilty?

5 A My understanding was that we were going to -- he was
6 going to put together a presentation with my mitigating
7 factors on it and sit down with the judge and prosecutor
8 prior to sentencing and -- and go over the -- I mean, he
9 was gonna put up those mitigated factors to them to try
10 to sentence -- to get them to negotiate a sentence of a
11 year and a half in to a year and a half out, monitored
12 house arrest with three years total.

13 Q And -- and that was -- that was part of your basis for
14 pleading guilty?

15 A Yes, sir. I was afraid that if I -- if I'd tried to
16 fight it that it would possibly been -- you know, taking
17 three years is a lot better of a chance then going for
18 the -- you know, the other.

19 Q Okay.

20 A And I thought three years was, you know -- I -- I
21 realized I had some skin in the game because I was
22 speeding, and I just thought that, you know, three years
23 that don't -- I mean, that sounds like
24 just . . .

25 Q Okay.

1 MR. RICHEY: Your Honor, can I approach the witness,
2 please?

3 THE COURT: Yeah.

4 MR. RICHEY: Thank you.

5 Q Mr..Price, I'm gonna hand you this document up. And do
6 you know what that is?

7 A Yes, sir.

8 Q And what is -- what is that?

9 A That's acknowledgement of some things that Mr. Sumner and
10 Todd -- I mean, Scott and Matt and I all discussed on
11 December the 1st.

12 Q And -- and what -- what is -- let me have the document
13 back for a second, Mr. Price. Thank you.

14 MR. RICHEY: Your Honor, I'm going to offer this as
15 Applicant's Number 1.

16 MS. MARTO: No objection.

17 THE COURT: Without objection, introduced.

18 THE COURT REPORTER: (To the Court) Just a second.

19 (WHEREUPON, acknowledgement document, it is
20 entered into evidence as Applicant's Exhibit
21 1.)

22 THE COURT REPORTER: Okay.

23 MR. RICHEY: Okay.

24 Q I'm gonna take this back -- give this back to you. And
25 you can refer to that. In this document, what does it

1 say?

2 A First of all, it's entitled "Acknowledgement."

3 Q Okay.

4 A And at -- at -- you want me to read the entire thing?

5 Q No, no. Your guilty plea, this is -- it is your position
6 that this is the strategy that was going to be taken,
7 correct?

8 A Yes, sir.

9 Q And what is that strategy outlined in there?

10 A "I'm aware of the presentation that my attorney will make
11 to the court, and I am in agreement with the suggestion
12 to the presiding judge of a period of a sentence in the
13 range of three years with further suggestion of a split
14 sentence."

15 Q Okay. And did you understand what that was? Did you
16 understand what was the -- what that meant?

17 A Yes, sir.

18 Q Okay. And were you in agreement with that?

19 A Yes, sir.

20 Q And -- and agreement being a split sentence, three years,
21 right?

22 A Yes, sir.

23 Q Okay. Did Mr. Sumner at any time guarantee you would get
24 that sentence?

25 A No, sir. He only guaranteed that he would put forth my

1 mitigating factors to see that we at least had an
2 opportunity at that.

3 Q Okay. And at the -- at the guilty plea, was this
4 mitigation presented to the Court?

5 A No, sir. .

6 Q Okay. And -- and do you know why it wasn't presented?
7 Do you have any reason -- let me ask you this way: Is
8 that something that you wanted? The mitigating be
9 presented in front of a judge, is that's something you
10 wanted?

11 A I agreed to the mitigated -- to a status conference. And
12 my understanding in the status conference that these
13 mitigating factors would be put forth to the judge at
14 that point.

15 Q Okay. And did you understand where the status conference
16 would be, and how it would take place?

17 A I understood that it was gonna be held in the judge's
18 chambers, but I had no -- had no idea that it wouldn't be
19 any record of it. And as far as the presentation goes, I
20 was -- I knew that there was gonna be one, and we had
21 discussed several things or multiple things that could
22 possibly put -- put in it. And I -- on the 1st of
23 December, I was there and -- and Mr. Sumner had told me
24 and -- that the presentation wasn't complete -- completed
25 at that time, that they were working on it, and that I

1 would have an opportunity to review it, to see exactly
2 what was in it before the hearing.

3 And -- and I called -- called back on December the
4 3rd and talked to Mr. Sumner on his cell phone. And we
5 were talking, and I asked him about some additional
6 things. I wanted to see if he could -- would consider
7 putting it into the presentation for the judge to hear.

8 And he said that once they got it completed, that we
9 would have a meeting before we went into court, and we
10 would review the presentation for me to approve, or if I
11 wanted to add something, I could add something. If I
12 wanna take something away, we could, but we'd have an --
13 I would have an opportunity to do that before the
14 hearing. And I haven't ever seen the presentation to
15 this day.

16 Q Okay. The courtroom presentation of the mitigation, were
17 you in agreement with it being done in chambers, or did
18 you want it done out in open court?

19 A I was in agreement for him to do it in -- in chambers.

20 Q Okay. And -- and so -- so you agreed for these witnesses
21 not to be presented in front of the judge?

22 A No. I thought that my mitigating factors along with my
23 witnesses would be put up before the judge to consider,
24 because I didn't think there was much better evidence
25 than an eyewitness.

1 Q So -- so you -- is -- your testimony is that you agreed
2 that you had -- you agreed to them having the status
3 conference, correct?

4 A Yes, sir.

5 Q Okay. But did you -- were you aware that -- that these
6 folks would not testify at your sentencing hearing?

7 A No, sir.

8 Q Is -- is that what you wanted?

9 A Yes, sir.

10 Q Okay. And -- and I'm going -- do you have a copy of the
11 transcript up there?

12 A No. I don't have one.

13 Q Don't? All right.

14 A I meant to bring one.

15 Q Okay. I've got one here I'm gonna give to you. Okay.

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

17 THE COURT: Yes, sir.

18 MR. RICHEY: Okay.

19 Q Here -- here's the -- here's the transcript. There you
20 go.

21 A Thank you.

22 Q And I'm gonna point you to Page 16 on the transcript.

23 A Okay.

24 Q Let me know when you get there.

25 A I'm there.

1 Q You there on Page 16?

2 A Fifteen or sixteen?

3 Q Sixteen.

4 A Okay. Yes.

5 Q I want you to go to Line 3.

6 A Uh-huh.

7 Q And it's where the Court says -- well, where the Court
8 says, "Didn't set out to do it, didn't plan to do it, but
9 then when he could have done the right thing, he didn't
10 do it, and you know that."

11 Okay. When -- when you heard that, was that kind of
12 surprising to you?

13 A Yes. But -- but I was told by Mr. Sumner to basically
14 throw myself on the sword and that I had to -- in order
15 to have an opportunity at the three years that I would
16 have to acknowledge and accept whatever they said as the,
17 you know, their -- let's see. I don't know how to say
18 it. What their ideal of --

19 Q The version of what happened?

20 A Right. Right. I had to go along with whatever they
21 said, more or less.

22 Q And I'm gonna -- I'm gonna -- and still on Page 16 and
23 we're on Line 17, which says, "Mr. Price, another
24 particular concern is, you know, I have a number of these
25 cases which a person might be somewhat confused as to

1 what happened. This is not one of those cases. Clearly,
2 you are aware of what happened and had quite some time to
3 stop, and I know it was some time before you were even
4 arrested." Now, this -- the Court is saying
5 that -- that essentially you knew what had happened?

6 A I did not.

7 Q Okay. You -- you read this, right?

8 A Yes, sir.

9 Q And -- and this is -- and the Court -- based off this
10 belief that you knew what happened and that you didn't
11 take any measures or nothing. And in here, the judge
12 says that she found this egregious, correct?

13 A That's correct.

14 Q Okay. In reading that, do you believe that it's your
15 position that the mitigation was not presented in a
16 correct manner; is that correct?

17 A Yes, sir.

18 Q Okay. Because is it -- it's your position if she had
19 heard the mitigation then she wouldn't have come to this
20 outcome?

21 A I think it would've been a -- a different outcome if she
22 had actually known that I'd went back to the scene myself
23 three different times and stopped and looked and
24 listened. That had to have a bearing on it with her,
25 because she wouldn't have thought it was near as bad if

1 I'd have -- she says herself in the transcript, "When you
2 had the right thing to do, if he'd had just only
3 stopped." And I did go back and I did stop.

4 Q And do you know -- in -- in the status conference, do you
5 know whether that was presented to -- you know, that you
6 went back and forth?

7 A No. I don't know. I just assumed not by reading the
8 record -- the transcript.

9 Q And -- and the -- is it your position that Mr. Sumner was
10 ineffective for not having your presentation before the
11 judge; is that correct?

12 A Yes, sir.

13 Q And is that -- and that's what you wanted?

14 A Yes, sir.

15 Q And you believe if that had occurred, the outcome
16 would've been different?

17 A Yes, sir.

18 Q Okay. And you believe that you would've got a lesser
19 sentence than you got?

20 A Yes, sir.

21 Q Okay. And -- and did you want Mr. Sumner -- tell me
22 about the three years where you -- did you have any --
23 did you have any reason to believe that that would be
24 asked for?

25 A Other than what he said, I -- I was kind of -- you know,

1 I was thinking around that range based on some internet
2 searches and things that I'd read. That -- that it
3 didn't give me any reason to not believe that that was a
4 possibility. Plus, I trusted Mr. Sumners (as spoken) and
5 detrimentally relied on what he said because him -- you
6 know, him and Todd are very fine -- fine people, and I
7 didn't have any reason not to trust them.

8 Q Okay. So I -- I'm going read to you these -- these
9 amendments. "Trial counsel's ineffective for having a
10 pretrial conference outside presence of applicant." Is
11 that right?

12 A Yes, sir.

13 Q "Trial counsel's ineffective for not allowing the
14 applicant to present mitigation evidence at the guilty
15 plea," correct?

16 A Yes, sir.

17 Q Okay. And you believe that that would've changed the
18 outcome?

19 A Yes, sir.

20 Q Okay. Thank you.

21 MR. RICHEY: (To the applicant) Answer any
22 questions the Attorney General will have for you.

23 **CROSS-EXAMINATION OF RANDALL DAVID PRICE**

24 BY MS. MARTO:

25 Q Morning, sir. So you stated that you were speeding that

1 night, correct?

2 A Yes, ma'am.

3 Q Were you -- do you recall how fast you were going?

4 A No, ma'am.

5 Q Would you be surprised to find out the reports and the
6 investigation concluded you were going about 90 miles an
7 hour?

8 A That sounds reasonable, although my -- my truck didn't
9 indicate that. I changed the wheels and tires on it and
10 increased the size of them, which threw the odometer off
11 a considerable amount, apparently, according to what the
12 MAIT Team said.

13 Q So you changed the wheels and tires in your car after the
14 accident?

15 A No. Before. This was before, and that's the reason the
16 speedometer was off.

17 Q Now, you stated you thought this was a similar situation
18 as your wife who also hit a deer; is that correct?

19 A Yes, ma'am.

20 Q Did you recruit some friends to go look for that deer
21 when your wife hit the car -- deer?

22 A Well, actually, my -- I called one of my friends that's a
23 deer hunter that lives, like, a quarter of a mile down
24 below where she had the accident and told him that she
25 hit the deer and it ran off and it was in our friend's

1 yard -- field of Eric Young, and that he might wanna go
2 over and see if he could find it because we hit it that
3 morning, and he likes to eat the deer, so he probably
4 would've went over and cut the tenderloin out of it or
5 something. So I guess the answer to your question is
6 yes.

7 Q You stated you were surprised in this case because you
8 didn't see any blood or hair on the truck; is that
9 correct?

10 A That's what I -- I expected to see something on there,
11 and I didn't see it that night.

12 Q Did you see that on your wife's car?

13 A Excuse me?

14 Q Did you see that on your wife's car when she had an
15 accident?

16 A Not that I recall. I mean, the damage was very similar,
17 but I don't -- I don't recall seeing any blood. But she
18 actually -- it was in the daylight when she -- this
19 happened to her. And, as a matter of fact, you can see
20 where her accident happened from where this accident was.
21 I mean, it's like a hundred yards or so.

22 Q So, ultimately, why did you decide to plead in this case?

23 A I -- I pled on the case, because -- or -- because I
24 detrimentally relied on Mr. Sumner and his talent and
25 everything to do what to get me the three years of a year

1 and a half in, year and a half out. Once he got in front
2 of the judge, I thought he was very good at that.

3 Q So you would've just preferred to have less time than
4 what you were receiving; is that correct?

5 A Excuse me?

6 Q You would've preferred receiving less time?

7 A Yes, ma'am.

8 Q Okay. Were you afraid of facing more time if you went to
9 trial?

10 A Yes, ma'am.

11 Q And is that part why you decided to plead?

12 A Yes, ma'am.

13 Q And Mr. Sumner never promised you --

14 A No, ma'am.

15 Q -- a specific sentence?

16 A He never promised me -- he didn't promise me anything,
17 but he guaranteed me that he was gonna take my mitigating
18 factors and put them up before the judge and the
19 solicitor for an opportunity to negotiate the plea down.
20 And if the Court considers a -- a guarantee as a promise,
21 I guess he would say I relied upon his advice to plea to
22 whatever the things are.

23 Q Initially, is it fair to say you thought that mitigation
24 would occur at the plea hearing?

25 A Yes, ma'am.

1 Q When did that change, and did y'all decide to do it as
2 part of a status conference instead?

3 A Well, you know, we threw around -- Mr. Sumner offered
4 several ideals about that particular part. And he
5 thought because the safe trial for the family and the
6 court and save money, that it would be best if he got in
7 front of the judge and put forth my mitigating factors to
8 the judge. And, you know, in -- in chambers to save more
9 trauma on the family. And I agreed to that because
10 they'd been through enough, and I didn't want to have --
11 I didn't wanna put them through anymore than what they'd
12 already been through.

13 Q So did you decide that at the plea hearing or right
14 before that day?

15 A On December the 1st. That was my last meeting with Mr.
16 Sumner before we went to trial.

17 Q And you stated that Mr. -- the victim's family was there;
18 is that correct?

19 A Yes, ma'am.

20 Q Roughly, how many people were in that room, do you recall
21 on behalf of the --

22 A For them or for total?

23 Q For them.

24 A My guess would be ten or fifteen. And I didn't count
25 any, so I don't know.

1 Q So quite a few; is that correct?

2 A Yes. I had about the same many -- same amount on my side
3 that was -- that had came to -- you know, to be
4 questioned about my character and things, but they never
5 were put on the stand.

6 Q So none of those witnesses were called; is that correct?

7 A That's correct.

8 Q Okay. And did you talk with Mr. Sumner about maybe them
9 being called if you did that at the plea hearing?

10 A Yes, sir. We talked -- Ms. -- I'm sorry. Yes, ma'am.
11 I'm nervous. I hadn't never done this before.

12 Q It happens all the time. No worries.

13 A But -- yes, ma'am. We'd -- we'd discussed it and kind
14 of, you know, we had these people, you know, get off from
15 work and come. One of my ex-employers -- my manager that
16 I'd had for like 25 years -- he came because he -- I
17 probably spent more time with him than I did my wife, you
18 know, during the time I worked there and he was there and
19 -- and Mr. Sumner didn't think it was necessary.

20 Q Okay. So --

21 A I don't know if it was due to time restraints or what. I
22 don't have any idea.

23 Q Were you concerned that if you called your witnesses, the
24 victim's witnesses would then talk?

25 A Repeat that one more time.

1 Q Were you afraid that if you called people in support of
2 you at the plea hearing itself, then the victim's
3 witnesses would also say something?

4 A I don't really know how to answer that.

5 Q Okay. Now, did you talk to Mr. Sumner about what he
6 would offer in mitigation?

7 A Yes.

8 Q Yes. And did you sign off on something in terms of what
9 he laid out for as mitigation?

10 A What we'd talked about was a -- it was several different
11 things through several meetings, and then they were going
12 to take and put them together and come up with the
13 presentation to put before the judge. But it was to have
14 my mitigating factors, and I would assume that that was
15 part of it. My witnesses and -- and, you know, the
16 witness's testimony and -- and the other factors that we
17 had.

18 Q So you knew what he was going to present to the judge; is
19 that correct?

20 A I thought I did.

21 Q Okay. And the only thing that changed that day of the
22 plea hearing was you decided to do it as part of a status
23 conference after you saw how many people the victim had?

24 A No. He decided we were gonna do the status conference on
25 December the 1st --

1 Q Okay.

2 A -- when -- on -- at our last meeting.

3 Q And, again, you agreed to doing it in chambers, right?

4 A Right. Under the detrimental reliance of him putting
5 forth the mitigating factors of my witnesses and the
6 situation.

7 Q Now, after the accident, you saw damage on your truck,
8 correct?

9 A Yes, ma'am.

10 Q Did you see anything maybe underneath or in the grill of
11 the truck that you didn't recognize as part of your
12 truck?

13 A I never seen anything in the grill or anything. The
14 first time I was made aware of anything was -- there was
15 a highway patrolman came around beside of my truck and
16 said, "I found -- what -- what you gotta say about this
17 piece of a moped?" And I -- I was like a deer in
18 headlights; I didn't know what he was talking about. And
19 then he carries it back over and puts it in the grill and
20 starts taking pictures of it.

21 And, you know, I don't -- I -- I mean, I'm not -- I
22 wouldn't be -- dare to say that the officer planted
23 something, but I know that I never saw it before it was
24 in his hand, and he carried it back and put it in the
25 grill and started taking pictures of it.

1 Q Where did you see that moped piece again?

2 A He said it was in the grill. But there was four of us
3 looked over the front of that truck more than one time,
4 and we never saw it. But I'm not saying it wasn't there,
5 but we never saw it. And we had flashlights, and I got a
6 spotlight out behind my house at my garage where it
7 shines down on the front of the truck.

8 Q You stated that the four of you went to go check out the
9 scene of the incident, correct?

10 A Excuse me? I'm sorry.

11 Q The four of you went back to the part of the road where
12 you thought you hit the deer; is that correct?

13 A No.

14 Q No?

15 A No. The four -- at different times we did. We never,
16 all four, went back at once. My wife and I went back
17 basically as, you know, I got her to drive me up there so
18 I could really look hard. And then Lloyd and his son
19 went up there. And I'd actually stopped after the
20 incident when I turned around up there and come straight
21 back to the scene and pulled over and got out and walked
22 and looked and didn't see or hear anything.

23 Granted the -- the victim was dressed in dark
24 clothes, and it was dark out there. And I -
25 and -- and to be all honest, I was looking for a deer. I

1 wasn't looking for a person, but I assume if I'd seen a
2 person -- matter of fact, there ain't no assuming about
3 it. I'd been over there laying down next to him trying
4 to do whatever I could do to -- you know, to help him
5 because that's just my nature. I always -- I help people
6 too much, what I've always been told. And this was just
7 another case of it.

8 Q Okay. So did you see any debris or anything on the side
9 of the road?

10 A I seen some grass. That's all I seen. You know, but I
11 was, like I say, I was looking over at the ditch and on
12 the backside of the ditch for the deer, because me and my
13 wife are animal lovers. Matter of fact, one dog we have
14 actually looks like a deer if you're not careful about,
15 you know, when you look at it. And we have a big heart
16 when it comes to animals. And that was one of the
17 reasons we kept going back, which that -- you know, if
18 that thing's up there suffering, we need to put it out of
19 its misery.

20 So that was one of the big reasons we went back so
21 much was just due to the fact that we didn't want animals
22 laying up there suffering. And if I'd have seen the guy,
23 I promise you, I would've tried my best to pick him up
24 and put him in the back of our SUV and run him to the
25 hospital, because there's no way I'd left the young man -

1 - young man out there, and he's about the same age as my
2 son.

3 Q Did you say that the victim was wearing dark clothes that
4 night?

5 A Yes. He's wearing a -- a black hoodie and dark red
6 jogging pants. And his moped was black and didn't have
7 any lights or anything, any kind of reflectors on him or
8 the -- the moped.

9 Q How do you know what he was wearing?

10 A I seen a coroner report.

11 MS. MARTO: One moment, Your Honor.

12 THE COURT: All right.

13 Q What did you say after the trooper placed you under
14 arrest?

15 A After he placed me under arrest, before -- well, when he
16 placed me under arrest, I -- let's see. I don't remember
17 what I said after that. I know that I think it was
18 Deputy Haley (phonetic) -- I'm not sure the name's
19 correct -- but he was a transport officer, carried me to
20 the -- to the Spartanburg County office.

21 And he actually carried me out and pointed out where
22 the moped was on our way back to the -- to the office
23 because I didn't have any idea about it. I knew I turned
24 around down there somewhere, but it apparently it came
25 out from under the truck when I backed back up into

1 Highway 11. And I just wasn't looking forward. I was
2 looking behind me because, like I say, Highway 11's a
3 busy road, and I didn't wanna back out in front of
4 anybody when I turned around.

5 Q So did you see any part of your truck on the side of the
6 road when you went back to go look at the -- where the
7 incident took place?

8 A I didn't see any on the side of the road, no, ma'am.

9 Q Did you see them anywhere nearby?

10 A I seen some debris in the road, and it was some grass,
11 and I think that was all it was. It was just some grass
12 where it looked like it'd been kicked up on the side of
13 the road for some reason.

14 Q So was that grass in the middle of the road or was it on
15 the side of the road?

16 A It was on the -- okay. If I'm going up the road, it'd be
17 on the right-hand side of -- close to the white line,
18 about two-foot off the white line, I would say.

19 Q Did you state on direct that you were unaware of Mr.
20 Sumner referencing the status conference that took place
21 at the plea hearing?

22 A I was unaware of what?

23 Q Do you know whether or not Mr. Sumner referenced the
24 status conference regarding mitigation at the plea
25 hearing itself?

1 A Well, once the hearing started, there was made -- there
2 was a reference made of a -- we discussed everything in
3 depth in the status conference before we started, Your
4 Honor (as spoken). If I remember correctly, that's what
5 it said on the -- on the record.

6 Q So Mr. Sumner did --

7 A Right.

8 Q -- point out on the record that the status conference --

9 A Right.

10 Q -- took place?

11 MS. MARTO: One moment, Your Honor.

12 Q Did you see any drag marks on the -- by where the
13 incident took place?

14 A I heard that there was some, but I didn't see them.

15 Q Did you hear any noises once you started trying to drive
16 away after you hit the moped?

17 A Well, I've gotta tell you, when I turned around, I pulled
18 in and it was making a noise, but I knew I just hit
19 something. And there's an inner fender on that truck,
20 and I -- I'm a mechanic by education, and it sounded like
21 the inner fender was dragging the -- the front tire. And
22 when I got home, it was.

23 So, you know, I didn't have any reason to assume it
24 was anything other than the inner fender dragging the
25 tire. I even --

1 Q Why --

2 A -- we even have a picture of it, and you could actually
3 see the inner fender up on the tire that my wife found
4 yesterday or day before yesterday.

5 Q Why didn't you stop and go see what happened at the scene
6 itself?

7 A I did go back to the scene and stop. That's what I told
8 you. I went down and turned around, went back to the
9 scene, stopped, got out, went through it in the truck
10 with the window down, looking and listening, and then got
11 out, walked back up to where the impact area was, looked
12 and listened and I -- looking down through the wood and
13 grass. You know, it was dark out there, and -- and
14 there's high weeds on the back side of the ditch and
15 pine -- small pine trees. And I looked and listened and
16 tried to see if there was something down there in pain or
17 hurting or whatever, or just whatever, you know. And
18 then I went back and got in my truck and went home and
19 talked to my wife at that point.

20 Q So once you hit the moped, did you immediately park, or
21 did you leave and go back?

22 A As -- I was dazed and confused when the airbag hit me,
23 and for the first few minutes, I didn't even know I was
24 in the world to be honest with you. And when I went
25 down, I started to -- things started to clear up a little

1 bit, and I said, "Oh, my, I need to get back to the scene
2 as quickly as possible." And I pulled in the next road I
3 seen, and I
4 think -- don't quote me on the name -- but I think it's
5 Caldwell Road; it was the first road past the church.
6 And I turned in there, backed out immediately, and went
7 straight up back to the site just as quick as I could get
8 back there just in case it wasn't a deer I hit, because I
9 never seen what I hit. And so that's when I did the
10 search I just told you about.

11 Q Why didn't you immediately call the police when you hit -
12 -

13 A Because in my wife's accident, when we called our
14 insurance company, they said that they didn't need a
15 police report. The only thing they needed was some
16 pictures of the damage sent to them, you know, as long as
17 there wasn't another vehicle involved.

18 Q Sir, I'm gonna show you this picture. Can you identify
19 what the truck is? Is that your truck?

20 A Yes, ma'am.

21 Q Is that the damage that you saw on the truck that night?

22 A Yes, ma'am.

23 Q Okay. Is that a accurate picture of what the truck
24 looked like after the accident occurred?

25 A Yes, ma'am.

1 Q Okay.

2 MS. MARTO: Your Honor, at this point, we would
3 enter this as Respondent's Exhibit 1.

4 MR. RICHEY: No objection.

5 THE COURT: Without objection, entered.

6 (WHEREUPON, a photograph, it is entered into
7 evidence as Respondent's Exhibit 1.)

8 MS. MARTO: (To the Court) No further questions.

9 MR. RICHEY: (To the Court) Just one question.

10 **REDIRECT EXAMINATION OF RANDALL DAVID PRICE**

11 BY MR. RICHEY:

12 Q You wanted the mitigation in front of the judge, right?
13 Right in front of the judge, right?

14 A Yes.

15 Q Okay. And that's -- and that's the issue you have with
16 all of this, correct?

17 A My issue is I don't know what the mitigation was --

18 Q Right. Right.

19 A -- that was put in front of the judge. And I have -- I
20 just wonder what it was, because I just don't see how she
21 could say -- made some of the statements she made on the
22 record if she heard all the evidence I just gave you
23 guys.

24 Q When you say "she," you mean the judge?

25 A The judge, yes. Ms. Verdin.

1 Q Thank you, sir.

2 MR. RICHEY: (To the Court) No other questions.

3 THE COURT: Okay.

4 MR. RICHEY: We call Mr. Sumner.

5 THE COURT: (To the applicant) All right. Thank
6 you, sir. You can step down.

7 (WHEREUPON, the applicant was excused.)

8 (WHEREUPON, the witness was sworn.)

9 THE COURT: Thank you, sir.

10 **DIRECT EXAMINATION OF STEVEN SUMNER, ESQ.**

11 BY MR. RICHEY:

12 Q Sir, could you state your name, please?

13 A Yes. Steven Wayne Sumner of Greenville, South Carolina.

14 Q And, Mr. Sumner, do you recall representing Mr. Price?

15 A I do, sir. Yes, sir.

16 Q And what was the charge that you represented him on?

17 A Hit and run with death, I believe.

18 Q And -- and the issue before the court today is there was
19 a -- there was mitigation presented to the judge; is that
20 correct?

21 A Yes, sir.

22 Q And -- and Mr. Price has testified that he wanted that
23 mitigation in front of the Court?

24 A That has been his testimony today, yes, sir.

25 Q Okay. When -- in your discussions with Mr. Price, do you

1 believe he was aware that mitigation would not be
2 presented in front of the judge?

3 A Yes. He was aware.

4 Q And how was he made aware of that?

5 A He agreed to that in several conversations. My partner,
6 Scott Todd, is here. Solicitor Barnette is here, Judge.
7 And my recollection is that I think Randy, who was a
8 pleasure to represent, we discussed a few days prior to
9 coming over once I received communication from Solicitor
10 Barnette as to what I believe day and time that he was
11 gonna schedule the plea.

12 And the attorney general, Judge, has the documents
13 where Mr. Price signed off on the guilty plea, and I --
14 I'll let her handle that it -- however she would like to.
15 But he signed off multiple times on the statute, on the
16 fact that it was a straight-up plea, and that that's how
17 he wanted to proceed. We went over his constitutional
18 rights; we went over everything.

19 We had -- in addition to that, Mr. Richey, we had
20 hired a private investigator, a former member of the MAIT
21 Team by the name of Matt Sims, who did a very extensive
22 investigation, who came up with the speed of the vehicle.
23 And Matt was a part of three or four meetings that --
24 that Ms. Price -- Ms. Gina Price and Mr. Price had with
25 me in our office with Mr. Todd.

1 And once I received word, my recollection is from
2 Solicitor Barnette, Judge, as to, I believe, I wanna say
3 it was a Wednesday or a Thursday, I can't recall right
4 now. I had spoken with Randy on the phone, as he
5 correctly stated, that we might want to just talk about
6 this in the back with the judge, because the family of
7 the victim were very vocal.
8 Now, one -- one difference of opinion I have with Mr.
9 Price regarding -- I -- I think there were maybe 25
10 people here. There were posters made, there were a lot
11 of -- it was just a very large group of people in support
12 of the victim that had been on the moped that had been --
13 that had been struck by -- by Mr. Price.

14 And I said, "I don't know if it's best that we do
15 this in front of them," and I'll -- and I'll go on in a
16 second about that, Judge, if you'll let me, "Or if I
17 should do it with the judge in the back." And Mr. Todd
18 was present. It was here probably 50 feet from where we
19 are right now, Mr. Richey, somewhere in that -- in the
20 lobby area where they came in. I wanna say an army, but
21 that's kind of what it was, an army of people.

22 And I pulled him to the side along with Mr. Todd, I
23 said, "We discussed this on the phone. I think it might
24 be best if we discussed this in the back at the status
25 conference that Judge Verdin had asked that we have that

1 Mr. Barnette -- Solicitor Barnette was a part of and let
2 me lay out the mitigation there. Is that what you'd like
3 me to do?"

4 And he said, "Yes." And as he --

5 Q When you say "he," who are you referring to?

6 A Randy.

7 Q Okay.

8 A Randy Price. He said, "Yes." And as he stated earlier
9 to you, Judge, he said, "I did not want to do anything to
10 aggravate the situation anymore in front of the family,"
11 and that is a correct statement from him.

12 And I said, "Well, I'm gonna lay everything out in
13 the back."

14 So we actually had that conversation, Mr. Richey,
15 twice. I said -- we had one full conversation and then
16 before I went back -- and I'll defer to my -- my partner
17 Scott Todd on
18 this -- we met again briefly. I said, "Now, are you
19 sure?" Because I believe at that point, Solicitor
20 Barnette said Judge Verdin's ready to talk with us about
21 this case. It was a big case, obviously, a very serious
22 case, a death case. "And are you ready to go back?" And
23 I said, "Are you sure that that's how you want me to
24 proceed?"

25 And he said, "Yes. That is what I want you to do."

1 We went back, Judge, to her chambers, and we had a --

2 Q Before you -- before you answer that, I got -- I got a
3 question here. The mitigation, were you aware of his
4 wife's statements about what they did?

5 A Yes. And there was just simply -- I mean, they're
6 wonderful people, Attorney Richey, there was no evidence
7 to back that up that I could find or that the
8 investigator found.

9 Q But -- but you -- you were aware of what her position in
10 the case was?

11 A Correct. Yes, sir. I had been made aware that they had
12 gone back that --

13 Q And --

14 A -- in -- in a general sense.

15 Q And the Plumleys, you were aware what their testimony
16 would be?

17 A Through the investigator, Matt Sims, yes.

18 Q And -- and they were available at the hearing -- or all
19 these folks were available at the hearing?

20 A True. Yes, sir. We had a good group of people. We had
21 ten or fifteen people, I believe, on our --

22 Q And --

23 A -- side that I did recognize in front of the Court.

24 Q And Mr. Price, he testified about his job situation,
25 hadn't been a criminal record --

1 A Correct.

2 Q -- and all that, correct?

3 A Yes, sir.

4 Q You were aware of all this stuff?

5 A Yes, sir.

6 Q What was the mitigation that you presented to the judge?

7 A Thank you. I'll be more than happy to give you very --

8 my best recollection of that. We went into the back.

9 Mr. Todd was with me, Attorney Todd, Scott Todd;

10 Solicitor Barnette was there. And we basically, Judge,

11 discussed the whole case. I talked about Randy not

12 having any type of prior record. I'll just call him

13 "Randy." I told her how good a client he had been. He

14 had a very wonderful career in sales, a fine career in

15 sales in concrete and in construction materials.

16 I told her that I felt like it came out that the

17 gentleman on the moped was in very dark clothing as Mr.

18 Price has testified to you. And, in fact, our -- our

19 investigation had revealed, and I had given this

20 information to Solicitor Barnette, that this moped driver

21 had been stopped by a Greenville County deputy about ten

22 minutes to 15 minutes before being struck allegedly by

23 Mr. Price, and said, there are no lights on this moped.

24 You can't drive like this.

25 And I can't remember the age of the young man. I

1 would defer that to Solicitor Barnette. And he said,
2 "Well, I'm just going up here to the church. Can I just
3 go to the church? I'll call my family and have somebody
4 come get me." And the deputy said, "You -- you cannot
5 drive this at night without lights on it and dark
6 clothing. It's dangerous," or words to that effect.

7 And so that -- that came out. I shared that with
8 Judge Verdin. And I said, "But he was simply charged
9 with not staying." I mean, that -- that was the crux of
10 the charge was he did not handle himself correctly after
11 the impact of what occurred. And I think that you've
12 seen a photograph of his vehicle. I don't know how he
13 got it home. I -- I just don't. I mean, it was just
14 incredible. I mean, it was just torn up. It was torn to
15 pieces.

16 And -- but I laid out his career. I laid out his
17 family. I -- his wife, Gina, has always been super nice
18 to me. They came to every meeting. I laid out every
19 positive thing, Attorney Richey, that I could for Randy,
20 and I did it with Judge Verdin in front of Mr. Todd and
21 Mr. -- and -- and Solicitor Barnette.

22 Q Okay. And -- and you discussed the Plumleys, the
23 testimony with the judge?

24 A I -- I didn't get into that. There wasn't any -- I could
25 not find -- to my recollection, Attorney Richey, I

1 couldn't find any credibility regarding the number of
2 people that went out there. I focused more on Randy and
3 his career and the fact that he had no record and the
4 fact that this was a horrible accident and that he didn't
5 do the -- he didn't do the right thing and that I would
6 ask her to please consider that.

7 And I think the transcript, and I can't --
8 I -- I don't -- I read over it a while ago, not this
9 morning, Your Honor, I didn't. But there were several
10 times in the presentation where I said, "Judge, I just
11 wanna reiterate everything that was discussed in the
12 status conference."

13 And she said, "Yes."

14 And Solicitor Barnette did -- did not pull any
15 punches. He was very -- when I say everything was just
16 straight across the board, he did not, to my
17 recollection, ask for any specific amount of time. He
18 agreed with some things I said. He put his point
19 forward, Attorney Richey, to Judge Verdin, and he said,
20 "I'm gonna play a tape." I think there was -- might've
21 been a tape, Solicitor Barnette, from a -- a -- his
22 mother who had been sick at the time or something of that
23 nature, a statement that was read, and everything just
24 went according -- it was just a plea, Your Honor.

25 Q And in chambers, do you -- do you why the judge felt like

1 it was so egregious and it -- it was just -- that it was
2 -- because I think in the transcript and -- and you were
3 in a courtroom when I read what the judge said that she's
4 had a number of cases where a person be somewhat confused
5 as to what happened, but this is not one of those cases.
6 So the judge is basically saying that he knew he hit the
7 guy and just went off and left him?

8 A Right.

9 Q Is -- and can you tell me what in that presentation made
10 her come to that conclusion, or do you know?

11 A Yes. I give you my best recollection. It's been some
12 time ago.

13 THE WITNESS: Judge, if I make a mistake, I
14 apologize.

15 THE COURT: Sure.

16 A I think it was the fact that he had, A, not stayed at the
17 scene. "B," he had drug the driver of the moped about a
18 mile and a half, I wanna say. I'll defer that to
19 Solicitor Barnette. I think he's got a better command of
20 the facts, but over a mile to two miles. The decedent
21 was on the front grill of the truck, and then just slowly
22 fell off.

23 There was -- he did not stop, that there was ample
24 time to stop. And the family -- Solicitor Barnette did
25 not do this to my recollection. But the family --

1 limited family members that he called on behalf of the
2 State said, "Mr. Price left" -- and I can't recall the
3 young man's name -- "Mr. Price left him on the side of
4 the road like a dog, never went back, never did
5 anything." And that is what she found to be egregious.

6 MR. RICHEY: (To the Court) No other questions.

7 THE WITNESS: Yes, ma'am.

8 CROSS-EXAMINATION OF STEVEN SUMNER, ESQ.

9 BY MS. MARTO:

10 Q So Mr. Price consented to the status conference, correct?

11 A Ma'am?

12 Q Mr. Price consented to you holding that status
13 conference?

14 A Twice. Yes, ma'am. Twice. Once on the -- well, no.
15 Really more than twice. Once on the telephone -- at
16 least once on the phone, and twice in person here at the
17 courthouse.

18 Q And you discussed all the mitigation evidence you laid
19 out in direct?

20 A I did. I put everything forward, and I'll defer to Scott
21 Todd if there's anything I've left out, or Solicitor
22 Barnette. I put everything forward positive, Judge, that
23 I could.

24 Q But everything you discussed with Mr. Price was also
25 brought up at the status conference, right?

1 A That is -- yes, ma'am. Everything was discussed. I
2 believe he signed off on some documents that I've given
3 to you stating what we felt like the mitigation -- best
4 mitigation presentation we could put together was.

5 Q And you stated that you had Mr. Price sign off on
6 mitigation, correct?

7 A Yes, ma'am. That is -- this is a document generated,
8 Your Honor, from my office. It is entitled "Randy Price
9 Mitigation Facts." And it is pretty detailed, and it is
10 signed and dated August 30th of 2021 by Randy at my
11 office. Wherein we discussed everything with the memo
12 together and then had him sign off on it.

13 MS. MARTO: At this point, Your Honor, we would
14 enter this as Respondent's Exhibit 2.

15 MR. RICHEY: No objection.

16 THE COURT: Without objection, entered.

17 (WHEREUPON, Randy Price Mitigation Facts, it is
18 entered into evidence as Respondent's Exhibit
19 2.)

20 MS. MARTO: (To the Court) Nothing further, Your
21 Honor.

22 THE COURT: (To Mr. Richey) Any redirect?

23 MR. RICHEY: No, Your Honor.

24 THE COURT: (To the witness) Thank you, sir. You
25 can step down.

1 (WHEREUPON, the witness was excused.)

2 THE WITNESS: Yes, sir.

3 MR. RICHEY: We call Mr. Barry Barnette.

4 THE COURT: All right. Solicitor?

5 THE COURT REPORTER: Judge, can we hold on just a
6 second, and let me fix a problem?

7 THE COURT: Sure.

8 THE COURT REPORTER: (To the Court) Okay. Go
9 ahead.

10 (WHEREUPON, the witness was sworn.)

11 THE COURT: Thank you, sir.

12 THE WITNESS: Thank you, sir. Yes, sir.

13 **DIRECT EXAMINATION OF BARRY BARNETTE, ESQ.**

14 BY MR. RICHEY:

15 Q Can you state your name, please?

16 A Barry Barnette.

17 Q And, Mr. Barnette, where are you employed?

18 A I'm the Seventh Circuit Solicitor here in Spartanburg and
19 Cherokee County.

20 Q And -- and you are familiar with this case; is that
21 correct?

22 A Yes, sir. I am.

23 Q And you were present during the status conference?

24 A Yes, sir. I was.

25 Q And -- and you -- and, in this case, you did the -- some

1 of the investigations on the prosecution; is that
2 correct?

3 A Yes, sir. I was the prosecutor on the case. I worked
4 with the law enforcement on it.

5 Q And -- and sometimes as the prosecutor, it requires you
6 sometimes to disprove what the defense is trying to do in
7 the case, correct?

8 A Yes, sir.

9 Q And can you tell me what investigation you did as to Ms.
10 Gina Price's involvement in the case? Were you aware of
11 her story?

12 A We went back -- Mr. Sumner went in the pretrial
13 conferences he's talking about. And a lot of times we
14 had pretrial conferences because, you know, obviously,
15 this is a big case and an important case. So we went
16 back and talked to Judge Verdin from there, and -- and he
17 pointed out these different factors like what the wife
18 had said, things like that, concerning the deer, that
19 potentially -- but the problem is the physical evidence,
20 and that's one reason I entered the MAIT Team report.

21 Q Okay. And -- and were you aware of the Plumleys being
22 out there that night?

23 A He said there was other folks. Now, he didn't say who
24 they were or anything like that.

25 Q So during this whole case, your office or you hadn't done

1 any investigation or anything as to the Plumleys or Ms.
2 Price? Y'all -- y'all didn't talk to the Plumleys --
3 okay -- y'all didn't talk to the Plumleys or anything?

4 A Well, I think the evidence was so strong from the MAIT
5 Team report and -- and everything from that standpoint
6 that the evidence did not back up what they were saying.
7 And even their testimony today I don't think was
8 consistent if you --

9 Q Was this the first time you've heard that testimony?

10 A Yes. Well, that's the first time I've heard it in
11 person, yes, sir.

12 Q Okay. All right.

13 MR. RICHEY: (To the Court) Thank you.

14 THE COURT: All right. Madam A.G.?

15 MS. MARTO: Yes, Your Honor.

16 CROSS-EXAMINATION OF BARRY BARNETTE, ESQ.

17 BY MS. MARTO:

18 Q Mr. Barnette, you were present for the status conference,
19 correct?

20 A Yes, ma'am.

21 Q And is your recollection consistent with what Mr. Sumner
22 just testified to?

23 A Yes, ma'am.

24 Q And do you . . .

25 MS. MARTO: (To the Court) No further questions.

1 THE COURT: All right. Thank you, sir. You can
2 step down.

3 (WHEREUPON, the witness was excused.)

4 THE COURT: (To Mr. Richey) Call your next witness.

5 MR. RICHEY: No other witnesses.

6 THE COURT: Applicant rests.

7 MS. MARTO: No witnesses, Your Honor.

8 THE COURT: All right. Argument.

9 CLOSING ARGUMENTS

10 MR. RICHEY: Your Honor, it's Mr. Price's position
11 in this case that the mitigation that he believed
12 that was favorable in this case, is his position he
13 doesn't know whether it was presented and what form
14 it was presented, because it was done in chambers.

15 And -- and, you know, from a -- you have to
16 look at it from a lay person, not a lawyer, these
17 terms, status conference, this and that. I don't
18 know if he understood at the time what was going to
19 go on. Because after the case came out from the
20 judge, and he hears the other side just basically
21 just hammering him with this case, he's trying to --
22 then he wants -- he can't figure out why there's
23 nothing being positive, say from his side, because
24 this -- this is -- this is the differences as a
25 status conference, all this is done in the back. He

1 has no idea what happened.

2 It's his position he comes out and the State
3 still does a presentation. See the State don't come
4 out and say, hey, Judge, we talked about it in
5 chambers. Let's go straight to sentencing. Okay.
6 Let's go straight to sentencing. What happens is,
7 he sits there and watched the State still put a
8 presentation of people saying -- and I'm just
9 paraphrasing, and this is made to the extreme that
10 he's a horrible guy. He left the guy. That was my
11 brother. So the State put forth a full presentation
12 even though all this was offered in chambers.

13 He sat here at the time, and there's
14 no -- there's nobody saying at the guilty plea, hey,
15 this is a good guy. You know, he maintained a job
16 for 35 years. He had a couple-hundred-thousand-
17 dollar job. You know, he -- he insured the car. I
18 mean, you know, the family, unfortunately, for them,
19 they were compensated, because he maintained this
20 extreme amount of insurance on his car. And his
21 wife is here; he's been married to her a long time.
22 His aunt's here. These people show up for him. He
23 had a boss here that says -- and with no criminal --
24 see, he doesn't hear that side of it.

25 And so what he's left with is saying, "Hey" --

1 then the judge come out and tell me, "Sir, you were
2 egregious. What you did was terrible. You" --

3 And he's left saying, "Well, what happened? I
4 mean, I -- nobody presented anything."

5 Because the only thing he gets is the judge
6 telling him, "You are egregious. You did this, da,
7 da, da, da."

8 And so it's his position that his mitigation
9 should have been presented in open court, so he'd
10 have the opportunity to hear the mitigation because
11 all he heard was them, okay? All --

12 THE COURT: Well, how does that violate Strickland
13 test, though? I mean, wasn't that a strategy
14 employed by Mr. Sumner in representing your client
15 so as not to further inflame the passions in the
16 courtroom out of sentencing hearing?

17 Aren't you, you know, relying on the deference
18 of the judge in hearing things
19 and -- you know, of course, and I can't speak for
20 Judge Verdin, but I don't like having conferences
21 back in chambers, for that -- this very reason,
22 okay? And I'll meet with lawyers back in chambers,
23 but what they tell me back there is going to be out
24 here, as well, on the record, okay?

25 MR. RICHEY: Yes, sir.

1 THE COURT: So there won't be any of this. All
2 right.

3 But how is that Mr. Sumner's fault? I mean,
4 how does this violate Strickland to allow him to
5 have a new trial on this charge? I understand what
6 you're saying.

7 MR. RICHEY: Yes, sir.

8 THE COURT: I understand the way it looks.

9 MR. RICHEY: Yes, sir.

10 THE COURT: But my -- you know, I have to determine
11 whether or not Mr. Sumner's conduct fell below well-
12 established norms, was deficient, and then his
13 ineffective assistance of counsel was prejudicial
14 and that his client got more time than the three
15 years he was banking on as if that can really -- you
16 know, if really it's whether or not it's entitled to
17 a trial -- a new trial. Go ahead.

18 MR. RICHEY: And -- Your Honor, and I think that the
19 -- the strategy, and I will say this has to be
20 reasonable. I -- I think when you look at the
21 client and he's expecting a three-year presentation
22 -- because I think the document's signed off -- that
23 -- that he's expecting a three-year presentation.
24 And it's his position now, because the mitigation --
25 he just doesn't know what the mitigation was. And I

1 -- and I think the client has somewhat of a right to
2 know how his case is being presented, especially,
3 these lay clients.

4 I mean, he doesn't -- you know, he doesn't --
5 he doesn't have the understanding of what's going to
6 be said for -- he's just sitting in the courtroom
7 thinking, "Okay. My stuff is going to be presented
8 and all this." And once he sees that -- because
9 from his standpoint, there's no presentation because
10 of the presentation in the courtroom.

11 THE COURT: I got that. I mean, the charge carries
12 the minimum of one --

13 MR. RICHEY: Yes, sir.

14 THE COURT: -- max of 25. She actually came in at
15 below half of what the max was.

16 MR. RICHEY: Yes, sir. That's our position, Your
17 Honor.

18 THE COURT: I understand.

19 MR. RICHEY: Thank you.

20 THE COURT: All right.

21 **CLOSING ARGUMENTS**

22 MS. MARTO: Yes, Your Honor. It's the State's
23 position that it was Applicant's decision, as you
24 said, to have the status conference in the back, Mr.
25 Sumner had the applicant sign off on all the

1 mitigation evidence entered and that he testified
2 and Barry testified that that evidence was presented
3 to the judge in the status conference regardless of
4 whether or not Mr. Price heard it, that was
5 presented and it was presented in the back as per
6 the applicant's request.

7 Additionally, I don't think this applicant can
8 meet his burden of proof in showing a different
9 sentence would've been imposed had it been said out
10 here, because the judge is ultimately the decider of
11 what sentence is imposed, and she had the same
12 knowledge in the back as she would've had if it was
13 presented at the plea hearing. And so because of
14 that, we would just request you deny relief on this
15 matter. Thank you.

16 THE COURT: All right. I'm gonna take it under
17 advisement. Mr. Price, what that means for your
18 family and friends who are here, obviously, I got
19 this transcript I'm gonna read, okay? I need to sit
20 and deliberate and think about it. I've heard a lot
21 this morning. I just don't wanna make an off-the-
22 cuff-gut decision. I wanna think about what your
23 lawyer argued and presented to me. So I -- I -- I'm
24 gonna make my decision as soon as I can, okay?

25 THE APPLICANT: Okay.

1 THE COURT: Because I know you want an answer, okay?

2 THE APPLICANT: Okay.

3 THE COURT: But just give me some time to think
4 about it, you know, and -- and I will let your
5 attorney, as well as the State's attorney know at
6 the same time, and he'll convey my decision to
7 you --

8 THE APPLICANT: Okay.

9 THE COURT: -- okay? Good luck to you. Thank y'all
10 for being here.

11 THE APPLICANT: All right. Thank you.

12 MR. RICHEY: Thank you, Your Honor.

13 THE COURT: All right. Thank you. All right.
14 Court's gonna take a brief recess.

15 (Whereupon, the within hearing was
16 concluded at 11:14 a.m.)

17 (*This transcript may contain quoted material.
18 Such material is reproduced as read or quoted by the
19 speaker.)

STATE OF SOUTH CAROLINA)

)

CERTIFICATE

COUNTY OF SPARTANBURG)

I, Amber Payne, Court Reporter for the Master-in-Equity Office of Spartanburg County, South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina on October 20th, 2022.

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



Amber J. Payne, CVR

Date: July 25, 2023

Notary public for South Carolina

My commission expires August 12, 2029

ExhibitACKNOWLEDGMENTD

RP I, Randy Price, after participating in multiple meetings and conversations with my attorneys, and being aware of the maximum possible punishment I could receive in this case (1-25 years and any mandatory fine \$10,000-\$25,000), and after having been provided and fully reviewing the discovery in the case, hereby agree as follows:

RP

1. I DO NOT WANT A JURY TRIAL;

RP

2. I am in agreement with the thoughts of my attorneys that some period of incarceration be suggested to the judge. I am aware that this is most likely not a "straight probation or straight house arrest" case;

RP

3. I am aware of the presentation that my attorneys will make to the Court; and I am in agreement with the suggestion to the presiding judge of a period of a sentence in the range of three years, with a further suggestion of a "split sentence."

RP

BEING FULLY AWARE OF ALL OF MY RIGHTS, INCLUDING THE RIGHT TO A JURY TRIAL, I DO NOT WANT A JURY TRIAL IN THIS CASE; AND WISH TO PROCEED WITH A GUILTY PLEA AND PRESENTATION FROM MY ATTORNEYS IN ACCORDANCE WITH WHAT HAS BEEN STATED ABOVE REGARDING THE REQUEST THAT MY ATTORNEYS WILL MAKE.

Randy Price

Randy Price

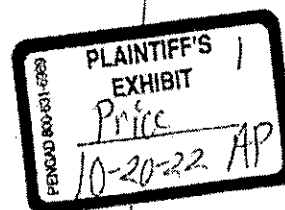
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Date

SWORN to before me this

1 day of December, 2021.

Jessica Altman (LS)
Notary Public for South Carolina
My Commission Expires: 7/6/2025



Randy Price Mitigation FactsImportant Facts from the Autopsy and Toxicology Report:

- Toxicology shows that the Victim had 610 ng/mL of Methamphetamine in his system. 130 nG/mL of Amphetamine, and was positive for Caffeine as well.
 - o The report states that 200-600 ng/mL of methamphetamine can allude to violent and irrational behavior.
- The victim was pronounced dead on 10/3/2020 at 23:09. EMS arrived on scene at 23:07... immediate death. (MAIT report estimated the collision at 23:11)
- Dr. Wassum provided an Immediate Cause of Death as: Blunt Trauma of the Torso.

Victim

- Victim was DUS at the time of the collision.
- Paper with brown substance was found in his pocket.
- The body was ejected into the ditch on the right side. The body was not dragging under the vehicle with the moped.

Deputy Compton BWC:

0:40: Deputy Compton approaches the victim on his moped and tells you "you ain't got no lights bud you gonna wind up getting hurt". Victim says "I know."

1:09: victim says that he is waiting on his brother in law. Victim says he cannot turn the moped off - he has to jumpstart it off to start. Victim cannot locate his wallet.

2:21: Victim says that he is starting PTI in October for FTSBL.

5:31: "I got this freaking flashlight man I can't get the button to work". The victim then asks if he can use the officer's phone. Victim asks if he can make it to the Spinx. Officer says man that is super unsafe dude and way too far.

6:14: officer calls the victim's brother/mom. He asks them to come get him that he does not have headlights. Victim tells family where they are. Family says they are about to be leaving... they don't sound ready and willing to come pick him up.

7:37: victim says "hey I will make it there. This officer's got to go". "I will be there man".

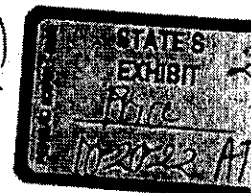
The officer then leaves the scene.

I think we have a very strong argument that the officer should not have left the victim. For one, the moped was not a proper working Motor vehicle. It had no headlights, and could not even be turned off because you would have to jumpstart it to get it going again. Also, the victim says on the phone "hey man I will make it there. I will be there man". This is after it was made clear the family was not coming to pick him up. Officer knew that the victim would drive himself there once the officer left. The officer should have not allowed the victim to leave unless or until someone came to pick him up. The moped was not in proper working condition, and from the phone call it was insinuated the victim would drive himself

Randall David Price

Randall David Price

8/30/2021
clate



Michael Burns Interview

This is an independent witness. He saw the Greenville County Deputy stopped at 8:15 pm with the moped. This was the above mentioned interaction.

Witness picked his family member up. And came back going about 55-60 mph. there was no traffic in front of him. He says he came up on a moped with no marking, no tail lights, nothing. If he did not have his family member with her he would have never seen him and hit him right there. Witness says he swerved to the left to miss hitting the moped.

Witness says that the moped driver never swerved to the right to get away from the vehicle. Witness says it scared him it was so close. He sees in his rearview a very dim lit headlight. Mother in law said "if he doesn't get off the road he will be dead tonight."

Witness said I know without a doubt that was the moped Greenville County had pulled over.

Witness even says "why would they have left that guy. If you are going to leave him on the road at least follow him where he was going."

Witness says that if the man who hit the gentleman is saying he did not see him, that is the truth. Now if this guy got out, looked at this person, and drove off... that's a different story. But if this guy says he did not see him.. that would be true.

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OCT 18 2023

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)IN THE COURT OF COMMON PLEAS)
FOR THE SEVENTH JUDICIAL CIRCUIT)
S.C. SUPREME COURTRandall Price, #386694,)
Applicant,)

Case No.: 2022-CP-42-00741

v.)

ORDER OF DISMISSALState of South Carolina,)
Respondent.)
_____)

This matter comes before this Court by way of Applicant's post-conviction relief application filed March 3, 2022. Respondent made its return on May 2, 2022, requesting an evidentiary hearing be convened. An evidentiary hearing was held on October 20, 2022, at the Spartanburg County Courthouse. Rodney W. Richey, Esquire, represented Applicant. Assistant Attorney General Chelsey F. Marto represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Counsel Steven Sumner, Esquire, Solicitor Barry Barnette, Esquire, and lay witnesses Boyd Plumley, Sr., Boyd Plumley, Jr., and Gina Price also testified. After reviewing all records and evidence before this Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. Findings of fact and conclusions of law are set forth below.

Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Spartanburg County Clerk of Court. During its October 2020 term, the Spartanburg County Grand Jury indicted Applicant for traffic/hit and run with death (2020-GS-42-2595). Applicant was represented by Steve Sumner, Esquire. Solicitor Barry Barnette of the Seventh Circuit Solicitor's Office prosecuted the case. On December 8, 2021,



Applicant appeared before the Honorable Letitia Verdin, circuit court judge, and pled guilty as indicted without any negotiations or recommendations. Judge Verdin sentenced Applicant to twelve years' imprisonment. Applicant did not pursue a direct appeal.

Summary of Relevant Facts

On October 2, 2020, a collision was reported involving a vehicle that left the scene after striking a moped and causing fatal injuries to the operator. (Tr. 6). Throughout the investigation it was determined that Applicant was the other individual involved in the case. (Tr. 6).

Investigators also determined the point of impact, where the victim was found, and that the moped was dragged about one to one and a half miles down the road before being abandoned. (Tr. 6-7). Officers went to Applicant's residence, found the white truck involved in the crash, placed Applicant under arrest, and Applicant stated that the victim died at the scene. (Tr. 6-7). Pieces of the truck left at the scene of the crash were matched to the truck itself. (Tr. 7). The investigation also revealed that Applicant was going at a high rate of speed and accelerated before making contact with the moped. (Tr. 7). After hearing the facts, Applicant pled guilty. (Tr. 7-8).

Current Action Before this Court

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

1. Ineffective assistance of counsel:
 - a. Failure to investigate all of the facts/issues.

Applicant filed an amended application on July 14, 2022, alleging:

1. Trial counsel was ineffective for having a pre-trial conference outside the presence of the Applicant; and
2. Trial counsel was ineffective for not allowing the Applicant to present mitigation evidence at the guilty plea.

At the PCR hearing, Applicant proceeded forward on the allegations raised in the

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

Summary of the Testimony

Boyd Plumley Sr.

Plumley Sr. testified that he is a family friend. He testified that he went to Applicant's home on the night of the incident. He stated that Applicant's truck was messed up. He thought that Applicant hit a deer. He says that he went back to the scene to look to see what Applicant had hit. He testified that they did not see anything that had been struck by a car. He stated that they drove up and down the road looking in ditches to find out if Applicant had hit anything. They did not see anything during their search. He testified that he was available to testify at the guilty plea but was not called by Counsel to testify on Applicant's behalf.

Boyd Plumley Jr.

Boyd Plumley, Jr. testified that he went to Applicant's home with his father. He stated that he drove to the incident scene looking for signs that Applicant had hit something. He stated that they thought Applicant hit someone. He testified that they did not see anything. He stated that they drove up and down the road looking for something Applicant hit. He stated that he did not see anything that had been hit. He stated that he was available to testify at the guilty plea but was not called to testify

Gina Price

Price testified that she is married to Applicant. She testified that she believed Applicant hit a deer. She stated that she was with Applicant the night the incident occurred. She testified that she went back to the incident scene with Applicant and did not see anything that he could have hit. She testified that she is very familiar with the area because it is near her home. She

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testified that she thought Applicant was reasonable in believing that he had hit a deer. She testified that she was at the guilty plea and was available to speak on his behalf but was never called.

Applicant

Applicant testified that he was charged with a hit and run with death. He stated he did not discuss the indictment with Applicant. He stated the charge stemmed from him hitting someone and driving off. He stated that he thought he hit a deer. He stated that he circled back to the scene with his wife to see what he hit but did not see anything. He stated his truck was damaged because of the hit. He stated he did not have a criminal history. He stated he discussed his defense with Counsel. He stated he did not think Counsel contacted the Plumleys. He stated that any mitigation presented in his case was presented in chambers without his presence. He stated he thought he would receive a three-year sentence. He stated he knew he was waiving his right to a trial. He stated he agreed to the in-chambers discussion about mitigation evidence in the case. He stated that he wanted Counsel to review mitigation evidence with him beforehand. He stated that he thought that if Counsel did a better job of mitigating the sentence, he would have received less time. Specifically, he stated he wanted Counsel to inform the Court that he accepted responsibility and went back to the scene and stopped.

Counsel

Counsel testified that he represented Applicant in his hit and run case. He stated Applicant was aware of the mitigation evidence and decided that he wanted the evidence presented in chambers, not at the plea hearing. He stated that Applicant decided to have this settled in chambers because many people supporting the victim were present in the courtroom and both Counsel and Applicant were worried that presenting mitigation in open court would

provoke them in a way that would be detrimental to Applicant. He stated that the people that appeared on behalf of the victim were armed with posters and baby pictures. He stated that he spoke to Applicant's wife before the plea hearing and was familiar with the testimony presented at the PCR hearing. He stated that the mitigation evidence included the fact that Applicant did not have a prior record, that the moped was stopped by the police for having no lights about ten to fifteen minutes prior to the accident. He stated it also included that Applicant had a wife and a career. He stated that he was unsure how Applicant returned home, given how damaged his truck was. He stated that he thought Applicant would receive a lighter sentence, but the Court found the incident egregious, and that Applicant had plenty of time to stop, but elected to leave the victim on the side of the road.

Solicitor

Solicitor testified that Counsel's recollection of mitigation evidence presented to the court was consistent with his own recollection. He stated that this mitigation evidence was offered in chambers.

Findings of Fact and Conclusions of Law

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

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Ineffective Assistance of Counsel

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

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel's performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel's actions fell outside of the zone of "reasonableness under prevailing professional norms." *Strickland*, 466 U.S. at 688. See also Rule 71.1(e), SCRPC ("The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence."). Reasonableness is determined by the "variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant," and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment."

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

in virtually "countless" ways. *Strickland*, 466 U.S. at 688-89.

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

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

In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Applicant's right to contest the validity of a plea is usually, but not invariably, foreclosed because of the inherent solemnity and truthfulness included in the guilty plea process. See *Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.").

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Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

Failure to Present Mitigation Evidence

Applicant claims Counsel was ineffective for failing to present mitigation evidence, consisting of statements from his wife and friends, all called at the PCR hearing. Counsel may be found deficient for failing to sufficiently investigate and present mitigating evidence. See *Council v. State*, 380 S.C. 159, 172, 670 S.E.2d 356, 363 (2008) (finding it unreasonable for counsel not to further investigate the defendant's background and present even minimal mitigating evidence obtained); *Wiggins v. Smith*, 539 U.S. 510, 521 (2003) (finding it unreasonable when Counsel failed to investigate mitigating evidence beyond a couple retained records, including the presentence investigation report and social service records); *Williams v. Taylor*, 529 U.S. 362, 398 (2000) (finding that Counsel was unreasonable for failing to evaluate the totality of available mitigation evidence). An applicant is prejudiced by this deficiency if there is a reasonable probability that a different sentence would have been imposed but for Counsel's failure to investigate and present mitigating evidence. *Council v. State*, 380 S.C. 159, 171, 670 S.E.2d 356, 362 (2008).

Here, Counsel's mitigation strategy was reasonable. He highlighted that the victim was driving a moped at night without lights, that Applicant did not have a criminal history, and that he had a family and successful career. Further, Counsel credibly testified that he investigated Applicant's wife and understood what she could have offered in mitigation. This Court finds this reasonable.

Additionally, there has been no showing that the mitigation witnesses presented at the PCR would have helped Applicant secure a more lenient sentence. In fact, this seemingly could have led to a harsher sentence, as it exhibits a lack of remorse for what happened. Additionally, Plumley Jr.'s testimony concerning the fear that Applicant hit a person would have been detrimental during sentence. Thus, because Applicant has failed to establish both deficiency and prejudice, relief is denied on this ground.

Pre-Trial Conference

Applicant claims Counsel was ineffective for presenting mitigation evidence in chambers as opposed to open court. Counsel credibly testified that the decision to present mitigation evidence in chambers was a last-minute decision upon recognizing the sheer number of people at the hearing on the victim's behalf. He credibly stated that he wanted the evidence presented in the back out of fear of provoking the victim's supporters further, which could have led to more individuals coming out against Applicant, which could have only hurt Applicant's chances of a lenient sentence. Further, this Court finds that Applicant made the decision to present mitigation evidence in chamber, with only the advice of Counsel. Counsel is not deficient for acting in accordance with Applicant's wishes after being advised by Counsel to do so.

Further, there is no prejudice here. Both Counsel and Solicitor credibly testified that the mitigation evidence was presented to the Court and there is no reason to believe that a change of locale would have produced a more lenient sentence, especially in light of Counsel's legitimate concerns. Thus, because Applicant failed to establish both deficiency and prejudice, relief is denied on this ground.

Conclusion

Based on all the foregoing, this Court finds and concludes that Applicant has not



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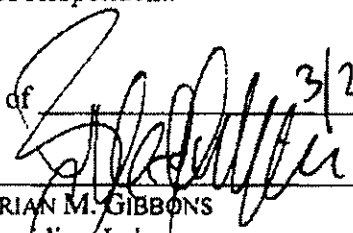
established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this PCR application must be denied and dismissed with prejudice.

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this _____ day of March, 2023.


 BRIAN M. GIBBONS
 Presiding Judge
 Seventh Judicial Circuit


 _____, South Carolina.

ALFONSO GONZALEZ
 JUDGE

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMONS PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
Randall Price,	)	Case No: 2022-CP-42-741
S.C.D.C. No: 386694	)	
	)	APPLICANT'S MOTION
Applicant,	)	TO RECONSIDER, ALTER OR AMEND
vs.	)	PURSUANT TO RULE 59(e), SCRPC
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

This matter comes before the Court by way of Applicant's post-conviction relief application filed on March 3, 2022. Respondent made its return on May 2, 2022. An evidentiary hearing was held on October 20, 2022 at the Spartanburg County Courthouse. Rodney Richey, Esquire, represented the Applicant. Assistant Attorney General Chelsey F. Marto, Esquire represented the State.

The Court denied Applicant's application for post conviction relief. The Court issued a written order denying the relief on March 21, 2023 and filed on March 29, 2023. The Applicant received notice of the Order on March 31, 2023. The Applicant through his attorney filed this motion.

APPLICANT REQUESTS THIS COURT TO ALTER OR AMEND RELIEF

The Applicant request this Court to Alter or Amend its ruling. The basis for this request is as follows:

1. The testimony at the hearing proved that counsel did not investigate the Applicant's

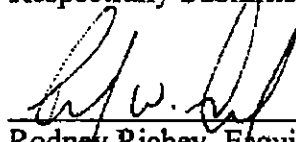
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SPARTANBURG COUNTY
SOUTH CAROLINA

case:

2. The witnesses called by the Applicant were credible and collaborated Applicant's version of the events that occurred;
3. The testimony and evidence presented at the hearing proved that Applicant's mitigation was not presented in open court.
4. The Applicant was prejudice by the mitigation not being presented in open court.
5. The Applicant was subject to substantial more prison time because of counsel ineffective assistance of counsel.

WHEREFORE, the Applicant moves for this Court to alter or amend the judgement in the above referenced case. The Applicant requests that this Court grants his application for Post Conviction Relief based on counsel ineffective assistance of counsel.

Respectfully Submitted;



Rodney Richey, Esquire
 RICHEY AND RICHEY, P.A.
 Post Office Box 10916
 Greenville, SC 29603
 864-467-0503
 864-467-0646 (fax)

Dated: April 3, 2023

CLERK OF COURT
 SPARTANBURG COUNTY
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September 13, 2023

Randall D. Price, #386694
MacDougall Correctional Institution
1516 Old Billiard Road
Ridgeville, SC 29472

Judge Brian M. Gibbons
P O Box 580
Chester, SC 29706

RE: Randall D. Price, #386694 v State; PCR Case No. 2022-CP-42-00741

Dear Judge Gibbons:

Enclosed, please find a copy of Applicant's Supplemental Motion To Alter or Amend Judgment, along with a Certificate of Service for the same. This Motion and Certificate has been mailed to the Spartanburg County Clerk of Court's office for filing.

Please do provide me a stamped copy of this filing, which would verify that my motion has been received by your office and reached your desk.

Thank you for your attention in this matter.

Regards, Randall D Price

Randall D Price

cc: Amy W. Cox, Clerk
Rodney Richey, Esq.
Chelsey F. Marto, AAG
FILE

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CLERK OF COURT
SPARTANBURG COUNTY

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FILED

September 13, 2023

Randall D. Price, #386694
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC 29472

Amy W. Cox
Clerk, Spartanburg County Courthouse
PO Box 3483
Spartanburg, SC 29304-3483

RE: Randall D. Price, #386694 v State; PCR Case No. 2022-CF-42-00741

Dear Clerk:

Enclosed for filing, please find the Applicant's Supplemental Motion To Alter or Amend Judgement, and a Certificate of Service for the Same.

Please find an additional copy of these documents and a self-addressed stamped envelope. Please provide me a file-stamped copy of these documents.

Thank you.

Regards, *Randall D Price*
Randall D. Price

cc: Brian M. Gibbons, Judge
Rodney Richey, Esq.
Chelsey F. Marto, AAG
FILE

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SPARTANBURG COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	IN THE SEVENTH JUDICIAL CIRCUIT
Randall Price, #386694,	Case No. 2022-CP-42-00741
APPLICANT,	APPLICANT'S SUPPLEMENTAL
✓	MOTION TO ALTER OR AMEND
State of South Carolina,	JUDGEMENT PURSUANT TO
RESPONDENT.	RULE 59(e), SCRPC

This matter comes before the Court by way of Applicant's post-conviction relief application filed on March 3, 2022. Respondent made its return on May 2, 2022. An evidentiary hearing was held on October 20, 2022 at the Spartanburg County Courthouse. Rodney Richey, Esquire, represented the Applicant. Assistant Attorney General Chey F. Marto, Esquire represented the State.

The Court denied Applicant's application for post-conviction relief. The Court issued a written order denying the relief on March 21, 2023 and filed on March 29, 2023. The Applicant received notice of the Order on March 31, 2023. The Applicant through his attorney filed a Motion To Reconsider, Alter or Amend on April 6, 2023.

APPLICANT'S PRO SE SUPPLEMENTAL MOTION

The Applicant, comes moving pro se, seeking that the

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Court would both accept his pro se motion and also grant his motion by altering or amending Judgment.

Applicant has been forced to move pro se at this time as he has been unsuccessful at having his per counsel to file a Rule 59(e), SCRP motion which would bring the Courts attention to Applicant's concerns. As such, Applicant moves pursuant to Samuel v Eagleton, CIA No. 2:14-666-TMC (D.S.C. 2015), 2015 WL 404201, and Rule 71.1, SCRP. Applicant seeks rulings and the Courts acknowledgment and attention with regard to the following:

1. Applicant's guilty plea was not voluntary and intelligently entered
2. Applicant would have not pled guilty but for trial counsel's errors, and rather would have proceeded to trial
3. The elements of the charge were not disclosed, met, nor discussed
4. In addition, see Applicant's correspondence which was filed with the Spartanburg County Clerk of Court's Office on March 15, 2023;

The Applicant asks for findings of facts and conclusions of law as to the aforementioned.

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WHEREFORE, the Applicant prays the Court accept this
 pro se motion, after the Courts Order - altering or amending
 the Judgment, and make findings of facts and conclusions of
 law as to all of Applicant's issues. The Applicant requests
 that this Court grant his application for Post Conviction
 Relief based on ineffective assistance of trial counsel.

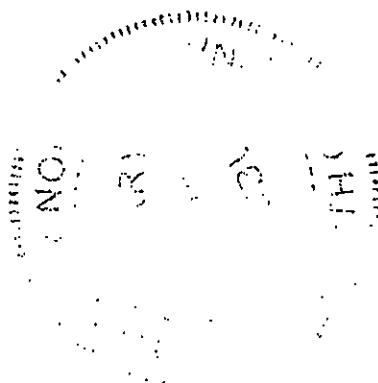
Respectfully Submitted, Randall D Price

Randall D. Price, #386694

MacDougall Correctional Institution
 1516 Old Billiard Road
 Ridgeville, SC 29472

This 13th day of September, 2023.

State of South Carolina
 County of Berkeley
 The foregoing instrument was acknowledged
 before me, 13th day of Sept. 2023
[Signature]
 Your Honor's Here, Notary Public
 My Commission Expires 04-12-2031



CLERK OF COURT
 SHARANDA J. COLE
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STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

Randall Price, #386694,
APPLICANT,

v

State of South Carolina,
RESPONDENT,

IN THE COURT OF COMMON PLEAS
IN THE SEVENTH JUDICIAL CIRCUIT
Case No. 2022-CP-42-00741

CERTIFICATE OF SERVICE

I, Randall D. Price, hereby certify that I have served the Applicant's Supplemental Motion To Alter Or Amend Judgment, on Respondent by placing a copy inside of a postage prepaid envelope and depositing at MacDougall Correctional Institution's mailroom on this 13th day of September, 2023, for mailing via the United States Mail, addressed as follows: Chelsey F. Manto, AAG, Office of the Attorney General, PO Box 11549, Columbia SC 29211-1549; Judge Brian M. Gibbons, PO Box 580, Chester SC 29706; Rodney Richey, Esq., PO Box 10916, Greenville, SC 29603; Amy W. Cox, Clerk, Spartanburg County Courthouse, PO Box 3483, Spartanburg SC 29304-3483.

s/ Randall D Price

Randall D. Price, #386694
MacDougall Correctional Institution
1516 Old Gilliard Road
Ridgeville, SC ~~29472~~ 29472

of South Carolina
County of Berkeley
The foregoing instrument was acknowledged
before me on 13th day of Sept. 2023

Notary Public

My Comm. Expires 07-12-2023

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OCT 18 2023

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

**Randall Price,
S.C.D.C No.: 386694**

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS SUPREME COURT
FOR THE SEVENTH JUDICIAL CIRCUIT

Case No.: 2022-CP-42-741

ORDER DENYING APPLICANT'S MOTION TO RECONSIDER, ALTER OR AMEND

This matter comes before the court by way of the Applicant, Randall Price's, motion to amend and to alter the Post-Conviction Relief Order filed on March 3, 2022.

This Court has received the Motion and documents submitted, and after further review and deliberations the court respectfully DENIES applicant's motions. This Court also craves reference to SCR Rule 59(g).

IT IS SO ORDERED.

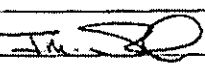
October 2, 2023

Brian M. Gibbons
Circuit Judge

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SPARTANBURG COUNTY
AMY W. COX

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WITNESSES

SCHP 

ARREST WARRANT NUMBER

2020A4210205153

ACTION OF GRAND JURY

True BillForeperson of Grand Jury **OCT 21 2020**
Date:

VERDICT

Foreperson of Petit Jury
Date:DOCKET NO. **20-63-42-2595**

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

OCT 25 2020 TERMTHE STATE
v.

RANDALL DAVID PRICE

Indictment for

TRAFFIC/HIT AND RUN WITH DEATH

SC Code: 56-5-1210(A)(3)

CDR Code: 2463

CLASS FEL/B

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on _____

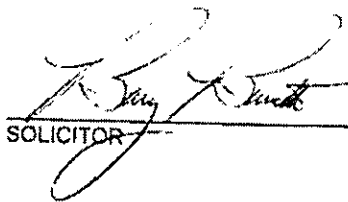
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the Grand Jurors of Spartanburg County present upon their oath:

TRAFFIC/HIT AND RUN WITH DEATH

That the Defendant, Randall David Price, did in Spartanburg County on or about October 2, 2020, operate a motor vehicle on the streets and highways of Spartanburg County, South Carolina, and was involved in an accident resulting in death to [REDACTED]. He willfully and unlawfully violated the provisions of §56-5-1210 (A)(3) of the Code of Laws of South Carolina, 1976, as amended, in that Randall David Price, was the driver of a car, he left the scene of the accident by failing to stop at the scene of the accident or stay as close to it as possible and/or until he had fulfilled the requirements of §56-5-1230 of the South Carolina Code of Laws, (1976), as amended, in violation of §56-5-1210 (A)(3) of the South Carolina Code of Laws, (1976), as amended..

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


SOLICITOR