

VOLUME II OF II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Cherokee County

J. Derham Cole, Circuit Court Judge

RECEIVED

AUG 27 2013

S.C. Supreme Court

TRAVIS PARKER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000131

APPENDIX

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010CP-110860

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

I, TRAVIS PARKER, 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.

Travis Parker
Applicant

SWORN or affirmed to and subscribed before me this

16 day of Sept, 2016
[Signature]
Notary Public

My Commission Expires: Oct 12, 2017

RECEIVED
CLERK OF DISTRICT COURT
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BRADY W. NOBEE

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF CHEROKEE	)	
	)	
Travis Parker, #240822,	)	2010-CP-11-0860
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

In response to the post-conviction relief application filed on November 2, 2010, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Cherokee County Clerk of Court's orders of commitment. The Cherokee County Grand Jury indicted the Applicant at the October 2007 term of General Sessions for murder (2007-GS-11-1212). Thomas E. Shealy, Esquire, represented the Applicant. On August 13, 2008, the Applicant was convicted of this charge by a jury. The Honorable Roger L. Couch sentenced the Applicant to confinement for life without parole.

A timely Notice of Appeal and an Anders brief was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Parker, Op. No. 2010-UP-144 (filed February 23, 2010). The Remittitur was returned on March 12, 2010.

Attached herewith and incorporated herein are the records of the Cherokee County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections' records, the trial transcript, and the appellate records. The Respondent

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

II.

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

1. Ineffective assistance of trial counsel, in that;
 - a. Counsel failed to present witnesses on my behalf,
 - b. Counsel failed to prepare case for trial,
 - c. Counsel failed to raise crucial objections during the trial.

III.

Respondent asserts that the Applicant's allegation of ineffective assistance of trial counsel is without merit. Respondent asserts that the Applicant's attorney rendered effective assistance well within the standard of reasonableness within professional norms for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Petitioner must prove that counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result. Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668, 104 S. Ct. 2052. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its reasonableness under professional norms. Cherry v. State, 300 S.C.

at 117, 386 S.E.2d at 625, citing Strickland v. Washington. Second, counsel's deficient performance must have prejudiced the Applicant such that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Cherry, 300 S.C. at 117, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. Respondent requests an evidentiary hearing to fully resolve this issue. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Respondent denies each allegation that is not expressly admitted, qualified or explained.

V.

WHEREFORE, the Respondent requests an evidentiary hearing.

Respectfully submitted,

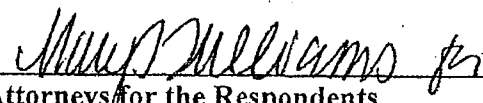
ALAN WILSON
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By:


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Dec. 7, 2011

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT

Travis Parker,

2010-CP-11-0860

Applicant,

v.

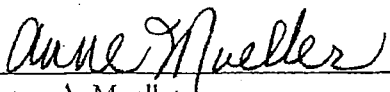
CERTIFICATE OF SERVICE BY MAIL

State of South Carolina,

Respondent.

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

Ernest Hamilton, Esquire
P.O. Box 10672
Greenville, South Carolina 29603



Anne A. Mueller
Legal Assistant for the Respondent

DATED this 7th day of December, 2011.

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

3
4 TRAVIS PARKER,)
5)
6) APPLICANT,)
7)
8) VS.)
9)
10) STATE OF SOUTH CAROLINA,)
11)
12) RESPONDENT.)
13)

TRANSCRIPT
OF
RECORD
10-GS-11-860

10 September 4th, 2012
11 Spartanburg, South Carolina
12

13 B E F O R E:

14 THE HONORABLE J. DERHAM COLE, Judge.

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

16 ERNEST HAMILTON
17 ESQ.
18 Attorney for the Applicant

19 SUZANNE H. WHITE
20 ASSISTANT ATTORNEY GENERAL
21 Attorney for the Defendant

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

I N D E XWITNESSESPAGE

TRAVIS PARKER

Direct examination by Mr. Hamilton

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P R O C E E D I N G S

1
2
3 THE COURT: All right. This is Travis Parker?

4 MS. WHITE: Yes, Your Honor. Travis Parker versus The
5 State. It's 2010-CP-11-0860. He's represented today by
6 Mr. Ernest Hamilton.

7 Proceeded to trial after being indicted October '07 for
8 murder before Judge Couch, and was convicted by a jury,
9 received a life without parole sentence. Appeal was filed.
10 An Anders brief was submitted and his conviction and
11 sentence were affirmed.

12 He has filed this alleging ineffective assistance of
13 counsel in that counsel failed to present witnesses on his
14 behalf, failed to prepare the case for trial, and failed to
15 present proper objections during trial.

16 So, at this point I will turn it over to Mr. Hamilton.

17 THE COURT: All right. Mr. Hamilton, are y'all ready
18 to proceed on the application?

19 MR. HAMILTON: We are, Your Honor, and we're ready to
20 proceed.

21 THE COURT: All right. And you're proceeding solely on
22 the allegation of ineffective assistance of counsel?

23 MR. HAMILTON: Solely on the allegation of ineffective
24 assistance of counsel.

25 THE COURT: And those specific allegations for

1 ineffective assistance are what?

2 MR. HAMILTON: In that the counsel failed to call and
3 investigate the case in a diligent or a normal course of
4 representation and called witnesses that was presented to
5 him in defense of this matter.

6 THE COURT: All right. So, failed to call a witness or
7 two and failed to properly investigate the case.

8 Anything else?

9 MR. HAMILTON: Yeah, that's correct.

10 THE COURT: All right. Just those two?

11 MR. HAMILTON: And, and thank you, judge. We need to
12 include that he failed to object on the Court's rulings of
13 error throughout the trial.

14 THE COURT: All right. Failed to object to, to
15 incorrect rulings?

16 MR. HAMILTON: That's correct, Your Honor.

17 THE COURT: Okay. Anything else?

18 MR. HAMILTON: And that's all.

19 THE COURT: All right. Are you ready to proceed?

20 MR. HAMILTON: I am.

21 THE COURT: All right. Call your first witness.

22 MR. HAMILTON: Your Honor, we will call the defendant,
23 Travis Parker.

24 TRAVIS PARKER, having been first duly
25 sworn, testified as follows:

Travis Parker - Direct examination
by Mr. Hamilton

1 MR. HAMILTON: May it please the Court?

2 THE COURT: Yes, sir.

3 DIRECT EXAMINATION

4 BY MR. HAMILTON:

5 Q Travis, you are serving a life sentence now.

6 You -- could you tell this Court exactly the defense
7 that you had that the lawyer failed to call the witness in
8 your case?

9 A Yes, sir. Well, sir, I had four, four witnesses that I
10 wanted brought forth to call. My lawyer, he didn't find my
11 witnesses. He didn't find the witnesses that I was suppose
12 to have to go to Court. The witnesses that he brought forth
13 was witnesses that he talked to me about and I was telling
14 him who knew part of the case.

15 But the main witnesses that was the crime, when the
16 crime started happening over there, he did not bring them
17 forth. He made like he could not find them. When I spoke
18 to him about it he told me don't worry about it. Then, when
19 he took me to Court, I thought I was going for a bond
20 hearing, and I was showed -- I was made to go for a trial
21 with Mr. Thomas Shealy. They told me that I couldn't object
22 or get a continuance, that I must go to trial with him or I
23 would have to represent myself, and my lawyer, the lawyer
24 they gave me, Mr. Shealy, he did not know or was able to
25 present my case to the jury with the solicitor.

Travis Parker - Direct examination
by Mr. Hamilton

1 When he was talking to the solicitor, he never objected
2 to anything the solicitor said. He made like two or three
3 objections when I made notification of the rulings that the
4 solicitor was giving. The solicitor made statements about
5 what type of person I was, and he did not object to these
6 errors. He did not bring forward that the, that the victim
7 who was killed was not in anger or aggressive with me. They
8 made it seem like me and the victim had some kind of beef or
9 problems with going on, but we never had none.

10 They used me for a witness, for a victim to the victim
11 because I use to talk to his wife. That's how I became the
12 key criminal within the case, and the two witnesses that
13 they brought forth, they said I was the one done the
14 drive-by shooting and they was in the car with me, they
15 released them and my lawyer would not object to none of
16 that. He gave them -- they didn't even charge them with
17 nothing. They released them for them to come and testify.

18 The dude -- one of the witnesses did not come forward
19 to the court. I had to bring forth who was in the car with
20 us when we went to court cause they said -- she told him
21 that it was me, her, and somebody else. The female witness,
22 Ms. Niki Thompson, did. She said it was three of us in the
23 car, but she didn't know the other fellow.

24 So, when they called me, they wanted to talk to me. I
25 told them I would give them any information they wanted.

Travis Parker - Direct examination
by Mr. Hamilton

1 well, when I told them about the witness, it had been
2 like four or five days and they couldn't find the male
3 witness. But then when they found him, he told them that he
4 didn't know what the dude -- he didn't call nobody, and they
5 asked him why. He like I had nothing to do with it, and he
6 also told Ms. Niki Thompson, which is in my case, that he
7 knew nothing about it, and that's what she told the police.

8 But when the police found him, he came up with a
9 statement saying that we went this place, that place, and
10 that place. But they never got him for accessory before or
11 after the fact if I would of committed the crime, Your
12 Honor, because he did not come forth and tell them I done
13 this. I had to tell who was in the car with me at the time.

14 Ms. Thompson, she stated that I was in the car with her
15 after she had just washed her car, and I told my lawyer
16 this. But when they went back and done the fingerprints on
17 the car, they found nine different fingerprints and none of
18 them was mine. They went back through the car, and searched
19 the car. They found none of the fingerprints of mine. They
20 found fingerprints of other, of other people, and she told
21 him that -- in the statement she stated I had washed the
22 whole car down. I had went back and washed the whole car
23 down with it.

24 So, at the crime scene they said the crime scene
25 happened this way. She told them she was driving, and the

Travis Parker - Direct examination
by Mr. Hamilton

1 witness told them she was driving, if I'd of shot the gun
2 out the window that way, Your Honor, the bullet would of
3 never been 175 feet from the scene of the crime, and I told
4 my lawyer this. They say that I done a drive-by, but there
5 was no possible way for me to be 175 feet away from the
6 crime if I was in the car. If the bullet would of jumped
7 out the car in a drive-by, it would of never been 175 feet
8 from the crime.

9 They had said the man got shot on Pine Street, but they
10 turned around, they said the man got shot on Pine Street or
11 something and he ran to these people yard and fell out.
12 while he was on -- while inmate -- well, Mr. Littlejohn, he
13 called 9-1-1. He was talking to 9-1-1. He told 9-1-1 that
14 he don't know how the man got shot or where the man got shot
15 at. But when he came to my trial, he told them that the man
16 called my name, but in order for the man to call my name,
17 the 9-1-1 lady, she asked him was it Travis Parker. Asked
18 him was it Travis Parker. He told the lady he didn't know
19 because the man was splitting up blood, coughing up blood,
20 the man couldn't talk.

21 But somehow, when it came to my trial, the man -- he
22 said the man talked to him. But -- in the 9-1-1, on the
23 phone when they was talking to 9-1-1, he talked to them till
24 the police and stuff got then. The people on 9-1-1 never
25 heard the man call my name. But he stated that the man

Travis Parker - Direct examination
by Mr. Hamilton

1 called my name, but he told 9-1-1 the man didn't call my
2 name.

3 But come to find out, Mr. Littlejohn had some back drug
4 charges. Well, when he testified against me, all his
5 charges disappeared. When at the time that it happened he
6 was telling them that he didn't know nothing, he didn't hear
7 nothing, the man couldn't speak, he was coughing up blood.
8 He said he was the only one there. He say that I drove by
9 the house and done a drive-by shooting, that he was sitting
10 in the front yard.

11 well, the front yard, from the area of the house, Your
12 Honor, is no bigger than, no farther than from me to the,
13 over where Mrs. Lady at. If you drive by in the car and I'm
14 sitting on the steps, I'm gonna see the color of the car or
15 some kind of car. He said that no car never passed by his
16 way. But they said I came that way, and done the drive-by.
17 But he stated that I never drove in that direction no kind
18 of way.

19 The area that she told him that we drove from and drove
20 through, it was impossible for me to shoot the man at the
21 place they say he got shot. If we came up Marion Avenue, I
22 couldn't of shot him in that way they say I shot him, but we
23 didn't come up Marion Avenue. They say we came up, come
24 down Sarratt Street, which runs -- like this road, like
25 right through here, and the house sits at a corner. They

Travis Parker - Direct examination
by Mr. Hamilton

1 say I shot him at the house, but the statement of Ms.

2 Littlejohn say that the man came running from around the

3 house and fell on the ground.

4 Q Okay. And who is the witness that would support your
5 version of what actually happened?

6 Where were you if you didn't drive by at that time?

7 A I have, I have, I have four or five witnesses.

8 Q Okay. And, and who are they?

9 A One of them name is Sophie. Her name is Sophie.

10 Q What would Sophie -- did Sophie come to Court?

11 A My lawyer didn't -- I did not know -- my lawyer did not
12 contact her.

13 Q And what would Sophie had---

14 A They would tell him where I was at at the time of this
15 crime.

16 Q Did your lawyer ever talk to Sophie?

17 A No, sir, he was suppose to find Lyman Tate. He never
18 found Lyman Tate. Talking about he looked for, but he never
19 could find him. He was suppose to find --.

20 Q And what would Tate---

21 A He would -- Tate -- they stated Tate was there at the
22 time the crime happened in the yard. Well, the lawyer, I
23 told him to talk to the lawyer cause they say Lyman would
24 testify what kind of car would come through and who was in
25 the car, but he -- my lawyer did not find him. So, he --

Travis Parker - Direct examination
by Mr. Hamilton

1 they -- he start talking about Lyman was in jail, in some
2 other place, and he couldn't find but two Lyman Tates. He
3 didn't find him.

4 Q Okay. So, by the time this went to court, Tate was in
5 jail?

6 A That's what he said.

7 Q Okay.

8 A I never known of Mr. Tate been in jail or not.

9 Q Okay.

10 A But I don't know because that was Mr. Tate's grandma's
11 house where the crime happened at.

12 Q Okay. And, and who was the other witness that did not
13 come?

14 A I had -- the other witness was Cricket. I don't -- we
15 don't -- I don't know them by they real -- I didn't get they
16 real name. I didn't know that I was coming here today or I
17 would of had they real name written out. But we call her
18 Cricket. She's a friend girl.

19 Q Okay. Did the lawyer know Cricket's real name?

20 A Yes, he had them.

21 Q He had the real name?

22 A He had the real name.

23 Q Did he have a way of getting in touch with them?

24 A He didn't, he didn't find them. They stayed right
25 there in Blacksburg and Gaffney. He never really tried to

Travis Parker - Direct examination
by Mr. Hamilton

1 find her.

2 Q And how would Cricket -- how would not having Cricket
3 hurt in this case?

4 A Cricket would state that I was in her car when she took
5 me to at the time of this drive-by shooting supposedly
6 happened. At the time that I was with Ms. Thompson and
7 Jarvis, it was that morning. I even tried to get them to
8 call Mr. Manning. He's an officer at the Cherokee County
9 Detention Center. I think he's a captain or something. I
10 tried to get him, to get him just so he could testify what
11 time he was down there getting his hair cut because I left
12 before he left, and that was that morning.

13 I'm lying. He left when I was leaving, and that was
14 that morning. The crime suppose to happened like 3:45 or
15 something.

16 Q I don't understand what you're saying.

17 I'm leaving, what you mean?

18 A By the time he was there -- I left when Mr. Manning
19 left, and Mr. Manning left that morning. We was at the
20 barber shop maybe like 12:30, one o'clock when we left, and
21 he was putting out -- cause I was asking him about his car.
22 He had an Impala, all black Impala. I was trying to buy the
23 Impala from him. He told me no, I'm not selling this car,
24 this is my baby, I love my car, and I didn't---

25 Q And how important is that conversation with at the

Travis Parker - Direct examination
by Mr. Hamilton

1 time---

2 A Because at the time---

3 Q ---of the shooting?

4 A Because Mr. Thompson, she stated that we left from the
5 barber shop and went and committed this crime, which would
6 be way off time frame because at the time that I left the
7 barber shop, we left the barber shop -- from the barber shop
8 till Sarratt Street, it would take probably 12 minutes at
9 the most, maybe 15 minutes, and it was like 1:00 something,
10 1:30 or something when I left the barber shop.

11 The crime happened like in my case, on my transcript, I
12 think it's like 3:45, four o'clock got this crime to happen.
13 She stated that we left there, and I committed the crime,
14 and we went straight back to Blacksburg, which would take,
15 if you get on 85, which would take you 20 minutes.

16 So, all in all, at the time that she took me, it
17 wouldn't -- it would be no later than 2:20 or 2:30 for this
18 here, but the crime happened at a different time. The crime
19 happened like 3:00 something. They start calling my cell
20 phone like the police. She called my cell phone, Ms.
21 Thompson did, Ms. Niki did. She called my cell phone and
22 asked me why you do that. I'm thinking she done got caught
23 with the drugs that was in the car because I had left drugs
24 in her car. I didn't lie to the police.

25 I tell her, I said, well, if they caught you with the

Travis Parker - Direct examination
by Mr. Hamilton

1 drugs in the car, then I, I let them know they my drugs.
2 She said no and start crying and hang up the phone. She
3 calls me back, asked me where I'm at. I said I'm where you
4 let me out at, what you talking about. She said okay. Then
5 next thing I know the police calls my cell phone, tells me
6 to walk out the door or they gonna kick in the door and
7 start shooting. Them the exact words he told me. I say I'm
8 not blocking -- I say I come outside, but when I go outside
9 there's no police in front of my house.

10 So, I call the police back and asked them what's going
11 on. They telling me to come out. I'm telling them I'm
12 standing in my yard. If they want to talk to me, come talk
13 to me, but they somewhere else.

14 So, he tell me -- they tell me to report to the
15 Blacksburg -- well, it's not really a jail cause you -- only
16 you got to push a button to get in. I don't think but one
17 person. But I went up there, and when I went up there I'm
18 talking to them, and on my way up there my brother called
19 me. My brother said they got me on the ground, man, with
20 the gun on me. They talking about if you don't come, they
21 think you me cause I got a brother, he just darker than me,
22 but he looks like me a lot.

23 They telling me to come out. He like brother, they say
24 they got to find you. I said well, I'm up here in front of
25 the -- it's recorded on the thing. I say I'm up here in

Travis Parker - Direct examination
by Mr. Hamilton

1 front of the thing, where they at, come out and talk to me.

2 The lady in the inside, the lady or man, I couldn't
3 really tell, but they keep it recorded, they told me give
4 them an hour and they would come out. They would be there
5 in an hour. I say an hour, what you want me to stand up
6 here for. They said give us an hour and we'll come out.

7 So, I called one of my partners, and they came and got
8 me. They took me to Cherokee County Detention Center in
9 Gaffney. I goes out there. I stands in front of the county
10 jail from like about four o'clock till like 8:30 or nine
11 o'clock before they come out there and book me or whatever.

12 When I tell them to give me, check me for gun powder
13 residue and all this here, they told me it's been too late.
14 But I had been there from every, before shift change cause
15 shift change at the county jail, you got to stand right in
16 front of the detention center, you got to stand right in
17 front of it for shift change. I was out there when all the
18 police had came when they---

19 Q Who was, who if you -- when you were talking to the
20 police saying I'm standing in front of the door, where are
21 you, who was with you then?

22 A Sophie.

23 Q Sophie?

24 A She was there.

25 Q Okay. Did your lawyer talk to Sophie?

Travis Parker - Direct examination
by Mr. Hamilton

1 A No, my lawyer never talked to Sophie.

2 Q Okay. Did -- there was a, some testimony about the,
3 about the victim saying that you shot him.

4 A They stated that, but from the whole time that I
5 understood, when the, when they talking to the man on the---

6 Q Did your lawyer object to that?

7 A Yes, I objected to that. He didn't know -- the
8 victim -- no, my lawyer didn't object to that. I don't -- I
9 can't remember because I have seizures and I got to ready my
10 paper as I go along, but I don't got all my legal work with
11 me because they got me up this morning and told me I was
12 going on a medical run. And when I got, when Mr. Ward and
13 them come in, they the one let me know I was coming to
14 Court. So, I was able just to run back and get just a
15 little bit of it so I could look through it a little bit.
16 But I ain't had time to get my paperwork, but I---

17 Q You know this case though.

18 I mean you know it.

19 A Yeah, I basically know my case because I'm in here for
20 a crime that happened that they say I done, but they never
21 had no proof I done nothing.

22 Q Okay. And then -- and one of the things that your
23 lawyer failed to object, critical times.

24 What was those critical times?

25 A The times that the crime happened and the time where I

Travis Parker - Direct examination
by Mr. Hamilton

1 was at when the crime happened.

2 Q Okay.

3 A You know what I'm saying?

4 They stated that I was here and I wasn't. I was here
5 and then, as the judge, when the judge start proceeding to
6 the jury, he suppose to represent to the jury if I got alibi
7 witnesses or whatever.

8 Q Right.

9 A The judge never brought the alibi witnesses. He never
10 represented, spoke to the jury about me having alibi
11 witnesses, but he read everything else that the judge
12 suppose to read before the trial. But he didn't let them
13 know that I had alibi witnesses. He never gave them that
14 information.

15 Q Okay. All right. And did he call -- did you have any
16 witnesses in your behalf?

17 A He called -- well, he, he talked to my people, and
18 there was two witnesses on there, Jessica Bullock and
19 Scartisha Allen, that I never gave him to testify, that I
20 wanted to testify. But he talked to them in some kind of
21 way and they said they had me talking to Jarvis, and they
22 say Jarvis told them that he done the crime, but he wasn't
23 gonna go down for it because he just had a baby.

24 Q So, he had information that somebody confessed to the
25 crime?

Travis Parker - Direct examination
by Mr. Hamilton

1 A It's in my transcript that they got on the stand and
2 testified to this.

3 Q Did he present that to the Court or to the jury?

4 A He let them testify, but he was like he didn't really
5 know what was really going on because I didn't. I didn't
6 know about this testimony with Mr. Jarvis to Scartisha and
7 Jessica Bullock. I didn't know this. I didn't know nothing
8 about this till they got on the stand and got to testifying
9 that he said that.

10 Q So, that was a -- that hurt you?

11 That's in some type of---

12 A In some ways it did because he got them up there and
13 they start testifying, and they start saying something about
14 Ms. Scartisha Allen got a baby by one of my nephew's
15 stepsons. He's like they using that to try to save me,
16 which, you know, I didn't know nothing about them coming to
17 testify.

18 Q Okay.

19 A You know what I mean. I don't even know Scartisha
20 Allen, you know what I'm saying. So --.

21 Q All right. Well, one of your, your issues here is that
22 he failed to prepare his case.

23 How many times did you meet and talk with him about
24 this case?

25 A Mr. Tom?

Travis Parker - Direct examination
by Mr. Hamilton

1 Q Yes.

2 A One. No, I seen him twice. Both times I seen him was
3 standing in the courtroom. The first time was for my, for
4 me to get a bond, and they refused me a bond, and the second
5 time is when he come and I thought I was going for another
6 bond hearing, but I went to trial. They started my trial.

7 Q And, so, how did you get the witnesses to him that,
8 that he never called?

9 A My people. My people talking to him. I'm telling him
10 who I wanted him to call.

11 Q So, you're thinking he's talking to your family rather
12 than to you?

13 A He didn't come see me and --.

14 Q You only saw him one time?

15 A I saw him---

16 Q Twice?

17 A That's it. And my -- I had a seizure the day before my
18 trial in the county jail. They found me in there. I done
19 swole up my tongue and everything.

20 So, they was -- I was in E-Pod. They moved me out of
21 E-Pod when I first started my trial and put me in lockup.
22 They took everything, my paperwork, everything from me, and
23 put me in there. But that I went to my jury, I think it was
24 picking up my jury. I guess it stressed me out real bad
25 because I have seizures, but when they found me that morning

Travis Parker - Direct examination
by Mr. Hamilton

1 they had to take me in a wheelchair. The nurse had to come
2 see me.

3 So, I wasn't really prepared when I went in there, and
4 I told my lawyer I just had a seizure. They checked my
5 blood level and everything and verified that I had a seizure
6 cause they can tell when you had a seizure or not when they
7 checking you.

8 Q And was that critical---

9 A It was critical because -- if you have -- I couldn't---

10 Q Did you---

11 A ---deduce all my information and thoughts to him
12 because when you have a seizure it slows down your thinking
13 process and all that. It's slows everything down, and I let
14 it be known that I needed a day to rest to my lawyer, to Mr.
15 Thomas Shealy. He told me don't worry about it, we got it.

16 Q The only time you saw him was at the bond hearing, the
17 day of the bond hearing---

18 A Yes, sir, the bond hearing and day of trial. That's
19 it.

20 Q And the day of trial?

21 A Yeah, he come to see me for the -- he come that, for my
22 bond hearing he come see me. He talked to me that morning,
23 and told me that he was gonna be my lawyer, they had
24 presented me with my lawyer. He had me for some people, the
25 witnesses who were gonna be there, who seen what happened.

Travis Parker - Direct examination
by Mr. Hamilton

1 I told him I don't know what happened. I said but I can
2 testify to why I was there. I got witnesses to tell you
3 where I been at.

4 He told me to give them to him. I gave them to him and
5 basically that's about all. They got---

6 Q You give, you give him those witnesses.

7 Did he get those witnesses to Court for you?

8 A No.

9 Q And he got those witnesses to Court, would that have---

10 A It would have---

11 Q ---effected the outcome---

12 A It would give the jury a different outlook instead of
13 them presenting me up there because I had already been
14 charged with a manslaughter before. You hear me. The
15 solicitor basically made it seem like if you would do it one
16 time you'd do it again cause he kept telling, you know, if
17 you take a -- how did he say it take?

18 It you take a rabbit out of a cage and put it in the
19 house and let it run around, it's gonna still act like a
20 rabbit. If you take it back out the house, and put it in a
21 cage, it's gonna still act like a rabbit.

22 Q Did he object to that---

23 A None of that.

24 Q ---when it was being said?

25 A It's in my transcript. He didn't object to none of

Travis Parker - Direct examination
by Mr. Hamilton

1 that. He start talking about if you take a rose and plant
2 it in the ground, if it grow again, it's gonna still be a
3 rose. It's not gonna change none of that.

4 My lawyer didn't do no objection to how the man -- but
5 he didn't bring forth to the jury that the man had other
6 people that he had anger or aggression with. He didn't let
7 the people know that somebody -- he had just shot somebody
8 before he went to prison. He didn't let them know that he
9 had got into it with some more people about some drugs
10 before he went to prison. It's all documented.

11 Q Did he know about those and the---

12 A I told him.

13 Q ---character of the victim?

14 A I told my lawyer about the character of the victim
15 cause it's on paper. He told me no, we not gonna do that,
16 we gonna keep it like this. But they bring up to me like
17 I'm an aggressive, real aggressive person or whatever and
18 like he was just a good guy whose never done anything. I
19 just killed an innocent person over a woman.

20 That's how he made that -- the jury -- the solicitor
21 made the jury think that I killed this man over his wife,
22 and they said me and the wife had a relationship, which
23 though we had had a relationship before, you know what I'm
24 saying. But at the time this crime happened I had a fiance.
25 I was living with a woman.

Travis Parker - Direct examination
by Mr. Hamilton

1 He wasn't even with his wife no more. He had a fiance.
2 He was fixing to be married. So, we never have an
3 altercation about his wife. Never. We -- he don't even
4 know my name. He seen me before, but he didn't even know my
5 name.

6 Q And were you able to present evidence to counter that
7 proposition?

8 A The wife, the -- Ms. Foota got up there.

9 Q She testified in your behalf?

10 A She testified in my behalf.

11 Q Okay.

12 A She let them -- they was trying to say that she was
13 scared of me, but she went and her kids went and let them
14 know that they -- we don't want to get him no bond because
15 he's this, that, and the third, and she told them that I'm
16 not that type -- I'm not gonna hurt her. Me and her ain't
17 had no problems. She don't know what happened, but she
18 don't believe I'd kill her husband.

19 Q Okay. I understand.

20 Okay. Now, back to the preparation time, you said you
21 was able to get him the names.

22 A I got him the names.

23 Q So, did he have time to investigate?

24 A He stayed -- I stayed in the county jail for a whole
25 year, for a whole year.

Travis Parker - Direct examination
by Mr. Hamilton

1 Q And you didn't talk with him that whole time?

2 A I talked to him two times I believe. There about two
3 times, two times. When he, when he first told them I talked
4 to him, when he first told him to represent me, he was gonna
5 represent me, and I talked to him that time. He took me for
6 a bond hearing. That was it. The last time I seen him was
7 standing in the courtroom.

8 Q In your talks to him, were you able to give him all
9 this information you're telling us today?

10 A I was telling him all that.

11 Q Okay. So, you told him all that?

12 A All of that.

13 Q Was he able to find out---

14 A I---

15 Q One of the people that you suppose to been riding with
16 in the automobile on the drive-by testified for the State?

17 A Yeah, they both testified for the State.

18 Q Did you give your lawyer any information about her meth
19 use and taking drugs?

20 A I let him know all that.

21 Q When did you tell him about that?

22 A I let him know that she dealt with me because she was
23 on meth.

24 Q Okay.

25 A He -- I didn't lie to the Court. I sold drugs. I sold

Travis Parker - Direct examination
by Mr. Hamilton

1 crack. I sold meth. I sold reefer, and she been a user.

2 And, so, I use to give her meth to do stuff for me. I help

3 her with money with her bills and stuff so she wouldn't be

4 down and stuff because she was a nice woman. I was in the

5 process of going to sleep with her, you know what I'm

6 saying, and around about some kind of way I end up with the

7 down fall, you know what I'm saying, because she was---

8 Q Just---

9 A This was over drug use.

10 Q Every -- all the information that was, indicated that

11 you were a part of the shooting and it comes from this meth

12 user?

13 A Yes, sir, she told the---

14 Q Did you tell your lawyer your, your involvement and---

15 A I told him.

16 Q ---did he investigate that part of it?

17 A He never investigated it. I told him my, my juices

18 (sic). At first, when she called me, I thought she was just

19 trying to get away with the dope. You know, I never knew

20 nothing about no murder, no shooting, you know what I'm

21 saying. I'm thinking she called me cause she got caught

22 with the dope and she trying to set me up to get me down

23 there so the police would get me for the dope.

24 That's what I thought this was for until they got me.

25 When I walked -- when I went down there and they come and

Travis Parker - Direct examination
by Mr. Hamilton

1 talked to me, they brought me a charge, but they charged me
2 with assault and battery with intent to kill at first.

3 That's the warrant they gave me at first.

4 I said -- and I asked him. I said assault and battery
5 intent to kill who, and that's when they gave me his name.

6 I said man, I ain't seen that man. I said well, listen.

7 When the man come out the hospital, y'all need to talk to
8 that man cause I ain't been the one that shot that man.

9 They told me they would take care of that and be able to
10 talk. I said that what it is. They come back the next day
11 and brought me a paper and charged me with murder.

12 Q So, just as a drug transaction between the woman who
13 testified with you about the shooting?

14 A I did -- it had to come to that cause she said that I
15 was, I was the drive-by-shooter, you know what I'm saying,
16 which I knew nothing about. The only thing I knew about was
17 the drugs that was in the car. That was the only thing I
18 can testify. But when the police got her car, they never
19 found none of the drugs. There was no drugs in the car.
20 She say she went up there the same day that it happened.
21 She say she went there five minutes. She went straight to
22 letting me out and straight to there. But they found no
23 drugs in the car.

24 Q And the critical witness that would help you counter
25 what she said, who is that, who is that person?

Travis Parker - Direct examination
by Mr. Hamilton

1 A It's Sophie, Cricket. Let me see, see who else was
2 there. Bud.

3 Q Did you give those names to the lawyer?

4 A I gave them all to him.

5 Q But you only saw him one time?

6 A But he come and talked to me. He had me where I was
7 at. I told him where I was at. I told him the people that
8 was there that was with me who wasn't there. He told me,
9 okay, he said these people could state that you was here
10 when this happened, we can go ahead and work with him, and I
11 told him.

12 Q So, when you got to trial, well, what happened when you
13 said where are my witnesses?

14 A He told me they was the only witnesses that he could
15 find, and the only witnesses he found is my people that's
16 kin to me, my brother, my sister. He never found nobody
17 else.

18 Q All right. Travis, you've been waiting for this to day
19 to come to Court to, to right some wrongs.

20 Can you think of anything that this Court needs to know
21 in, in lines of failure to present any witness, failure to
22 prepare for the case by your lawyer, and critical objections
23 that this Court needs to recall?

24 You need, you need to think and make sure you told this
25 Court everything that you'd been thinking about. You been

Travis Parker - Direct examination
by Mr. Hamilton

1 sitting waiting for this day now. We need to know.

2 Can you -- have you done -- have you accomplished that
3 today?

4 A I've been thinking. I want to know why -- cause within
5 the Court system it states that if I commit a crime, and you
6 are with me, I mean if you go to the Courts, to the jail and
7 tell them that Mr. Parker committed this crime, they're
8 suppose to give you some leniency. You know, they might --
9 they can't charge with, you with accessory before or after
10 the fact because you don't, your part. You reported to tell
11 them, but I want to know why they have another man that was
12 in the vehicle who did not come forth to the people and I
13 let them know who the people was. But y'all don't charge
14 him with accessory after the fact or before the fact, but
15 y'all let him walk.

16 Q And who is that person?

17 A Jarvis Thompson. They never charged him with anything.

18 Q Did he ever testify in the case?

19 A He testified in my case, and they never charged him
20 with anything, but he say that he was in the car with me
21 when I done the drive-by shooting. I want to know why I got
22 picked out of everybody and they say I done the shooting,
23 but nobody's -- she said that she didn't know I was gonna do
24 no drive-by shooting. I just got in the car with her after
25 I got in the barber shop, and I went and done a drive-by

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by Mr. Hamilton

1 shooting, and I let her leave.

2 That -- what -- it doesn't add up to the fact. If I
3 done that, then I knew that I was gonna go to prison. I
4 knew somebody was gonna be charged. If I got him in the car
5 with me, and she if, in it with me, and don't either one of
6 them know nothing about the crime that's fixing to happen,
7 and I go pull a drive-by shooting and somebody dies, if I'm
8 in the car with somebody and they pull a drive-by shooting
9 and I don't know about it, I'm gonna go testify because I
10 know the outcome is what it's gonna be, and they know what
11 the outcome's gonna be. You been charged with some kind of
12 charge period if you in that car and you did not report to
13 the Courts of what happened or to the jail of what happened.

14 Q And, and, and behind -- the undercurrent in this is
15 there was a lot of drugs---

16 A It was drugs---

17 Q ---missing after---

18 A ---in the involvement. It was drugs -- the husband,
19 the one -- Mr. Foota who got killed, he use to deal with Mr.
20 -- I can't think of -- he was a -- he was like a -- I don't
21 know his full name, but he was Mr. Petie. But he been like
22 Cuban and he's, he's Cuban and white or something, but he
23 been the drug dude. They knocked him off the drugs, but
24 Niki been with him when the drugs got knocked off.

25 So -- and it comes out that Mr. Foota use to deal with

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by Mr. Hamilton

1 Mr. Petie before he went to jail dealing with drugs. It all
2 come to the scene and somehow Mr. Petie or, or whoever got
3 trans, twisted with the drugs Mr. Foota didn't give him back
4 or whatever or he used Niki, he used me as a victim to this
5 crime because where I'm from -- I'm from Cherokee County.
6 It's real small.

7 My family is the Parkers, you know what I'm saying, and
8 they, they done a lot of stuff in their life. Me too, you
9 know what I'm saying. So, basically when you in Cherokee
10 County and you call the police and you say Mr. Parker, when
11 they come, we gone have a chance to break down the whole
12 scene because I'm a Parker. They gone automatically put me
13 in handcuffs and lock me up.

14 Now, if I get a lawyer who know what they doing, he
15 might be able to break the case for me or get me out, but as
16 of then, when the police come, I'm guilty because I'm a
17 Parker. I told my lawyer that I would like for him to get
18 my trial moved to another county or something where I would
19 be able to get a fair trial with my witnesses.

20 He wouldn't try to do it, you know what I'm saying,
21 because Cherokee County, right now, if I walk out now and I
22 go back to Cherokee County, and all of y'all witnesses where
23 I be at, and they say I committed a crime cause I'm a
24 Parker, I'm automatically going to jail, and if the jury get
25 up there and they get to talking about me and who my family

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by Mr. Hamilton

1 is, basically I'm gonna say eight of ten, if it's fair
2 witnesses on the jury, I might go to jail. Eight out of ten
3 times I'm gonna go to jail with the fair witnesses at trial.

4 Q Okay. All right. And you have -- and you have an
5 objection to a juror in this case?

6 A Yeah.

7 Q A member of the case---

8 A Yes, he was a juror on the case. He was on my case.
9 She was a friend to the victim's mother. She worked at
10 Nestle. They got a Nestle plant down there. They worked at
11 Nestle, and she been on the jury, and I established that to
12 my lawyer.

13 Q He -- did he object?

14 A He told me he would take care of that, but she still
15 came to the trial.

16 Q Okay. I think you, you about covered it, but I'm just
17 gonna ask you just one final time, and just a short
18 statement.

19 Have you told this Court everything you wanted this
20 Court to know about your case?

21 A Basically I have.

22 Q Okay.

23 A The basic parts that I've, I've studied over it, yes, I
24 have.

25 Q Okay. All right. Answer, answer any questions that

Travis Parker - Cross-examination
by Ms. White

1 attorney may have.

2 A Yes, sir.

3 MS. WHITE: Thank you.

4 CROSS-EXAMINATION

5 BY MS. WHITE:

6 Q Mr. Parker, you were arrested in this case what date?

7 Do you recall?

8 A I think it was, it was June something. I can't be
9 right for sure cause I can't be sure.

10 Q Okay. The trial was actually held November 2008 or,
11 excuse me, August 2008, is that right?

12 A Yes, ma'am.

13 Q And you said you'd been in jail for about a year before
14 that?

15 A Yes, ma'am.

16 Q Okay. So, maybe June of '07 was when this occurred?

17 A Yeah.

18 Q Okay. And was Mr. Shealy your attorney the whole time?

19 A He was, he was gonna be my attorney, but I had spoken
20 to Mr. Alex Kinlaw, and my people was getting up the money
21 for him to take my trial. But they hadn't got him all his
22 money at the time for him to do my trial. When I got ready
23 to go to trial, he was in, he was in another trial in Court
24 and my people couldn't contact him.

25 Q And, in fact, Mr. Shealy made a motion for a

Travis Parker - Cross-examination
by Ms. White

1 continuance and told the court that you were trying to
2 retain an attorney, is that correct?

3 A Yes, ma'am.

4 Q All right. And the judge, at that time, said that
5 there had been a previous motion for continuance and that
6 was in March of 2008. So now it's August 2008. And at that
7 time there's a continuance granted and that you were told
8 that you needed to be prepared to proceed with trial when it
9 came forward next time.

10 Is that right?

11 A Yes, ma'am.

12 Q So, at this point, the, Mr. Kinlaw I believe is who you
13 said you were trying to hire, had not filed a notice of
14 appearance, was not representing you?

15 A No, ma'am, I had -- before Mr. Kinlaw I had another
16 lawyer, Judge. Mr. Lambright. That's when I first got the
17 continuance. Mr. Lambright, he came in the courtroom and I
18 had told him that he hadn't come and see me or nothing, but
19 he had took the money when you first give them to come see
20 you. He hadn't come and seen me or nothing. I hadn't seen
21 no -- I hadn't seen one, one lawyer, Mr. Shealy, when he
22 first came, and I gave him that.

23 But then my people started trying to hire
24 Mr. Lambright. So, when he told me that I must be ready to
25 come back, we had no access to the outside. My people are

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by Ms. White

1 poor. There's no way -- I had no wait with -- my sister and
2 them had to wait on their income tax to come in. When the
3 income tax came, they was able to see Mr. Kinlaw, but -- and
4 then that's how they got Mr. Kinlaw. They had gave him
5 5,000 on it, and they told him they would give him the rest
6 of it when the money came.

7 But before that they never notified me of what day I
8 was going to trial, and I had spoken -- my people had spoken
9 to Mr. Kinlaw, and he told them he was gonna work with me,
10 but he needed some more, some more money, and they told him
11 they was gonna get it for them, and I tried to explain that
12 to the judge. On the day of my trial he told me no cause he
13 had gave me one continuance. He wasn't giving me nothing
14 else.

15 Q Okay. And that's what -- they also discussed that
16 motion for continuance in the fact that Mr. Shealy had been
17 trying to get in touch with and locate this Lyman Tate that
18 you wanted as a witness, is that right?

19 A Yes, he say he had been trying to contact him.

20 Q Okay. And, so, he went through all that, and discussed
21 the fact that he was, I believe, and maybe Cabarras County
22 North Carolina up in jail is where he thought?

23 A He said it was him -- he said it was two of them. He
24 couldn't find but two of them. He say he don't know which
25 one was which, but he say he don't know. He said one of

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by Ms. White

1 them was up there and he couldn't find the other one.

2 Q And this is a witness that you had even told your
3 attorney you really didn't know what he was gonna say, but
4 you wanted him there, is that right?

5 A I told him that that witness was the one out there in
6 the yard. They say he was in the yard that day when the
7 crime happened.

8 Q But you had not spoken to him and you did not know what
9 the witness would say?

10 A No, ma'am. No, ma'am, I hadn't.

11 Q Okay. And the judge ultimately denied the motion to
12 continue the case, and when asked if you relieved
13 Mr. Shealy, you were informed pretty much that you would
14 have to proceed on your own, is that right?

15 A Yes, ma'am.

16 Q All right. Now -- and you said that Mr. Shealy had not
17 done any preparation for the case. You have gotten a copy
18 or you had gotten a copy, even in 2008 prior to the trial,
19 of your entire discovery packet and defense file from
20 Mr. Shealy, is that right?

21 A I don't -- it didn't say Mr. Shealy. I got the motion
22 of discovery though.

23 Q Now -- so, if, if I have a letter, if there's been
24 something that you signed saying that you had spoken and
25 instructed your public defender to give you a copy of the

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by Ms. White

1 file, he advised against that since you were in jail, which
2 you wanted a whole copy of the file, and you signed it in
3 July of 2008.

4 Do you recall that?

5 A I think he got -- I think I got a motion -- I think he
6 did give it to me.

7 Q Okay. All right. Now, Mr. Shealy actually made a
8 pretrial motion to suppress all the victim's statements
9 where he supposedly identified you as the shooter, is that
10 right?

11 A Yeah.

12 Q Okay. So, Mr. Shealy, the, the question of whether or
13 not he identified you as the shooter or someone from the
14 9-1-1 tape mentioned your name first, and that's what caused
15 him to, to call out your name, that was raised in a pretrial
16 motion, is that right?

17 A I wasn't in there when they raised it.

18 Q You weren't---

19 A I don't remember that.

20 Q ---present?

21 A I don't remember that being raised. No, ma'am I don't.

22 Q Okay. So, if the transcript reflects -- and you've
23 looked at your transcript, haven't you?

24 A Yes, ma'am.

25 Q So, if the transcript reflects that the first motion

Travis Parker - Cross-examination
by Ms. White

1 deals with the victim identifying Travis Parker, statements
2 made to police and EMS, that the State was gonna intend to
3 introduce those as a dying declaration, that he fought to,
4 on three different grounds, get all those statements
5 suppressed so that the jury wouldn't be able to hear them.

6 You don't recall that?

7 A That was after my trial had started.

8 Q Okay. That was pretrial. This was before your trial
9 started. Mr. Shealy made the motion to try to argue
10 against.

11 A Pretrial?

12 No, we was, we was already -- this was the second day.

13 MS. WHITE: If I can approach, Your Honor?

14 And I'm looking at Page 52, Mr. Parker. I'm just gonna
15 show you right here.

16 Page 42 of your transcript --

17 A Yes, ma'am.

18 Q -- Page 51. Three motions in limine. The first motion
19 dealing with the victim identifying Travis Parker.

20 At this point, that's pretty early. All they had done
21 pretty much was the jury selection.

22 A I don't -- I know it was the second day of the trial.
23 I know that. I can't remember.

24 Q Okay. But nobody had testified at that point, right?

25 A I can't -- no, I don't think nobody had -- I don't

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by Ms. White

1 think so.

2 Q Okay. And the Court, in fact, there was I think five
3 different people that testified before the Court about
4 whether or not that statement should come in where you were
5 identified as the shooter by the victim.

6 Do you recall that, that the officer, the EMS guys, the
7 9-1-1 operator, and Bridgette, testified as to whether or
8 not you were identified by the victim as the shooter?

9 A Yeah, that was brought in forth to the case.

10 Q Okay. And that motion was allowed and the statements
11 by Mr. Foota or Foota?

12 A Foota I think.

13 Q Foota was -- they were allowed at trial, isn't that
14 right?

15 A Yeah.

16 Q Okay. So, that motion on behalf of, of your attorney
17 was denied. He made a motion to suppress statements about a
18 previous possible altercation that people had claimed you
19 and the victim had had, he wanted to suppress that and make
20 sure none of that testimony came in.

21 Is that right?

22 A Yeah, I brought that up, yes, I did. Yes, I did.

23 Q Okay. So, your attorney made that motion and that was
24 granted?

25 A I don't know about him making a motion. I had spoken

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by Ms. White

1 to him about that.

2 Q All right. And, Mr. Parker, if the record reflects
3 that Mr. Shealy says the second motion is to get out the
4 fact that the defendant had been chased by the victim with a
5 gun the day before the shooting, we submit that's false, and
6 that altercation was actually between brothers, we think it
7 would confuse the jurors. So, we want to make sure that
8 that stays out.

9 would you agree with that?

10 A That's when they find out the altercation was against.
11 Now, spoke to him about the altercation. He brought that up
12 then. Before then he was not fixing to suppress it. They
13 didn't suppress the altercation. He was suppose to had it
14 removed from within that. I mean -- it was suppose to be
15 removed because the altercation that happened the day before
16 had nothing to do with Mr. Foota knowing me.

17 Q Right. And that's what your -- your attorney made that
18 motion before the Court and they agreed that they were not
19 gonna bring that in to any of the testimony.

20 A I think -- I think they said that.

21 Q Okay. Now, the third motion he made was to make sure
22 that your prior convictions for voluntary manslaughter
23 didn't come before the Court either, is that right?

24 A Yes. But it was brought forth before the Court with
25 the solicitor.

Travis Parker - Cross-examination
by Ms. White

1 Q They did not say voluntary manslaughter. They---

2 A No, they didn't.

3 Q Right.

4 So, that was kept out. The fact that you had a
5 previous felony was allowed in.

6 A Yes.

7 Q But not that you had been previously convicted of
8 voluntary manslaughter?

9 A Right.

10 Q Okay. So, those motions were made by your attorney.
11 So, clearly he had had some communication with you enough to
12 know about the prior altercation, enough to know about these
13 9-1-1 and identifications, and, and your record and
14 everything, correct?

15 A That was, that was the same -- he got all that
16 information right there, right there, and I was objecting to
17 that day that---

18 Q On the day of trial that---

19 A The day that the trial, we was in there talking---

20 Q Okay.

21 A ---and he got that from me. We had talked about that
22 and I sent him a letter. I had wrote him a letter.

23 Q So, you would disagree if there were motions that were
24 filed previous to the day of trial in the courtroom---

25 A If you---

Travis Parker - Cross-examination
by Ms. White

1 Q ---on raising those issues by your attorney?

2 A If they filed them I never had no idea he filed them.

3 I was never---

4 Q But he knew about that. You said he just told you
5 about them -- you just told him about it on the day of
6 trial.

7 So, how did he know about that?

8 A Cause it was in the case. It was just, not just that.
9 It was in the case. It was brought forth in there when they
10 stated my motion for discovery.

11 Q So, he had done some investigation and looked in your
12 file obviously?

13 A When I talked to him, when I first spoke to him at that
14 day, we talked for about maybe a whole hour. We went over
15 all of that stuff. We went over---

16 Q And was this your time meeting him at your bond hearing
17 you said?

18 A He came to see me. He came to see me before my bond.
19 He come let me know they had appointed him as my lawyer.

20 Q Okay. So---

21 A He questioned me.

22 Q ---you actually saw him three times then?

23 A The third time I seen him we were going to Court.

24 Q Okay. Okay. Cause the first -- you've told us before
25 you only saw him twice?

Travis Parker - Cross-examination
by Ms. White

1 A I saw him twice. The third time that I seen him I was
2 going to trial.

3 Q Okay.

4 A That was before my trial started. He come to see me
5 and told me I -- had notified me they had appointed him my
6 lawyer.

7 Q Okay.

8 A Then he came back when I was going for a bond hearing.
9 They wouldn't give me none.

10 Q All right. So -- also Mr. Shealy had prepared
11 cross-examination because the State presented about 12
12 witnesses.

13 Do you recall that they presented a good number of
14 witnesses, all the EMS, the officers, as well as Nicole
15 Thompson and Jarvis Thompson, is that correct?

16 A I don't think it was 12.

17 Q Okay. If the record reflects that there were 12
18 witnesses, would you agree that---

19 A There might of been 12 witnesses there. I don't think
20 all 12 witnesses testified.

21 Q Okay. If the record reflects that 12 witnesses
22 testified on behalf of the state in the transcript, would
23 you agree with that then?

24 A I can't---

25 Q Would you agree that maybe you're not recalling all

Travis Parker - Cross-examination
by Ms. White

1 witnesses?

2 A I guess that's a possibility that I, I couldn't cause I
3 had a seizure and I couldn't remember---

4 Q Okay.

5 A ---and I wouldn't know.

6 Q All right. And your attorney actually called about ten
7 witnesses on your behalf.

8 Do you recall that?

9 A Them the witnesses -- I don't remember what witnesses
10 he called, but them not the witnesses that I gave him. I
11 gave him a couple of witnesses, but he added them other
12 witnesses himself.

13 Q Okay. So, we're looking at Sophie, Cricket, and Bob,
14 Bob or Bub?

15 A Bud.

16 Q Bud.

17 Now, did you know these -- do you know these folks real
18 names?

19 A I don't remember their real names.

20 Q Okay. Do you know their last names?

21 A I know Wilson, Howell, and I think one of them name is
22 Johnson.

23 Q And those are the last names for those three folks?

24 A Yes, sir.

25 Q All right. And you provided that info to --?

Travis Parker - Cross-examination
by Ms. White

1 A I let him know who they was.

2 Q But you didn't provide him their real names?

3 A At the time of the thing I did. That's been five years
4 ago.

5 Q Okay. So, you knew their real names back then?

6 A I don't, I don't know basically hardly no names of
7 nobody.

8 Q That's what I'm asking.

9 At the time before your trial, could you give your
10 attorney these witnesses real names?

11 A I gave my attorney my people's names and my people -- I
12 told him to contact my people and my people would get them
13 to contact him.

14 Q Okay.

15 A Cause I didn't know their names.

16 Q Did you know their addresses, where they lived?

17 A Yes, I knew their address. I gave them their
18 addresses.

19 Q Did you give them the addresses?

20 A Yes.

21 Q And, and even with the addresses you said your attorney
22 said he couldn't find them?

23 A My attorney, he, he must have not cause he did not
24 bring them forth.

25 Q Okay. Now, your attorney called you as the first

Travis Parker - Cross-examination
by Ms. White

1 witness, is that right?

2 A Yes, ma'am.

3 Q All right. The victim's wife testified on your behalf,
4 Timothy Tate. There was a Jimmy Henson. He recalled Jarvis
5 Thompson. He also presented testimony from a Jessica
6 Bullock, and Mrs. Scartisha Allen, who were the ones that
7 allegedly heard Jarvis confess, is that right?

8 A Yes, ma'am.

9 Q And that testimony was allowed to the Court, is that
10 correct?

11 A Yes, ma'am, he let them testify.

12 Q Okay. And he also got a Travis Colston in and a
13 Brandon Peeler, is that right?

14 A They never testified. Brandon Peeler never testified.

15 Q If the record reflects that Brandon Peeler testified
16 and there's testimony in here from Mr. Peeler, would you
17 agree with that?

18 A Yes, I would.

19 Q Okay. And if you need to see Pages 393 to 395, the
20 record reflects that Mr. Brandon Peeler was testifying.

21 He works for the 9-1-1 center and had been in the
22 detention center, is that right?

23 A Yes, ma'am.

24 Q Okay. So, your attorney called a good number of
25 witnesses on your behalf trying to attack -- in fact, he

Travis Parker - Cross-examination
by Ms. White

1 also mentioned about the drugs supposedly that were in Ms.
2 Thompson's car?

3 A Yes, ma'am.

4 Q Is that right?

5 So, he brought that up before the jury?

6 A Yes, ma'am.

7 Q And she denied it, right?

8 A I don't think they never -- I don't even think they
9 ever asked her about it.

10 MS. WHITE: Okay. Just one moment, Your Honor.

11 (Pause.)

12 Q All right. Mr. Shealy talked to a lot of people about
13 the fact that you washed the car, talked about whether or
14 not there was a gun in the car, is that right?

15 A I -- just remembering the whole thing I can't remember
16 what was in it, what was said in there.

17 Q Okay.

18 A I'd have to read through the paperwork and I can give
19 it all to you. I can't really say what was said. I can't
20 remember it like that.

21 Q Okay. And she admitted being with Jarvis after
22 dropping you off at some location, is that right?

23 A That's what she said.

24 Q All right. And Mr. Shealy asked her did you have some
25 drugs in the car, any illegal drugs in the car, and she said

Travis Parker - Cross-examination
by Ms. White

1 no, sir. And he said are you sure you didn't dispose of
2 illegal drugs. She said I didn't have any drugs and she
3 said specifically crack and meth and she denied it.

4 Do you recall that?

5 A I think so.

6 Q Okay. So, he brought that up before the Court, right?

7 A Yes.

8 Q Okay. So, in addition to getting several hundred pages
9 of discovery from your attorney that represented notes and
10 research and documents that he had received and worked --
11 there were documents that were handwritten notes that he had
12 worked on in preparation for your case, weren't there?

13 A No, ma'am.

14 Q Okay. So, the packet that I gave your attorney that
15 was the defense file, the packet that I received from the
16 defense---

17 A Okay.

18 Q ---office and the packet that you had signed on
19 July 2008 saying that you received that included numerous,
20 perhaps hundreds of pages, including pages of handwritten
21 notes about victim's witnesses statements from your
22 attorney, you're denying that he did any of that?

23 A I got statements and my notice -- I got statements from
24 the witnesses that he had that was gonna be at trial. I had
25 a copy of them statements from Jarvis Thompson and Niki

Travis Parker - Cross-examination
by Ms. White

1 Thompson.

2 Q Okay. So, you deny that the packet he gave you had any
3 notes and copy of his entire file?

4 A It might been, it might of been a note that he wrote
5 where he probably wrote something and told me to check on
6 something or look at this right here, but as far as me
7 remembering it being a whole bunch of notes in there,
8 written and handwritten, no, ma'am, I can't remember that.

9 Q Okay. You don't remember that, but---

10 A I don't remember seeing it.

11 Q ---if your attorney has seen it and I've seen it, would
12 you agree that maybe those notes exist?

13 A What kind of notes?

14 Cause I sent him -- no, because I sent him some letters
15 that was sent to me while I was in the county jail.

16 Q No, I'm saying preparation, notes from your attorney in
17 which he prepared cross-examination questions. He
18 questioned stories of the witnesses, had done research about
19 how to find Lyman Tate. He had Lyman Tate's criminal record
20 in there of location.

21 You don't recall any of that?

22 A It, it -- I think he sent me some paper, but I don't
23 think it was all just handwritten notes like that. He
24 probably sent me a paper telling me that he couldn't find
25 Lyman or something or something like that. There wasn't no

Travis Parker - Cross-examination
by Ms. White

1 he gave me no whole background check on what he looked up.

2 No, it's not like that.

3 Q Okay. All right. And you did have an appeal in this
4 case, isn't that right, and it was denied?

5 A My direct appeal was denied, and they gave me -- they
6 told me to file for PCR due to the lawyer not objecting to
7 the Judge's errors.

8 MS. WHITE: Okay. All right. Your Honor, I think
9 that's all I have for this witness.

10 THE COURT: Do you have anything else?

11 MR. HAMILTON: Just one question.

12 REDIRECT EXAMINATION

13 BY MR. HAMILTON:

14 Q And in regards to notes, you, you said that you met
15 with him, and when you say you met with him only twice, you
16 mean twice before asking, actually going to trial?

17 A Yes.

18 Q And then the third time---

19 A I seen, I seen him -- when they accounted him -- when
20 they put him to representing me---

21 Q Uh-huh. (Affirmative).

22 A ---as my lawyer, he came and seen me. He talked to me.
23 We sat down and talked about the whole case. He got all the
24 names and witnesses that I wanted tried, at the trial and
25 everything. He talked to me.

Travis Parker - Redirect examination
by Ms. Hamilton

1 After that, he came -- he took me for a bond hearing.
2 No, he didn't. Mr., Mr. Lambright took me for a bond
3 hearing. That's who took me for a bond hearing. After he
4 took me for a bond hearing I got him off my case. That's
5 when Mr. Shealy come back and seen me, but he was taking me
6 up for another bond hearing.

7 Q Okay.

8 A That's when he came to see me. The third time I seen
9 him I was on my way to trial.

10 Q And, and your, your concern is that his, his, his
11 diligence was not -- ineffective. He may have called and --
12 but he just didn't follow through?

13 A He may have called and checked up on this and done this
14 and that. But when he be, came into the courtroom, he did
15 not put down the proper procedures for me to feel like I got
16 a fair trial. If he'd of come forth, the solicitor and the
17 jury, they would of seen a different side. He only took
18 what I told him and he talked to me about -- and he added
19 his little notes on to it and made it up, and that's what he
20 presented to the jury.

21 He did not go within the background check of the people
22 that was testifying against me and all this because EMS man,
23 he said the man called my name, but EMS man know me as
24 Parker. He knew me. He said oh, he said Parker. Oh, I
25 know probably him because I use to have seizures. They use

Travis Parker - Redirect examination
by Ms. Hamilton

1 to have to come to my house to get me for seizures, and they
2 said when I had seizures I use to get real aggressive.

3 The man called the police when I had a seizure because
4 I done fought my brother and them. So, that's how he knew
5 me, the EMS guy. One of the EMS guys said they didn't hear
6 my name, but he say he heard it and they was there together.

7 MR. HAMILTON: That's all we have.

8 THE COURT: All right. You may step down.

9 Any other witnesses on behalf of the applicant?

10 MR. HAMILTON: We rest our case, Your Honor.

11 THE COURT: All right. Any other witness on behalf of
12 the State?

13 MS. WHITE: Your Honor, as you probably know, Tommy
14 Shealy is in Afghanistan. And, so, we would rest on the, on
15 the transcript and the record to show that, that Mr. Shealy
16 did an effective job in this case.

17 THE COURT: All right. I'll review the transcript of
18 the trial and issue an order.

19 MS. WHITE: Thank you, Your Honor.

20 MR. HAMILTON: Thank you, judge.

21

22

23 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

24

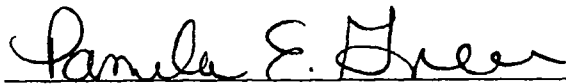
25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Cherokee County, South Carolina, on the 4th day of September, 2012.

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

April 10th, 2013

A handwritten signature in cursive script, reading "Pamela E. Green", is written over a horizontal line.

PAMELA E. GREEN, Court Reporter

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

COUNTY OF CHEROKEE)

Travis Parker, #240822,)

2010-CP-11-0860

Applicant,)

v.)

ORDER OF DISMISSAL

State of South Carolina,)

Respondent.)

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2012 DEC 17 PM 8 48
BRANDY W. MCBEE

This matter comes before the Court by way of an Application for Post-Conviction Relief filed November 2, 2010. The Respondent made its Return on or about December 12, 2011. An evidentiary hearing into the matter was convened on September 4, 2012, at the Spartanburg County Courthouse. The Applicant was present at the hearing and was represented by Ernest Hamilton, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on his own behalf. This Court also had before it a copy of the records of the Cherokee County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, the Appellate Court records, and the trial transcript.

PROCEDURAL HISTORY

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Cherokee County Clerk of Court's orders of commitment. The Cherokee County Grand Jury indicted the Applicant at the October 2007 term of General Sessions for murder (2007-GS-11-1212). Thomas E. Shealy, Esquire, represented the Applicant. On August 13,

2008, the Applicant was convicted of this charge by a jury. The Honorable Roger L. Couch sentenced the Applicant to confinement for life without parole.

A timely Notice of Appeal and an Anders brief was filed on Applicant's behalf. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Parker, Op. No. 2010-UP-144 (filed February 23, 2010). The Remittitur was returned on March 12, 2010.

ALLEGATIONS

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

1. Ineffective assistance of trial counsel, in that;
 - a. Counsel failed to present witnesses on my behalf,
 - b. Counsel failed to prepare case for trial,
 - c. Counsel failed to raise crucial objections during the trial.

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. 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 conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial

process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

In regards to Applicant's allegation that Counsel failed to properly prepare the case for trial, this Court finds that the Applicant has failed to meet his burden of proof. Applicant testified that he only met with Counsel twice, once at a bond hearing and the second was the day of his trial. Applicant then testified that he actually saw Counsel three times, because he did see Counsel at another occasion other than the bond hearing or trial. Applicant testified that he thought he was going to court for a bond hearing, but went to trial instead. Applicant acknowledged that he was arrested June 2007 and had previously received a continuance in

March 2008, but by August 2008 had not retained a new attorney, so he proceeded to trial with Counsel. Applicant acknowledged that Counsel raised and argued various pre-trial motions on his behalf. Applicant testified that he had talked with Counsel about the fact that Nicole Thompson, driver of the car from that night, had drugs in her car, but acknowledged that the police never found any drugs in the car. Applicant also acknowledged that Counsel did bring out the issue of drugs during Ms. Thompson's testimony.

This Court finds that the Applicant's allegation that Counsel did not conduct an adequate pre-trial investigation is without merit. Following testimony and review of the transcript, it is clear that Counsel had prepared extensively for Applicant's trial. The "brevity of time spent in consultation, without more, does not establish that counsel was ineffective." Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980). To establish counsel was inadequately prepared, an Applicant must present evidence of what counsel could have discovered or what other defenses could have been pursued had counsel been more fully prepared. Jackson v. State, 329 S.C. 345, 495 S.E.2d 768 (1998); Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). When claims of ineffective assistance of counsel are based on lack of preparation time, an Applicant challenging his conviction must also show specific prejudice resulting from counsel's alleged lack of time to prepare. United States v. Cronin, 466 U.S. 648, 104 S.Ct. 2039 (1984); U. S. v. LaRouche, 896 F.2d 815 (4th Cir. 1990).

The Applicant failed to point to any specific matters Counsel failed to discover, or any defenses that could have been pursued had Counsel been more fully prepared. Furthermore, the Applicant failed to show any prejudice that may have resulted from Counsel's alleged inadequate preparation. Accordingly, this allegation is dismissed.

Regarding Applicant's claim that Counsel was ineffective for failing to call witnesses on the Applicant's behalf at trial, this Court finds that the Applicant has failed to meet his burden of proof. The Applicant testified that he had four witnesses that he wanted Counsel to call, but Counsel could not find them. The Applicant testified that he wanted Counsel to call Lyman Tate, "Sophie," and "Cricket." Applicant also testified that his alibi witnesses were "Sophie," "Cricket," and "Bud," but the judge never told the jury that the Applicant had alibi witnesses. However, Applicant also acknowledged that he did not know their real names or addresses, but Counsel was supposed to be "talking to his people." However, Applicant acknowledged that Counsel called Jessica Bullock and Scatisha Allen as witnesses to Jarvis Thompson confessing to the crime.

Prejudice from trial counsel's failure to interview or call witnesses cannot be shown where the witnesses do not testify at post conviction relief. Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Bassette v. Thompson, 915 F.2d 932 (4th Cir. 1990), cert. denied, 499 U.S. 982 (1991). The Applicant's mere speculation as to what a witnesses' testimony would have been cannot, by itself, satisfy his burden of showing prejudice. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Glover v. State, 318 S.C. 496, 458 S.E.2d 538 (1995). An Applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 509 S.E.2d 807 (1998).

This Court finds that the Applicant has failed to meet his burden of proof as to this claim. Applicant presented none of the people that he alleged Counsel was ineffective for failing to call as witnesses at the hearing. Furthermore, the Applicant testified that he could not even provide those witnesses' real names or addresses. Additionally, this Court finds that Counsel called

numerous witnesses on the Applicant's behalf in an attempt to develop the defense and provide reasonable doubt. Therefore, this claim is denied and dismissed.

Regarding Applicant's allegations that Counsel failed to properly object to various things during trial, this Court finds that this allegation lacks merit. Applicant testified that Counsel only made two or three objections during the entire trial.

Applicant testified that Counsel should have objected to the victim's statements indicating that the Applicant was the one who shot him. However, after questioning, Applicant acknowledged that Counsel made several pre-trial motions, including a Batson motion and a motion to keep out the victim's identification. Applicant also testified that Counsel should have objected to a juror who was a friend of the victim's mother and objected to the trial being held in Gaffney.

This Court finds that the Applicant has failed to meet his burden of proof as to this claim. Applicant failed to establish that there were any particular items of testimony or evidence that Counsel should have objected to, but failed to do so. Furthermore, this Court finds that the Applicant failed to establish that had Counsel made any additional objections or even a motion to change venue that those objections or motions would have been granted by the trial court. The Applicant has failed to establish that the outcome of his trial would have been different had Counsel made additional motions or objections. Therefore, this claim is denied and dismissed.

Summary

This Court finds in regards to the allegation of ineffective assistance of counsel, the Applicant's testimony is not credible. This Court further finds Counsel adequately conferred with the Applicant, conducted a proper investigation, was thoroughly competent in his representation, and that Counsel's conduct does not fall below the objective standard of

reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by Counsel's performance. This Court concludes the Applicant has not met his burden of proving Counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

CONCLUSION

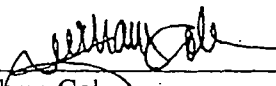
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 7 day of December, 2012.



J. Derham Cole
Presiding Judge

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2012 DEC 17 AM 8 48
BRANDY W. MCBEE

WITNESSES

Gaffney Police Dept.

Ron R.

ARREST WARRANT NUMBER

1067637

ACTION OF GRAND JURY

TRUE BILL

Angel M. Copeland
Foreperson of Grand Jury
Date: *10-4-07*

VERDICT

Guilty

Danny Holmes

Foreperson of Petit Jury
Date: *08.13.08*

DOCKET NO.

07-GS-11-1212

The State of South Carolina

County of Cherokee

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

OCT 04 2007

TERM

THE STATE

vs.

Travis Sentell Parker

Indictment for

MURDER

SC Code: 16-03-0010, 0020

CDR CODE: 116

CLASS: FEL-EXM

STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)

INDICTMENT

OCT 04 2007

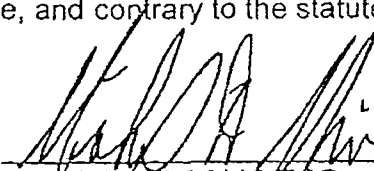
At a Court of General Sessions, convened on _____, the

Grand Jurors of Cherokee County present upon their oath:

Murder

That Travis Sentell Parker did in Cherokee County on or about June 22, 2007, feloniously, willfully, and with malice aforethought, kill one Maraine Charles Edward Foote by shooting the victim, and that the victim died as a proximate result thereof, all in violation of §16-3-0010, 0020, *CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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



ASSISTANT SOLICITOR

568

STATE OF SOUTH CAROLINA

COUNTY OF Cherokee
 STATE VS.
Travis Parker

AKA: _____

Race: B Sex: M Age: _____

DOB: _____ SS#: _____

Address: Blacksburg, SC 297020000

DL#: _____ SID#: _____

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2007GS111212A/W#: 1067637Date of Offense: 6/22/2007S.C. Code § : 16-03-0010CDR Code #: 0116

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
 TO: Murder / Murder

in violation of § 16-03-0010, of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☒ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____

MORIN, MICHAEL D

Defendant

Attorney for Defendant

SC Bar# 005048

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of Life without parole days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

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

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: _____

\$

§ 14-1-206 (Assessments 107.5 %)

\$

§ 14-1-211(A)(1) (Conv. Surcharge)

\$100

\$

§ 14-1-211(A)(2) (DUI Surcharge)

\$100

\$

§ 56-5-2995 (DUI Assessment)

\$12

\$

§ 35.13 (Public Def/Prob)

\$500

\$

§ 73.3, 1B TP (Law Enforce. Funding)

\$25

\$

§ 33.7, 1B TP (Drug Court Surcharge)

\$100

\$

§ 50-21-114(BUI Breath Test Fee)

\$50

\$

§ 56-5-2942(J) (Vehicle Assessment)

\$40/ea

\$

3% to County (if paid in installments)

\$

§ 90.11 TP (SCCJA Surcharge)

\$5

\$

TOTAL

\$

_____ days/hours Public Service Employment

Obtain GED _____

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

Fine may be pd. in equal, consecutive weekly/monthly
 prnts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, §35.13 TP
 Requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2111315Sentence Date: 8/13/08

SCCA/217 (07/2008)

Court Reporter: Pam Green

Clerk of Court/ Deputy Clerk