

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Dorchester County
Carmen T. Mullen, Circuit Court Judge

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S.C. Supreme Court

PETER J. GRANT,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-000235

A P P E N D I X

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF DORCHESTER) FIRST JUDICIAL CIRCUIT
2009-GS-18-00470

STATE OF SOUTH CAROLINA,)
PLAINTIFF,)
VS.) TRANSCRIPT OF RECORD
PETER GRANT,)
DEFENDANT.)

APRIL 5, 2010
ST. GEORGE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE DIANE S. GOODSTEIN, JUDGE

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

BLAIR JENNINGS, ESQUIRE
ATTORNEY FOR THE PLAINTIFF

MARY LEMATTY, ESQUIRE
ATTORNEY FOR THE DEFENDANT

BONNIE H. KELLY
CIRCUIT COURT REPORTER

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DIRECT EXAMINATION BY THE COURT - PETER GRANT

4

1 MR. JENNINGS: May it please the Court, Your Honor.

2 THE COURT: Yes, sir.

3 MR. JENNINGS: Mr. Grant, who's represented by Ms.
4 LeMatty. He's indicted on Indictment 2009-GS-18-0470; was
5 indicted for murder. He's pleading guilty today to
6 voluntary manslaughter, and there are no recommendations to
7 the sentence.

8 THE COURT: All right. If y'all would place him under
9 oath, please.

10 PETER JERON GRANT, having been
11 first duly sworn, testifies as follows:

12 DIRECT EXAMINATION BY THE COURT:

13 Q All right. You are Peter -- is it "Jeron"?

14 A Yes, ma'am.

15 Q Grant?

16 A Yes, ma'am.

17 Q All right. And you're represented by Ms. LeMatty?

18 A Yes, ma'am.

19 THE COURT: Ms. LeMatty, have you advised your client
20 regarding the nature of this offense, the maximum possible
21 penalty, and his constitutional rights, including his right
22 to a jury trial?

23 MS. LEMATTY: I have, Your Honor.

24 THE COURT: And in your opinion, does he understand
25 the nature of this offense, the maximum possible penalty,

DIRECT EXAMINATION BY THE COURT - PETER GRANT

5

1 and his rights?

2 MS. LEMATTY: He does, Your Honor.

3 THE COURT: Tell me how he wishes to plead.

4 MS. LEMATTY: Guilty, Your Honor.

5 THE COURT: And do you concur with his decision?

6 MS. LEMATTY: I do.

7 THE COURT: From your investigation of the facts and
8 circumstances of your client's case, do you believe that
9 the State could produce sufficient evidence to convict and
10 establish your client's guilt beyond a reasonable doubt;
11 and if he was to stand trial, that his conviction would be
12 probable?

13 MS. LEMATTY: Yes, ma'am.

14 THE COURT: All right. Now, do you have any questions
15 or concerns regarding your client's competency?

16 MS. LEMATTY: I do not.

17 THE COURT: All right.

18 DIRECT EXAMINATION BY THE COURT:

19 Q Now, Mr. Grant, I have many questions to ask of you.
20 If you do not understand my question, please don't answer
21 it. Okay?

22 A Yes, ma'am.

23 Q And if you need to take a break and speak with Ms.
24 LeMatty, just let me know that you need to take that break.
25 Okay?

DIRECT EXAMINATION BY THE COURT - PETER GRANT

6

1 A Yes, ma'am.

2 Q All right. And if I ask a question and you do not
3 understand the question, let me know that and I will
4 certainly try to clarify my question. There are many ways
5 to explain any one thing. Okay?

6 A Yes, ma'am.

7 Q All right. Now, Mr. Grant, tell me how old you are.

8 A 21.

9 Q Tell me how far you went in school.

10 A Ninth grade.

11 Q All right. Do you have your GED?

12 A No, ma'am.

13 Q Why did you drop out in the ninth grade?

14 A Because of complications.

15 Q Complications?

16 A Yes, ma'am.

17 Q What kind of complications?

18 A Just following down the wrong road.

19 Q Okay. And were you in any kind of resource classes?

20 A No, ma'am.

21 Q All right. Were you in regular classes the whole time
22 you were in school?

23 A Yes, ma'am.

24 Q All right. And did you progress, like, from the first
25 grade to the second grade, and the second grade to the

DIRECT EXAMINATION BY THE COURT - PETER GRANT

7

1 third grade; or did you ever fail any grades?

2 A The fourth grade.

3 Q In the fourth grade. You repeated the fourth grade?

4 A Yes, ma'am.

5 Q All right. And when you were in school, did you have
6 a -- I think they're called a "501 Plan"? Do you know if
7 you did when you were in school?

8 A No, ma'am. I don't know.

9 Q Okay. All right. And how long have you been locked
10 up?

11 A Going on 14 months.

12 Q All right. And before that time, did you work outside
13 your home?

14 A Yes, ma'am.

15 Q Where?

16 A Down to my auntie clothing store.

17 Q At where now?

18 A My auntie clothing store.

19 Q At your aunt's clothing store.

20 A Yes, ma'am.

21 Q And where is that?

22 A It was on Rivers Avenue.

23 Q Okay. How long did you work there?

24 A It was like -- well, the whole time she was open.

25 Q Okay.

DIRECT EXAMINATION BY THE COURT - PETER GRANT

8

1 A Probably bout -- I want to say about a year and a
2 half.

3 Q Okay. Are you married?

4 A No, ma'am.

5 Q Do you have children?

6 A Yes, ma'am.

7 Q How many?

8 A One.

9 Q Okay. How old?

10 A He is 24 months.

11 Q Okay. Have you ever been treated for alcohol or drug
12 abuse?

13 A No, ma'am.

14 Q Have you ever been treated for any mental health
15 issues?

16 A No, ma'am.

17 Q Are you aware of any problem -- a physical problem, a
18 mental problem, a nervous problem, a drug problem, an
19 alcohol problem -- any sort of problem that you can think
20 of that might or that could interfere with your ability to
21 know exactly what you're doing here today?

22 A No, ma'am.

23 Q All right. All right. Did you ever attempt to get
24 your GED?

25 A Yes, ma'am, I did.

DIRECT EXAMINATION BY THE COURT - PETER GRANT

9

1 Q All right.

2 A I -- I -- I did enroll in Trident Tech College.

3 Q All right.

4 A Took one of the classes.

5 Q And when was that?

6 A That was like -- I want to say round bout March, in
7 '08.

8 Q All right. And did you go to the class?

9 A Yes, ma'am. But I -- I arrived there bout five
10 minutes late, and they asked me to come back, but I never
11 made it.

12 Q Okay. At this time, Mr. Grant, are you on probation
13 or parole?

14 A No, ma'am.

15 Q Okay. All right. Mr. Grant, I am told that you
16 intend to plead guilty to voluntary manslaughter, and I
17 want to talk about a number of -- both the -- the penalties
18 as well as the consequences of a plea to voluntary
19 manslaughter.

20 It is very important, if at any point in time you
21 don't understand what we're talking about, that you ask me
22 to clarify or you ask Ms. LeMatty. Okay?

23 A Yes, ma'am.

24 Q All right. Now, Mr. Grant, voluntary manslaughter
25 carries prison time of between 2 years in prison and 30

1 years in prison. Do you understand that?

2 A Yes, ma'am.

3 Q All right. And it has classifications. It has many
4 classifications. And I want to talk about them.

5 First of all, it is classified as a violent offense.
6 Do you understand that?

7 A Yes, ma'am.

8 Q All right. In that it is a violent -- has a violent
9 classification, that has to do with many consequences such
10 as: The facility where you would be housed; the inability
11 to -- to generate credits, work credits or good time
12 credits, which you will not be able to do; and many other
13 consequences. But do you understand that this offense,
14 voluntary manslaughter, has a violent classification?

15 A Yes, ma'am.

16 Q All right, sir. And also, under statutory provision
17 of 17-25-45, it has -- it's known as the "Recidivism
18 Statute." It's also known as the "two strike/three strike"
19 rule.

20 And that -- the dictates of that statute come into
21 play with voluntary manslaughter, because it's important
22 that you understand that voluntary manslaughter has the
23 classification of being a most serious offense. Under this
24 statute, offenses are classified as serious offenses or
25 most serious offenses. And voluntary manslaughter is

DIRECT EXAMINATION BY THE COURT - PETER GRANT

11

1 classified under 17-25-45 as a most serious offense. Do
2 you understand that voluntary manslaughter has a most
3 serious classification?

4 A Yes, ma'am.

5 Q All right, sir. And what this means is, is that under
6 the two strike rule, if you will, it is important that you
7 understand that if, over the course of your lifetime, you
8 are -- stand charged of another most serious offense, then
9 in that event, should the State -- should the Solicitor's
10 Office, send you a notice -- serve you with a notice, that
11 the Solicitor's Office intends to seek punishment of life
12 without the possibility of parole and you are served with
13 that notice; and subsequent, you are then convicted, it is
14 -- you would then spend the rest of your life in prison
15 without the possibility of parole. Do you understand that?

16 A Yes, ma'am.

17 Q That would be the two strike rule.

18 This also becomes important with regards to the three
19 strike rule for this reason: Under the Recidivism Statute,
20 17-25-45, if a person is convicted of two offenses which
21 are classified as serious offenses and one most serious
22 offense, then upon the -- the person being charged with the
23 third offense under this scenario -- two serious and one
24 most serious -- if the State sends notice that it intends
25 to seek life without the possibility of parole and the

1 person is then convicted of that third offense under the
2 scenario that I just mentioned -- two serious, one most
3 serious -- then in that event, if the person is convicted
4 of the third offense, then they would spend the rest of
5 their life in prison without the possibility of parole. Do
6 you understand that?

7 A Yes, ma'am.

8 Q So, that -- because this is a most serious offense,
9 Mr. Grant, that involves both the two strike, if you will,
10 most serious offenses, two most serious offenses; and then
11 the three strike rule, two serious, one most serious
12 offense. Do you understand?

13 A Yes, ma'am.

14 Q And do you have any questions about any of that?

15 A No, ma'am.

16 Q All right. Now, Mr. Grant, tell me what your
17 understanding is with regards to the number of most serious
18 offenses that this would be for you.

19 A That'd be two strikes.

20 Q All right. And -- and this would be what number for
21 you, a conviction here today?

22 A My -- my first.

23 Q Your first. All right, sir.

24 And tell me what your understanding is with regards to
25 whether you have any convictions for serious offenses.

DIRECT EXAMINATION BY THE COURT - PETER GRANT

13

1 A I'd be allowed to have two more.

2 Q All right. Do you have -- currently, as you stand
3 here today, do you have any convictions for any serious
4 offenses?

5 A No, ma'am.

6 Q Okay. I'm going to ask both the solicitor and your
7 lawyer that question too, okay?

8 A Yes, ma'am.

9 THE COURT: I'm going to start with you, Mr. Jennings.
10 Is that your understanding of -- with regards to Mr.
11 Grant's record?

12 MR. JENNINGS: It is.

13 THE COURT: So, it is your understanding he has no
14 convictions for serious offenses, and this would be his
15 first conviction for a most serious offense.

16 MR. JENNINGS: That's correct.

17 THE COURT: And is that your understanding, Ms.
18 LeMatty?

19 MS. LEMATTY: It is.

20 DIRECT EXAMINATION BY THE COURT (CONTINUES):

21 Q Mr. Grant, if you were to learn that your record was
22 otherwise, would you be surprised?

23 A Yes, ma'am.

24 Q Would you be shocked?

25 A Yes, ma'am.

DIRECT EXAMINATION BY THE COURT - PETER GRANT

14

1 Q Would you want to talk to Ms. LeMatty or a lawyer
2 about that?

3 A Yes, ma'am.

4 Q Are you relying -- in your plea today, are you relying
5 on your belief that -- that your conviction here today
6 would be your first strike?

7 A Yes, ma'am.

8 Q And it would be a most serious strike.

9 A Yes, ma'am.

10 Q All right. Now, this is also very important. Mr.
11 Grant, do you understand that voluntary manslaughter is a
12 no parole offense?

13 A Yes, ma'am.

14 Q Do you understand that the time that I will give you
15 today is the time that you need to rely that you will
16 serve?

17 A Yes, ma'am.

18 Q All right. Okay. Now, you have told me that you
19 understand this offense, voluntary manslaughter; that you
20 understand the maximum possible penalty of 30 years in
21 prison, the minimum of 2 years in prison.

22 You have also told me that you understand the
23 consequences of your plea: This is a violent offense, it's
24 a most serious offense. And you've told me that you
25 understand that the implications, if you will, of 17-25-45

DIRECT EXAMINATION BY THE COURT - PETER GRANT

15

1 --

2 A Yes, ma'am.

3 Q -- on you. And you've also told me that you
4 understand that this is a no parole offense, that the time
5 that I give you is the time that you need to count on
6 serving.

7 And with that in mind, Mr. Grant, I want you to tell
8 me how you plead to voluntary manslaughter?

9 A I plead guilty.

10 Q All right, sir. And do you understand that when a
11 person pleads guilty, when you plead guilty, that you give
12 up certain very important constitutional rights?

13 A Yes, ma'am.

14 Q We're going to talk about some of them. We -- we will
15 not talk about them all.

16 You give up the right to remain silent. You give up
17 the right against self-incrimination. You give up your
18 right to the presumption of innocence. You give up your
19 right to require that the State prove you guilty beyond a
20 reasonable doubt if they can.

21 You give up your right to confront, meaning to cross-
22 examine witnesses, as a practical matter, to have your
23 lawyer cross-examine witnesses; to confront those witnesses
24 who would testify against you. You give up your right to
25 compel, to subpoena and cause to come to court, witnesses

1 to testify in your defense. You give up your right to
2 present defenses.

3 You give up your right to challenge any incriminating
4 statements you may have made, any stops, any searches that
5 you think were not appropriate. And you give up your right
6 to a jury trial.

7 And if you wanted a jury trial, Mr. Grant, there would
8 be a jury trial. And at that trial, it would be solely
9 within your purview, it would be solely your decision, to
10 decide whether or not -- (sneezes) excuse me -- you wish to
11 testify or not. Solely your decision.

12 And if you went to trial and you decided that you
13 wished not to testify, the judge trying your case would
14 tell the jury that they could not consider your decision
15 not to testify in any regard on the issue of whether you
16 were guilty or not guilty for voluntary manslaughter.

17 In fact, the judge would tell the jury that they could
18 not even discuss your decision not to testify in the jury
19 room, that that wasn't a topic for them to even discuss.
20 Do you understand that?

21 A Yes, ma'am.

22 Q The reason for that, Mr. Grant, is because that would
23 be your exercise of your Fifth Amendment right that you
24 are, as a citizen, entitled to. A person is entitled to
25 invoke their Fifth Amendment right, which means that no one

DIRECT EXAMINATION BY THE COURT - PETER GRANT

17

1 can cause you to be a witness against yourself and testify
2 against yourself. Do you understand that?

3 A Yes, ma'am.

4 Q All right. Now, the constitutional rights that you
5 have are preserved for you at trial, and certain important
6 ones you waive when you plead guilty. Do you understand
7 this?

8 A Yes, ma'am.

9 Q All right, sir. And is that what you wish to do?

10 A Yes, ma'am.

11 Q All right. Do you clearly understand that when you
12 plead guilty, you give up your right to have a jury
13 determine if you are guilty or not guilty; do you
14 understand that?

15 A Yes, ma'am.

16 Q And do you understand that if I accept your plea, I
17 will sentence you?

18 A Yes, ma'am.

19 Q All right. Here's what you've told me: You have told
20 me that you understand this offense, voluntary
21 manslaughter; the maximum possible penalty; the
22 consequences of your plea; and now you tell me that you
23 understand your constitutional rights.

24 Keeping all of these matters absolutely in the
25 forefront of your mind, do you still wish to continue with

1 your plea of guilty?

2 A Yes, ma'am.

3 Q All right. Do you want to pause and have any
4 conversation with your lawyer at this time?

5 A No, ma'am.

6 Q All right. Here's what I want you to do for me next.
7 I want you to listen very carefully to what Mr. Jennings is
8 going to tell me, because he's going to go over the facts.
9 I have to know what is the factual basis that supports this
10 plea.

11 And when he is finished, I'm going to ask you, "Is
12 that what happened?" And I need you to correct anything
13 that he tells me that needs to be corrected, to be sure
14 that I have an accurate picture of what happened.

15 I'll begin by asking you: Did these events occur in
16 Dorchester County?

17 A Yes, ma'am.

18 Q All right. Listen very carefully, please.

19 MR. JENNINGS: Thank you, Your Honor. May it please
20 the Court.

21 THE COURT: Yes, sir.

22 MR. JENNINGS: This incident happened at Jc's Bar,
23 which is an establishment on Ashley Phosphate Road, in the
24 Dorchester County area. About 3 a.m., on December the 20th
25 of 2008, the victim in the case, Justin Atkins, was 26 at

1 the time. And he and Mr. Grant were not strangers.
2 Speaking with Justin's girlfriend, Kelsey, who's in the
3 courtroom today, they -- they had had several run-ins prior
4 to this.

5 On this night, they were at the -- at Jc's, had been
6 drinking; there was an altercation in the bar, according to
7 several witnesses. By the time things took place out in
8 the parking lot, I think there were probably 30 or 40
9 people out there. Five or six came forward to law
10 enforcement and provided statements that there was clearly
11 an altercation inside the bar which spilled out into the
12 parking lot, resulting in them engaging in -- continuing
13 the altercation, as well as a fight.

14 Many people in the crowd were sort of egging them on
15 as they would get broken up, sort of they would egg them
16 on; bring everybody back together, according to several of
17 the witnesses, including Kelsey, who got out -- out to the
18 parking lot sort of as things had started.

19 But the -- I think the altercation kind of moved
20 around the parking lot, Justin pursuing Mr. Grant on
21 several occasions. Several punches were thrown.
22 Ultimately they ended up over by Mr. Grant's car.

23 Mr. Grant went into his vehicle, pulled out a handgun,
24 fired one shot at that time; which we later found out
25 struck Justin in the -- in the jaw, basically in the face.

1 According to Kelsey and all the other witnesses that
2 provided statements, Justin retreated at that time. He was
3 not armed. I'm not aware of any statements that placed any
4 weapon in his hand. Essentially it was a fist fight.

5 He was walking back towards Kelsey, back towards his
6 car, his back to Mr. Grant. Mr. Grant fired thirteen more
7 shots, eleven of which struck Justin in the back, according
8 to the autopsy.

9 By the time officers responded, he was dead in the
10 parking lot. Mr. Grant left, got in his car, fled the
11 scene. Kelsey was ultimately able to pick him out of a
12 photo lineup. They worked around his identification based
13 on talking to some witnesses that were there that had his
14 nickname of "P.J." And several of those witnesses also
15 picked him out of a photo lineup.

16 He was not seen by law enforcement again until
17 February the 12th, so, almost 60 days later. The federal
18 marshals were involved. They arrested him in West Ashley,
19 and he was taken into custody on the murder charge.

20 DIRECT EXAMINATION BY THE COURT (CONTINUES):

21 Q Is that what happened?

22 A Yes, ma'am.

23 Q Has anyone promised you anything or held out any hope
24 of any sort of a reward to get you to plead guilty?

25 A No, ma'am.

DIRECT EXAMINATION BY THE COURT - PETER GRANT

21

1 Q Has anyone tried to force you or threaten you to cause
2 you to plead guilty?

3 A No, ma'am.

4 Q Has anyone put any pressure on you and overcome your
5 will to cause you to plead guilty?

6 A No, ma'am.

7 Q Have you had enough time to make up your mind?

8 A Yes, ma'am.

9 Q Is this what you wish to do?

10 A Yes, ma'am.

11 Q Are you entering into your plea of guilty freely and
12 voluntarily?

13 A Yes, ma'am.

14 Q Because you are in fact guilty?

15 A Yes, ma'am.

16 Q Now, are you satisfied with the services of Ms.
17 LeMatty?

18 A Yes, ma'am.

19 Q Have you and Ms. LeMatty fully discussed the charges
20 against you?

21 A Yes, ma'am.

22 Q And has Ms. LeMatty been over the elements of murder
23 and the elements of voluntary manslaughter with you?

24 A Yes, ma'am.

25 Q And has she answered all of your questions?

1 A Yes, ma'am.

2 Q Has she met with you on several occasions?

3 A Yes, ma'am.

4 Q Can you give me an estimate of the number of times?

5 A I know it was a pretty few of them.

6 Q Pretty few?

7 A Yes, ma'am. I just can't --

8 Q You probably weren't keeping count.

9 A Yes, ma'am.

10 Q All right. Would you say more than five times?

11 A Yes, ma'am.

12 Q Okay. More than 10 times?

13 A No, ma'am.

14 Q You think some time between 5 and 10 times?

15 A Yes, ma'am.

16 Q Okay. And has she been able to answer all of the
17 questions that you had for her?

18 A Yes, ma'am.

19 Q Has she done all of the investigation that you asked
20 her to do?

21 A Yes, ma'am.

22 Q All right. Has she spoken to the people that you
23 wanted her to speak to?

24 A Yes, ma'am.

25 Q All right. And has she spoken with you as many times

DIRECT EXAMINATION BY THE COURT - PETER GRANT

23

1 as you believe appropriate for her to properly represent
2 you?

3 A Yes, ma'am.

4 Q Has she spoken with you for as long a period of time
5 on each of those occasions as you believe appropriate for
6 her to properly represent you?

7 A Yes, ma'am.

8 Q Do you need any more time to talk to her?

9 A No, ma'am.

10 Q Do you understand that if you needed more time to talk
11 to her that I would stop and give you that opportunity?

12 A Yes, ma'am.

13 Q All right. And at this time you do not wish to speak
14 with her any further?

15 A Yes, ma'am.

16 Q If you change your mind during the course of this
17 proceeding, will you let me know?

18 A Yes, ma'am.

19 Q All right. And has Ms. LeMatty done everything for
20 you in your case that you believe she could have done or
21 should have done to properly represent you?

22 A Yes, ma'am.

23 Q Has she done anything in her representation of you
24 that you believe she should not have done?

25 A No, ma'am.

1 Q All right. And are you completely satisfied with her
2 services?

3 A Yes, ma'am.

4 Q On the times that you have talked to Ms. LeMatty, do
5 you feel like you understood your conversations?

6 A Yes, ma'am.

7 Q And do you believe that if you didn't understand her,
8 did she make herself clear?

9 A Yes, ma'am.

10 Q All right. All right. And are you completely
11 satisfied with her services?

12 A Yes, ma'am.

13 Q All right. Now, has anyone associated with your case
14 -- your lawyer, the solicitor, any of the police officers
15 involved in your arrest, or any of the employees at the
16 detention facility -- has anyone associated with your case
17 mistreated you in any way?

18 A No, ma'am.

19 Q Okay. Have you understood my questions?

20 A Yes, ma'am.

21 Q Is there any -- anything that you want to ask me about
22 what we have just been over?

23 A No, ma'am.

24 Q Do you understand that you have a right to appeal your
25 guilty plea and the sentence that I give you; and if you

1 wish to appeal, do you understand that you or an attorney
2 on your behalf must appeal within 10 days?

3 A Yes, ma'am.

4 Q All right. If you wish for Ms. LeMatty to appeal, you
5 just -- you should let her know. But you should let her
6 know in writing if you can, keeping a copy.

7 A Yes, ma'am.

8 Q And understand that she would have to appeal on your
9 behalf within 10 days.

10 A Yes, ma'am.

11 Q So, the moment you know, you need to let her know.

12 A All right.

13 Q All right. And I'd put it in writing, but I'd call
14 her, too. I'd do -- you know, I'd do everything I could to
15 let her know. Okay?

16 A Yes, ma'am.

17 Q All right. And you understand that -- that other --
18 you can appeal yourself.

19 A Yes, ma'am.

20 Q Or you could have another lawyer do that.

21 A Yes, ma'am.

22 Q All right. This -- most people, if they've had a
23 lawyer that's represented them, that -- that's the lawyer
24 they would go to typically. They don't have to, but
25 typically that's what folks do.

1 Now, Mr. Grant, with regards to each and every answer
2 that you have given me here today, have you been absolutely
3 candid and truthful?

4 A Yes, ma'am.

5 Q Have your answers been your answers?

6 A Yes, ma'am.

7 Q Has anyone told you how to answer my questions?

8 A No, ma'am.

9 Q I'm about to conclude my colloquy with you, Mr. Grant.
10 Do you have any additional questions for me or for your
11 lawyer at this time?

12 A No, ma'am.

13 Q Very well. With regards to -- again, I want to ask
14 this of you, have you had any alcohol or any drugs in the
15 last 72 hours?

16 A No, ma'am.

17 Q Have you had any medicine, to include Tylenol, in the
18 last 72 hours?

19 A No, ma'am.

20 Q All right, sir. And you don't have any medical
21 conditions or mental conditions or any other condition
22 that you think may have interfered with your understanding
23 what we've been over today?

24 A No, ma'am.

25 Q All right. Very well.

1 THE COURT: I find that there is a substantial factual
2 basis for this plea. I find that the decision of Mr. Grant
3 to plead guilty is freely, voluntarily, knowingly, and
4 intelligently made; that he has had the advice of counsel,
5 Ms. LeMatty, with whom he tells me he is satisfied. And
6 I'll accept the plea.

7 Does he have a record?

8 MR. JENNINGS: Yes, Your Honor. He's got one
9 conviction for possession of marijuana, cases we discussed
10 during his bond hearing. At the time of this incident, he
11 was out on bond from a 2007 arrest for unlawful carrying of
12 a pistol, but that has not been to court.

13 There are a number of members of Mr. Atkins family
14 who's here, who would like to address Your Honor.

15 THE COURT: Oh, sure.

16 MR. JENNINGS: His mom, Teresa.

17 THE COURT: Oh, sure.

18 MR. JENNINGS: I'm not sure who else wants to address
19 you.

20 THE COURT: Oh, I am just happy to hear from everyone,
21 whomever and -- meaning, individually and collectively.

22 (Audience member comes forward.)

23 THE COURT: All I need you to do is just identify
24 yourself for our record.

25 MS. ATKINS: Teresa Atkins.

1 THE COURT: Yes, ma'am.

2 MS. ATKINS: I just want to ask you to give him as
3 much time as you can. He had no mercy on my son. He shot
4 him as he was crawling to try to get away. And he doesn't
5 deserve any mercy. (Crying) He took my child from me. And
6 I guess that's what ...

7 THE COURT: Yes, ma'am. Thank you.

8 MR. JENNINGS: In my meetings with Ms. Atkins, she's
9 really been wonderful in her understanding of the law, and
10 talk about how this factual scenario really fits right into
11 a voluntary.

12 There's no question there was an altercation that took
13 place between them. It got way out of hand, and several
14 witnesses did describe -- I think it's -- it's fairly clear
15 that Mr. Grant did follow him after he had been shot
16 initially, continued to fire as he was on the ground, and
17 ultimately, according to Kelsey, he was very close to him
18 as he continued to shoot him in the back.

19 So, it's -- while it is a -- it is voluntary, it's --
20 it seems to be a situation that very easily could have been
21 avoided.

22 THE COURT: Even if -- I gather that, unfortunately,
23 even -- even after the one shot when he turned --

24 MR. JENNINGS: Uh-huh.

25 THE COURT: -- and went away, if it stopped at that

1 point, then you very well may be in a self-defense
2 situation.

3 MR. JENNINGS: And -- and that -- part of what we
4 talked about, the -- the law in this state, obviously, as
5 Your Honor's aware, is that there's language that once
6 you're entitled to fire the first shot, you're entitled to
7 continue shooting til the threat has been displaced. And
8 obviously, that would have been an issue for the jury.

9 And she understood that and was part -- that was
10 certainly one of the factors that we talked about in
11 arriving at the -- at the plea today --

12 THE COURT: Sure.

13 MR. JENNINGS: -- that -- whether to roll the dice on
14 that issue. I think that's something that -- that the
15 defense had to cope with as well.

16 THE COURT: Sure. Sure. Absolutely. Absolutely.
17 And it just -- it just seems to me that given the -- just
18 given all the facts as -- that voluntary manslaughter is
19 appropriate, because of -- because as you say, the
20 continuing to shoot and follow.

21 MR. JENNINGS: Uh-huh.

22 THE COURT: Very well. All right. Ms. LeMatty.

23 MS. LEMATTY: May it please the Court, Your Honor.

24 THE COURT: Yes.

25 MS. LEMATTY: Mr. Grant, as he told you, is 21 years

1 of age. He is a life-long resident of this area. And I'll
2 -- I'll get to this a little bit more in a little bit, but
3 he has a number of family members and friends -- cousins,
4 auntie, mom, dad, grandparents -- a number of people in his
5 life who love him and support him, and wanted to be him for
6 him today.

7 THE COURT: Thank you all for being here as well.
8 Thank you so much.

9 MS. LEMATTY: And -- and I know that he's very
10 grateful for that and has expressed his ---

11 THE COURT: His sister's come forward and wants to
12 speak.

13 (Audience member comes forward.)

14 UNIDENTIFIED FAMILY MEMBER: No. I'm not his sister,
15 I'm his aunt.

16 THE COURT: Come on, Auntie. Come right forward, and
17 if you'll stand here with Ms. LeMatty. She'll call on you
18 when -- when it is appropriate. Okay? All right.

19 MS. LEMATTY: Thank you very much, Your Honor. He's a
20 life-long resident of this area. He went to elementary
21 school at Malcolm Hursey, later at North Charleston
22 Elementary; and then went onto Morningside Middle School,
23 where basically the educational system lost him. He tells
24 me, "My mom tried real hard to get me back in school."

25 And unfortunately, at the age and stage he was, he

1 didn't listen. He realized the error of his ways, tried to
2 find a job, but we know how hard it is to find a job when
3 you don't have an education. And did go back and -- and
4 try to do some things to improve his circumstance. He --
5 he looked into Tech, as he told you about. He also went
6 and took the ASVAB testing for the military, but never got
7 the results from that. His auntie gave him a job, and --
8 and he worked for her.

9 THE COURT: Another aunt.

10 MS. LEMATTY: He does have a son who is two and a half
11 years old, who is quite an adorable young man. And I've
12 shown this photo to the solicitor. I'd like to show the
13 Court --

14 THE COURT: Sure. Thank you.

15 (Ms. LeMatty hands a photo to the Court.)

16 MS. LEMATTY: -- the young man.

17 He -- his mom -- he tells me his mom's been able to
18 bring him up to see him occasionally, and he knows he's --
19 he's facing a period of time here where he's not going to
20 be able to be as hands-on with his child as he would like
21 to be.

22 He's -- he's got a whole bunch of family support and
23 love, and a number of people who, basically, embrace him
24 and know that while he's standing up here taking
25 responsibility for what happened that night, they will --

1 they will be there for him and -- and be there for him when
2 ultimately he -- he is released, and -- and has to
3 integrate back into society.

4 Your Honor, we would ask the Court to consider that
5 this young man didn't set out that night to harm anybody.
6 He -- he was in a club he shouldn't have been. He was out
7 past midnight, you know, just unfortunately doing things
8 that a lot of young people in this day and age do.

9 I think that it's very clear from some of the
10 witnesses that he didn't set out to -- to -- to go after
11 Mr. Atkins. Mr. Atkins, unfortunately, was -- was
12 intoxicated and had a prior experience of mistaking this
13 young man for somebody else that had -- had wronged him in
14 some way.

15 And from, you know, the witness statements and that
16 kind of thing, it -- it's clear that his -- his young lady
17 friend was -- was trying to get Mr. Atkins to back off and
18 stop him. There's another witness who says the -- the
19 little guy, Mr. Grant, was saying "I don't want to fight."
20 And was trying to get away from him.

21 But as -- as the Court just so eloquently expressed,
22 once he -- he took the step to -- to -- to try to get
23 things stopped, it just simply went too far. And that was
24 not evil in his heart, not his intention, just
25 unfortunately a bad situation that -- that just went and --

1 and went horribly, horribly wrong.

2 And -- and he feels terrible about it. I really,
3 genuinely believe that. This is an intelligent, articulate
4 young man. He writes me letters from the jail that are
5 correct with punctuation and spelling. He expresses his
6 thoughts clearly. He's got a lot of potential. And -- and
7 what happened here was an absolutely horrible thing. But
8 it was -- it was not where he set out to be that night.

9 The solicitor mentioned that he was on bond for a gun
10 charge -- an unlawful carrying charge in Charleston. I --
11 I did ask the Charleston County Clerk of Court to send me
12 the warrants on that.

13 The scenario was basically a traffic stop where he was
14 with his brother in the -- in a car, and the gun was in a
15 glove box. But the glove box wouldn't close right, and --
16 and that was unfortunately what happened. The brother took
17 responsibility and -- and that kind of thing, even though
18 they were both charged with it. That charge has now
19 basically been disposed of in Charleston due to his
20 circumstances up here.

21 But this young man is -- I think he's really got a lot
22 of potential. Clearly, he's -- he's got a sanction that
23 the Court will determine that he needs to serve. We would
24 ask the Court to consider something in the 7 to 10 year
25 range, allow him to certainly pay a very steep price for

1 his actions that night that he stands before you accepting
2 responsibility for. But allow him to maybe get back
3 hands-on in his son's life at a time when that child's
4 going to need him most.

5 His -- his mother brought several letters ---

6 THE COURT: Uh-huh.

7 MS. LEMATTY: --- from folk ---

8 THE COURT: Uh-huh.

9 MS. LEMATTY: --- at her employment that know Mr.
10 Grant. I have given copies of those to the solicitor.
11 They bear out my experience with him. He's -- he's a
12 polite, well-mannered young man; gentle, doesn't make a
13 habit or practice of -- of going around and -- and being
14 disruptive with people.

15 But unfortunately, what happened that night was
16 something that just quite simply shouldn't have.

17 (Hands letters up to the Court.)

18 (Ms. LeMatty confers with defendant's family member.)

19 MS. LEMATTY: Ms. Pope has -- has written a statement
20 that she asks that I share with the Court.

21 THE COURT: Surely.

22 MS. LEMATTY: (As read) "Today a decision will be
23 made, but what will that decision be? Let's take a trip
24 through the years, please.

25 "As a child, he did what he was supposed to do: He

1 ran, played, stumbled, and cried. These were the years
2 when he was to do these things, as does every child.

3 "Growing up, found a love of sports, and would play
4 every one that he could. Football was his favorite I
5 think. He was so good that his coach would come get him
6 for games to make sure that he would be there.

7 "Train up a child so he knows the way which he should
8 go. This is where life change came, because he didn't know
9 which way to go. When he stumbled as a child, someone
10 picked him up. As a teenager, he was left to figure out
11 how to get up all by himself. This proved to be harder
12 than any other learning process he would ever go through.

13 "It was hard, because at this age, he wasn't rooted
14 enough to make these decisions alone. So, when he would
15 stumble, he would make what he thought was the right
16 decision for him at the time. These unguided decisions led
17 him down roads he never should have traveled.

18 "Life can gobble up adults and make us wish we had
19 never done the things that we did. While writing, I say
20 'he' and 'him,' but his name is Peter Grant."

21 I guess maybe Ms. Pope thought she wasn't going to be
22 here today, because it continues (as read): "I may not be
23 there in the courtroom. But I pray that you all can see
24 the Peter Grant that I see. I see a young man with a
25 loving nature who's very smart, but was left alone in life

1 to make what he could of himself; a young man with the
2 ability to be anything he wants to be, given the right
3 encouragement.

4 "So, I ask: Who will stand for Peter Grant? I will.
5 I will also cry for Peter Grant, the little boy inside the
6 young man who sits in court today, who had to travel along
7 life's roads that seemed to lead him this way.

8 "I will cry, because once again this journey he has to
9 take alone. Whatever the outcome of this day, I pray that
10 someone knows that Peter Grant was born a pure rose without
11 thorns. I pray that his judgement is swift and fair, and
12 even though he stands in judgement by himself, that he
13 knows he is not alone."

14 I will pass that to the Court --

15 THE COURT: Very well.

16 MS. LEMATTY: -- if the Court will make that an
17 exhibit.

18 THE COURT: Uh-huh.

19 (Marked Court's Exhibit No. 1, letter.)

20 MS. LEMATTY: And Your Honor, we would just ask if the
21 Court could give him all the consideration it believes that
22 it can under the circumstances. This was a horrible,
23 horrible thing to have happened, but Mr. Grant did not set
24 out that evening for anything like that to go on.

25 If I could just check with his mom, make sure that she

1 doesn't wish to address the Court.

2 THE COURT: Sure. Certainly. Certainly.

3 (Ms. LeMatty confers with defendant's family.)

4 MS. LEMATTY: Your Honor, this is Ms. Nelson, Mr.
5 Grant's mother.

6 THE COURT: All right. And your first name is ...

7 MS. NELSON: Calisa.

8 THE COURT: Can you spell that for us, please.

9 MS. NELSON: C-a-l-i-s-a; and my last name is Nelson.

10 THE COURT: Yes, ma'am.

11 MS. NELSON: (Crying) N-e-l-s-o-n. I'm sorry.

12 THE COURT: That's all right, Ms. Nelson. I
13 understand.

14 MS. NELSON: (Crying) I just -- you know, just wanted
15 to say I'm sorry this whole thing happened. I don't know
16 why -- but I do want to say to anybody that I'm sorry that
17 this whole thing ever happened, being law enforcement --
18 and myself.

19 I know that's not -- you know, and I'm just sorry for
20 everything. And if the Court can have mercy, please.

21 THE COURT: Thank you.

22 MS. NELSON: Have mercy.

23 THE COURT: Thank you.

24 MR. GRANT, SR.: I'm the father of ---

25 MS. LEMATTY: You have to tell them what your name is.

1 MR. GRANT, SR.: My name is Peter Grant, Sr.

2 THE COURT: Yes, sir.

3 MR. GRANT, SR.: I'm the father. I know he did
4 something wrong. Please try to be as lenient as you could,
5 because -- and he's got a little boy he needs to try to
6 come back out here raise, too. I know -- just like they
7 say, you know, I don't know what happened, but that other
8 fellow, he was like way older than him. He was 18; he was
9 like 28 or something.

10 I know it was wrong what he did. I hope you can show
11 some lenience on him. Thank you, ma'am.

12 THE COURT: Thank you, sir. Thank you, Mr. Grant.

13 MS. LEMATTY: And -- and Your Honor, I know that Mr.
14 Grant does feel terrible about what happened, and is truly
15 very remorseful.

16 (Ms. LeMatty confers with the defendant.)

17 THE DEFENDANT: I'd like to say that I'm sorry for
18 everything I put the victim's family through. But I acted
19 off of pure fear and panic. And that it wasn't nothing
20 what -- I wasn't trying to do no harm to nobody. But --
21 but I just got in a situation where I just was so scared
22 and frightened for myself. And you know, it just led to
23 something like this.

24 But I am standing up here, and take full
25 responsibilities for my actions. That's all.

1 THE COURT: Okay. All right.

2 UNIDENTIFIED FAMILY MEMBER: Yes, ma'am. I just want
3 to -- that letter that you read from Ms. Pope, that's my
4 daughter. We wanted to apologize to the victim's family,
5 and we also want to plead for P.J.'s case, because he never
6 had -- really had a chance at life.

7 And you know, when you -- when kids are led astray,
8 they -- they -- when the street get them, they just do
9 exactly what the street just tells them to do. And then
10 the get street-wise.

11 But he -- he was raised up by my aunt, which was a
12 Christian woman. And had she had been living, he would --
13 the street would never have gotten him.

14 And I just come to ask you to please be lenient. I
15 know he done a crime and he gonna have to spend time. But
16 I'm just asking to please be as lenient as you can, because
17 he do have family that love him.

18 And -- and we tried, but hey, I'm telling you to go to
19 school and your mother's not making you go to school,
20 you're gonna let the street tell you to stay home, right?

21 So, he did what the street told him to do, and he made
22 a bad mistake. And that's all I want to say, just be
23 lenient on him, please.

24 THE COURT: Yes, ma'am. Thank you.

25 UNIDENTIFIED FAMILY MEMBER: All right.

1 THE COURT: Uh-huh. All right. Anything further from
2 -- from anyone, the State or the defense?

3 MR. JENNINGS: No, Your Honor.

4 MS. LEMATTY: No, Your Honor. Thank you.

5 THE COURT: All right. With regards to 2009-GS-18-
6 470, which is the indictment for voluntary manslaughter,
7 Mr. Grant, I am going to commit you to the State Department
8 of Corrections for a period of 15 years.

9 You should receive credit for the time that you have
10 served. Good luck to you, sir.

11 MS. LEMATTY: Thank you very much, Your Honor.

12 THE COURT: I know we have an awful lot of folks who
13 are present. And I think if you all will remain, Mr.
14 Grant's family. And the victim's family, if you wish to
15 leave, if you wish to go now.

16 And I'm sure that the victim's folks, Mr. Jennings,
17 will be able to meet with you outside the courtroom if you
18 wish.

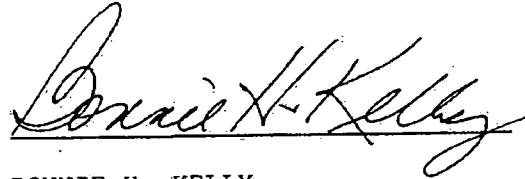
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CERTIFICATE

I, THE UNDERSIGNED BONNIE H. KELLY, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR DORCHESTER COUNTY, SOUTH CAROLINA, ON THE 5TH DAY OF APRIL, 2010.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



BONNIE H. KELLY,

COURT REPORTER

COLUMBIA, SOUTH CAROLINA

AUGUST 5, 2011

STATE OF SOUTH CAROLINA

County of DorchesterPeter Jeron Grant 340019

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

vs.

The State

Name of Respondent.

In the Court of Common Pleas

2011-CP-18-

640

APPLICATION FOR
POST-CONVICTION REVIEWFILED - RECORDED
2011 MAR 22 PM 4:45
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTYINSTRUCTIONS — 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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

- Place of detention Mc Cormick Corr. Inst. 386 Redemption Way
Mc Cormick SC 29899
- Name and location of Court which imposed sentence Dorchester Court of General
Session
- The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - 2009-GS-18-0470 / Voluntary Manslaughter
 -
 -
- The date upon which sentence was imposed and the terms of the sentence:
 - 4/5/2010 # 15 years
 -
 -

5. 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 _____

6. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. N
 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

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) I was not aware that I could appeal a guilty plea - really
 (b) there was no grounds for appeal
 (c) _____

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of counsel
 (b) Guilty plea was not voluntarily / intelligently made
 (c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) Counsel failed to inform me that I could request a
self-defense charge if my case went to trial. Thus.
 (b) my guilty plea was not voluntarily / intelligently made

11. 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 petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? None
- (d) any other petitions, motions or applications in this or any other Court? NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

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

(b) the name and location of the Court in which each was filed:

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

(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

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13), 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

15. If any ground set forth in (9) 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 9 (a) Applicant first time raising ground
 (b) See 9 (b) " " " " "
 (c)

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

- (a) your arraignment and plea? YES
 (b) your trial, if any? None
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? None
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? None

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Mary Lematty P.D. office
107 West 6th N. Suite 100 / Summerville, SC 29483
 ii.
 iii.

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

- i. Plea and Sentence
 ii.
 iii.

18. State clearly the relief you seek in filing this application.

Time cut, and any other relief I may be entitled to and as the court deems just and fair.

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

NO

STATE OF SOUTH CAROLINA

County of McCormick

VERIFICATION

I, x Peter Grant, 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.

x Peter Grant

SWORN to and subscribed before me this 16

day of Feb, 192011

J C Franklin (L.S.)
Notary Public

My Commission Expires: 12-16-2019

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

I, x Peter Grant, 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 therefor.

x Peter Grant
Applicant

SWORN or affirmed to and subscribed before me this

16 day of Feb, 192011

J C Franklin
Notary Public

My Commission Expires 12-16-2019

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Peter J. Grant, #340019,

2011-CP-18-0640

Applicant,

RETURN

(Appointment of Counsel Requested)

v.

State of South Carolina,

Respondent.

FILED - RECORD
2011 NOV 15 PM 12:22
CLERK
DORCHESTER

In response to the post-conviction relief application filed March 22, 2011, the Respondent would show this Court:

I.

The Applicant is currently incarcerated with the South Carolina Department of Corrections pursuant to the Dorchester County Clerk of Court's orders of commitment. Applicant was indicted at the June 2009 term of the Dorchester County Grand Jury for Murder (2009-GS-18-0470). Applicant was represented by Mary Lematty, Esquire, on the charges. On April 5, 2010, Applicant appeared before the Honorable Diane S. Goodstein where he pled guilty to the lesser included charge of Voluntary Manslaughter and was sentenced to fifteen (15) years imprisonment. Applicant did not appeal his plea or sentences.

Attached herewith and incorporated herein by reference are the records of the Dorchester County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections and the guilty plea transcript.

II.

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

1. Ineffective Assistance of Counsel
 - a. Counsel failed to inform me that I could request a self-defense charge if my case went to trial.
2. Guilty Plea Was Not Voluntarily/Intelligently Made

Any claims not specifically enumerated in the PCR application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRPC.

III.

Applicant has alleged he received ineffective assistance of plea counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel 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, 334 S.E.2d 813.

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. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 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. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial.

Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct. 366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

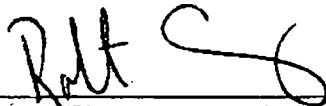
ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

[Signature on Next Page]

ROBERT D. CORNEY
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

November 14, 2011.

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS

2011-CP-18-0640

PETER J. GRANT, 340019,)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

AFFIDAVIT OF SERVICE BY MAIL

FILED - RECORD
 2011 NOV 15 PM 12:22
 CHIEF CLERK
 DORCHESTER

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

Katrina L. Patton, Esquire
 S.C. Summary Court
 Post Office Box 3091
 Summerville, SC 29484-3091

DATED this 14th day of November, 2011.

Lauren Meara
 Lauren Meara, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

PETER JERON GRANT,

Plaintiff,

vs.

STATE OF SOUTH CAROLINA,

Defendant.

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

CASE NO. 2011-CP-18-0640

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET****Plaintiff's Attorney:**

Jessica L. Cassick, Bar No. 100043

Address:

7555 Northside Drive, North Charleston, SC 29420

Phone: 843-820-9719 Fax 843-820-9720

E-mail: jessicacassick@me.com Other:

Defendant's Attorney:

Megn E. Harrigan, Bar No. _____

Address:

PO Box 11549, Columbia, SC 29211

Phone: 803-734-3970 Fax 803-253-6283

E-mail: _____ Other: _____

☐ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)☒ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)**SECTION I: Hearing Information**

Nature of Motion: _____

Estimated Time Needed: _____

Court Reporter Needed: ☐ YES/ ☐ NO**SECTION II: Motion/Order Type**☐ Written motion attached☒ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

October 22, 2012

Date submitted

SECTION III: Motion Fee☐ PAID - AMOUNT: \$☒ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support☐ Domestic Abuse or Abuse and Neglect☐ Indigent Status ☐ State Agency v. Indigent Party☐ Sexually Violent Predator Act ☒ Post-Conviction Relief☐ Motion for Stay in Bankruptcy☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions.

Name of Court Reporter: _____

☐ Other: _____**JUDGE'S SECTION**☐ Motion Fee to be paid upon filing of the attached
order.☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____☐ CONTESTED - AMOUNT DUE: \$ _____

SCCA 233 (11/2003)

54

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

PETER JERON GRANT)

SCDC ID 340019,)

Applicant,)

vs.)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT
CASE NO.: 2011-CP-18-0640

**NOTICE OF MOTION AND
ORDER OF CONTINUANCE FOR
POST-CONVICTION RELIEF HEARING**

THIS MATTER is scheduled before the Court on the 2nd day of November 2012 at 9:30 a.m., pursuant to the Notice of Post-Conviction Relief Hearing roster.

Prior to the commencement of the hearing, the Applicant by and through his counsel of record, Jessica L. Cassick, submitted a Motion for Continuance to allow additional time for preparation of the hearing and to gather further information to potentially amend his Post-Conviction Relief Application.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that this matter is hereby continued.

AND IT IS SO ORDERED.

The Honorable Diane S. Goodstein
Dorchester County Court of Common Pleas
First Judicial Circuit

This _____ day of _____, 2012
St. George, South Carolina

I SO MOVE:


JESSICA L. CASSICK
ATTORNEY FOR APPLICANT

I N D E X

1					
2	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
3	Mary Lematty	7	11	--	--
4	Peter Grant	17	22	26	--
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1	E X H I B I T S			
2	NO.	DESCRIPTION	ID.	EV.
3	Petitioner's 1	Letter	11	11
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1 (November 2, 2012.)

2 MS. HARRIGAN: May it please the Court: This
3 is the case of Peter Grant versus the State of South
4 Carolina, docket number 2011-CP-18-0640. The Applicant
5 was indicted during the June 2009 term of the Dorchester
6 County grand jury for murder. He was represented by Mary
7 Lematty. On April 5, 2010, Applicant appeared before the
8 honorable Diane Goodstein and pled guilty to the lesser
9 included offense of voluntary manslaughter.

10 Judge Goodstein sentenced him 15 years
11 imprisonment. Applicant did not appeal his plea or
12 sentence. Applicant filed a timely application for
13 post-conviction relief on March 22nd, 2011 alleging the
14 following grounds: Ineffective assistance of counsel for
15 counsel's failure to inform him that he could request a
16 self-defense charge if the case went to trial in an
17 involuntary guilty plea.

18 State made its return on November 4, 2011.
19 The Applicant is represented in this action by Jessica
20 Cassick. It's our understanding that Ms. Cassick has a
21 motion before the Court at this time.

22 THE COURT: Yes, Ms. Cassick?

23 MS. CASSICK: May it please the Court: Your
24 Honor, I just conferred with my client, and he has asked
25 me to renew the motion for continuance.

1 He does not want to proceed going forward
2 with my other motion that was going to be before the
3 Court to amend his post-conviction relief application.
4 And, as you're aware, Judge Goodstein did deny this
5 motion to continue last week; however, my client is not
6 comfortable going forward today.

7 THE COURT: Okay. Well, respectfully, the
8 chief administrative judge is Diane Goodstein. I come
9 here at the pleasure of our chief justice, and, again, if
10 you have put the request for continuance in front of her,
11 I am not going to overrule her. We will go forward.

12 It's my understanding from my brief
13 discussion at bench that there was an additional issue
14 that you wanted to bring up that I believe was going to
15 be your main issue. I need you to go ahead and make that
16 motion, and it's likely I'm going to grant it, so we will
17 make sure that we cover all issues necessary.

18 Certainly I'll hear the position of the
19 State, but I want to make sure that we all know what's
20 happening going forward. Okay? Respectfully, your
21 motion to continue is denied, so go ahead and make your
22 next motion.

23 MS. CASSICK: Thank you, Your Honor. We
24 respectfully request to amend Mr. Grant's post-conviction
25 relief application solely on the grounds for his former

1 attorney, her failure to file a direct appeal, and
2 Mr. Grant waives his prior ground on self-defense.

3 THE COURT: Okay. And this was by way of
4 guilty plea; is that correct?

5 MS. CASSICK: Yes, Your Honor, it was.

6 THE COURT: All right. Just I'm clear.

7 MS. HARRIGAN: And the State would object for
8 the record, but we are prepared to go forward today with
9 this application.

10 MS. CASSICK: Your Honor, my client has asked
11 me to put it again on the record that he does not want to
12 go forward.

13 THE COURT: Well, respectfully, I've heard
14 the motion. I've denied the motion. We are going to go
15 forward. I'm going to allow you to amend your petition
16 to include a request for a direct appeal. All right?
17 Thank you.

18 MS. CASSICK: Thank you.

19 THE COURT: Subject to your objection.

20 MS. HARRIGAN: For the record, is Applicant
21 waiving his initial allegation in regards to ineffective
22 assistance of counsel for self-defense charge? It was my
23 understanding Ms. Cassick was waiving that.

24 MS. CASSICK: I'm sorry, Your Honor. I'm
25 having a difficult time communicating with my client

1 right now. He's not wanting to go forward, again.

2 THE COURT: All right. Well, if you feel
3 comfortable and do not wish to waive or he does not wish
4 to waive the self-defense charge, I think that it's a bit
5 of a tough argument, considering he pled guilty, so I'm
6 not sure it applies, so if you feel like you need to
7 cover it, let's cover it, so let's go ahead and go
8 forward with your PCR application.

9 MS. CASSICK: Thank you, Your Honor.

10 THE COURT: Yes, ma'am, if you'll call your
11 first witness.

12 MS. CASSICK: Your Honor, we call Mary
13 Lematty to the stand.

14 THE COURT: All right. Ms. Lematty, please
15 come forward to be sworn.

16 MARY LEMATTY,
17 having been first duly sworn,
18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 THE COURT: Whenever you're ready, ma'am.

21 MS. CASSICK: Thank you, Your Honor.

22 BY MS. CASSICK:

23 Q. Ms. Lematty, did you represent my client,
24 Mr. Grant?

25 A. I did.

1 Q. And in what case was that for?

2 A. It was a murder charge that he had.

3 Q. And did you speak to him about the charge? Did
4 you advise him of his minimum and mandatory sentences
5 that he was facing?

6 A. I did.

7 Q. And there was obviously a plea discussion --

8 A. There was.

9 Q. -- spoken of? And who initiated the plea
10 discussion?

11 A. I would have assumed you would say me. I mean, I
12 would go to my client when I had information on the case.
13 You know, we would go and discuss it at the jail with
14 him, so yes, that came up in our discussions.

15 Q. And did you review all the evidence with him that
16 was presented?

17 A. Yes.

18 Q. And before he entered into the plea, did you feel
19 like he understood everything that he was potentially
20 facing and everything if he accepted the plea, what he
21 was looking at?

22 A. Yes.

23 Q. And it was your advice for him to accept the plea,
24 correct?

25 A. I never make the decision for the client. That is

1 something that they completely have to decide on their
2 own.

3 We went through the various alternatives. I told
4 him what, you know, I thought the perception would be of
5 his situation. It was a shooting outside of a nightclub
6 that had started with an altercation, and he made the
7 decision from there.

8 Q. Ms. Lematty, after the plea hearing, did you have
9 any other discussions with Mr. Grant?

10 A. Not that I recall.

11 Q. When was the last time you spoke with him after --
12 I believe the sentencing and the plea was heard on April
13 5th, 2010; is that correct?

14 A. If that's the date on the plea sheet, then yes. I
15 don't recall ever speaking to him again after that date.

16 Q. Did you speak to him about an appeal, a direct
17 appeal, before the plea?

18 A. I spoke with him about his appellate rights, and I
19 know that the judge went through that very carefully
20 during the plea as well, but I did not have any
21 discussion with him after the plea.

22 Q. So after the plea, you did not have a request from
23 him asking for an appeal, verbally?

24 A. No, not to my recollection.

25 Q. Did you receive any writings from him requesting

1 an appeal?

2 A. Not to my recollection. You showed me the
3 document that you had a copy of today. Our file, our
4 hard file, it's old enough to where it's been scanned and
5 shredded on to our server, so therefore I don't have that
6 with me.

7 I did e-mail my secretary and asked her to go
8 through the correspondence in the scanned file and see if
9 there was anything from them, and she said she did not
10 see anything.

11 Q. Did your office address change from the time that
12 he was sentenced until a month or so thereafter?

13 A. No, it did not.

14 Q. So all of your mail came to your office with no
15 problems?

16 A. As far as I know.

17 Q. Okay.

18 MS. CASSICK: Your Honor, at this time we
19 with like to mark this letter, which I've shown to
20 opposing counsel, for exhibit purposes.

21 MS. HARRIGAN: Without objection.

22 BY MS. CASSICK:

23 Q. Ms. Lematty, would you take a look at that letter,
24 please. Have you ever seen this letter?

25 A. You showed it to me this morning. I cannot say

1 with certainty that I've never seen it before that. I
2 mean, we receive a whole lot of mail. All I can say is I
3 don't recall receiving it after his plea, and it doesn't
4 appear in the scan of his file, but I certainly can't
5 tell you that I've never seen it before.

6 Q. So you don't know if you received it?

7 A. I cannot say with certainty. All I can say with
8 certainty is that it does not appear to be in our file.

9 MS. CASSICK: At this time, we like to this
10 enter this into evidence as Petitioner's Exhibit 1.

11 THE COURT: Okay.

12 (Letter marked for identification and
13 admitted into evidence as Petitioner's Exhibit No. 1.)

14 BY MS. CASSICK:

15 Q. Ms. Lematty, did you receive any phone calls from
16 Mr. Grant or any family members after his sentence?

17 A. Not that I recall.

18 Q. Did you speak to him at all after his sentence
19 until today's date or receive any other letters?

20 A. Not that I recall.

21 Q. Okay.

22 MS. CASSICK: I have nothing further.

23 THE COURT: Okay.

24 CROSS-EXAMINATION

25 BY MS. HARRIGAN:

1 Q. How long have you been practicing law?

2 A. Twenty years.

3 Q. And what percentage would you say is criminal
4 defense work?

5 A. At this point I work for the public defender's
6 office for the first judicial circuit. I have been
7 employed as a circuit employee since the office started
8 in 2008, but I worked with the old public defender system
9 from April 2005 until now.

10 Q. So 100 percent at this point?

11 A. Yes.

12 Q. Do you recall when you were appointed to this
13 case?

14 A. I recall it was not too long after the incident.
15 I'm sorry. I don't have the dates in front of me.

16 Q. Do you recall how many times you met with him
17 prior to his guilty plea?

18 A. Somewhere -- I don't know, maybe ten times, maybe
19 a little bit less than that.

20 Q. Did you ever correspond with him any other way,
21 telephone, written letter?

22 A. I know that it's part of our process that we, for
23 example, mail discovery to clients. It is my practice if
24 a client writes to me that I do write back to them.

25 Q. Did you in this case mail discovery to the client,

1 your former client?

2 A. I believe that I would have. I don't have the
3 benefit of that file in front of me, but --

4 Q. Is your normal practice once you receive discovery
5 to review it with your client and give him a copy?

6 A. Yes.

7 Q. Prior to his guilty plea, did you discuss the
8 elements of the charge he was facing and what the State
9 was going to be required to prove at trial?

10 A. Yes.

11 Q. Did you discuss his version of the facts with him?

12 A. Yes.

13 Q. Based on these discussions and the discovery
14 material, were you able to start preparing a defense?

15 A. Yes.

16 Q. Would you briefly characterize The State's
17 evidence against the Applicant.

18 A. The incident arose from a shooting outside of a
19 nightclub on Ashley Phosphate Road. From what I can
20 recall, Mr. Grant was involved in an altercation with
21 another person who was much larger than he was. That
22 extended into the parking lot. Ultimately Mr. Grant was
23 able to get a weapon, and he shot the decedent.

24 Unfortunately, when he shot the decedent, he shot
25 him, I believe, a couple times from the front. At that

1 point in time, the decedent was either leaving or had
2 fallen and was trying to get away, and he fired, I think,
3 somewhere in the neighborhood of 13 or 14 more shots,
4 most of which hit this person in the back.

5 Q. And based on your discussions with your client
6 that there was originally an altercation that led to the
7 ultimate incident, did you discuss the possibility of
8 self-defense with him?

9 A. Yes.

10 Q. And what was your opinion on that, given to your
11 client?

12 A. I -- what was my opinion?

13 Q. What was your recommendation as to whether a
14 self-defense charge would float in front of a jury?

15 A. I explained self-defense to him and explained to
16 him this was certainly something that was available;
17 however, the situation was that after the attack on him
18 had ceased, due to the first shots and the decedent was
19 leaving the situation, that the fact that there were so
20 many more shots clearly into his back could be
21 problematic in the minds of a jury.

22 Q. Did he seem to understand these discussions with
23 you in regards to self-defense?

24 A. I believe he did. Mr. Grant was always very
25 articulate, always very pleasant.

1 Q. Okay. Was this a plea from the beginning or did
2 he indicate he wished to go to trial on these charges?

3 A. I don't believe it was a plea from the beginning,
4 no.

5 Q. Did your client request that you enter into plea
6 negotiations with the State?

7 A. I'm not sure if I remember specific requests in
8 his regard, but, I mean, I always work my cases, you
9 know, on both fronts, getting ready for trial but seeing
10 if there is a resolution. There is sort of a dual track.

11 Q. And what offers were made to your client by the
12 State?

13 A. I believe it was just a plea to reduce the charge
14 of voluntary manslaughter.

15 Q. And this is what your client ultimately pled to,
16 correct?

17 A. Yes.

18 Q. And were there any recommendations or negotiations
19 before the Court?

20 A. Not specifically from the State as far as any type
21 of a recommendation for sentencing.

22 Q. Did you explain to your client that he could
23 receive anywhere from a minimum of two years
24 incarceration up to 30 years for voluntary manslaughter?

25 A. Yes.

1 Q. Do you recall the numerical sentence that was
2 handed down by Judge Goodstein in this case?

3 A. Fifteen years.

4 Q. Did you inform him of the consequences of entering
5 a guilty plea?

6 A. Yes.

7 Q. Okay. Did you inform him of the constitutional
8 rights he would be waiving?

9 A. Yes.

10 Q. Did he ever tell you that he didn't understand
11 anything regarding his decision to enter a guilty plea?

12 A. Not that I can recall.

13 Q. Okay. And ultimately whose decision was it to
14 enter a guilty plea?

15 A. It was his decision.

16 Q. In regards to his allegation that you failed to
17 file a direct appeal on his behalf, did you review his
18 appellant rights with him prior to his guilty plea?

19 A. Yes.

20 Q. And during the plea colloquy, did Judge Goodstein
21 once again review these direct appeal rights with him?

22 A. Base on my reading of the transcript, yes, and I
23 never had her not do that whenever I've had a plea in
24 front of her.

25 Q. Following the plea, did the Applicant request you

1 to file an appeal on his behalf?

2 A. Not to my recollection, no.

3 Q. And the letter that's been entered in as
4 Petitioner's 1, you don't recall receiving this?

5 A. I do not.

6 Q. And, for the record, the State would note there is
7 no date on Petitioner's Exhibit 1.

8 MS. HARRIGAN: No further questions at this
9 time.

10 MS. CASSICK: I have no further questions for
11 Ms. Lematty at this point.

12 THE COURT: All right. Call your next
13 witness.

14 MS. CASSICK: I call my next witness, the
15 Applicant, Mr. Grant.

16 PETER GRANT,

17 having been first duly sworn,
18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MS. CASSICK:

21 Q. Good morning, Mr. Grant. Could you please tell
22 the Court a little bit about yourself.

23 A. I'm 23 years of age, currently reside in
24 Charleston. Dropped out of school in the ninth grade,
25 and, you know, serving time in the Department of

1 Corrections.

2 Q. Prior to your sentence, where did you reside?

3 A. North Charleston.

4 Q. And who did you live with?

5 A. My mother.

6 Q. And do you have other family in the Dorchester
7 County area?

8 A. Yes, ma'am, aunties.

9 Q. Is all your family in the Dorchester County area?

10 A. No.

11 Q. And what is your education, Mr. Grant?

12 A. Education? Well, I dropped out.

13 Q. What grade?

14 A. Ninth.

15 Q. Did you get your GED?

16 A. No, ma'am.

17 Q. So you have a ninth grade high school level
18 education?

19 A. Yes, ma'am.

20 Q. Do you have any children?

21 A. Yes, ma'am, a little boy.

22 Q. And how old is he?

23 A. Five years.

24 MS. CASSICK: Your Honor, may I approach the
25 witness?

1 THE COURT: You may.

2 BY MS. CASSICK:

3 Q. I'm going to hand you what's been marked as
4 Applicant's Exhibit 1. Mr. Grant, can you read that,
5 please?

6 A. Yes, ma'am it. It says, How are you doing? I'm
7 writing this letter about my time I just received on the
8 5th.

9 Q. I'm sorry. What does the very top line say?

10 A. How are you doing?

11 Q. Is there a line above that?

12 A. Yes, ma'am.

13 Q. And what does that say?

14 A. All right. Ms. Mary Lematty.

15 Q. Okay.

16 THE COURT: Go ahead, sir.

17 THE WITNESS: How are you doing? I'm writing
18 this letter about my time I just received on the 5th of
19 the month.

20 I need you to file for me to come back, and
21 as you can see, it's a piece of paper is cut off, but it
22 says file for me to come back and lesser time. I also
23 thought that I was supposed to get a copy of my paperwork
24 on my conviction time because I haven't received a copy,
25 and for the record, I appreciate your time and effort as

1 my lawyer. Thanks for everything you have done for me
2 and hope to see you soon. Peter Grant.

3 Q. Thank you, Mr. Grant. Do you recall what date you
4 wrote this letter?

5 A. Yes, ma'am.

6 Q. And when was that?

7 A. The night of my conviction.

8 Q. Which was when?

9 A. April 5th.

10 Q. Of what year?

11 A. 2010.

12 Q. Thank you. And did you know Ms. Lematty's
13 address?

14 A. Yes, ma'am.

15 Q. And what was that?

16 A. I don't have it at the top of my mind.

17 Q. How did you know her address?

18 A. From letters I received.

19 Q. Okay. And when did you -- you said you wrote this
20 letter on April 6th, 2010?

21 A. I wrote it on the 5th.

22 Q. I'm sorry. On April 5, 2010, and where were you
23 when you wrote the letter?

24 A. Back inside my cell.

25 Q. Where, here in Dorchester County?

1 A. Yes, ma'am.

2 Q. And what did you do with it next?

3 A. I send it off that next morning, on the 6th.

4 Q. And who did you send it with, was it --

5 A. To the mail room.

6 Q. So you gave it to a guard?

7 A. Yes, ma'am.

8 Q. Was there a stamp on the envelope?

9 A. Yes, ma'am.

10 Q. And it was properly -- excuse me, properly
11 addressed to Ms. Mary Lematty?

12 A. Yes, ma'am.

13 Q. Had you ever written her before, Mr. Grant?

14 A. I believe so. I'm not too sure, but I believe I
15 have.

16 Q. And after you were sentenced -- let's go back to
17 April 5th, 2010.

18 After you heard Judge Goodstein's sentence, did
19 you have any conversations with Ms. Lematty?

20 A. No, ma'am.

21 Q. Did you recall discussing your rights to appeal
22 before you entered into this plea?

23 A. No, ma'am.

24 Q. I'm sorry?

25 A. No, ma'am.

1 Q. You don't recall having conversations with Ms.
2 Lematty?

3 A. Well, I did have conversations about the appeal, I
4 know after the judge made it clear that I have ten days
5 to appeal.

6 Q. And that was during your plea hearing?

7 A. Yes, ma'am.

8 Q. Okay.

9 MS. CASSICK: That's all the questions I
10 have, Your Honor.

11 MS. HARRIGAN: May it please the Court:

12 CROSS-EXAMINATION

13 BY MS. HARRIGAN:

14 Q. Mr. Grant, do you recall how many times you met
15 with Ms. Lematty prior to your guilty plea?

16 A. No, ma'am.

17 Q. Okay. Do you recall receiving a copy of the
18 discovery in your case from Ms. Lematty?

19 A. Yes, ma'am.

20 Q. And did you review that with her?

21 A. I believe so.

22 Q. Did you ask her any questions you had in regards
23 to that material, anything you didn't understand?

24 A. Yes, ma'am.

25 Q. And she was able to understand your questions?

1 A. Not quite as I would want her to, as far as
2 advising me, what I was seeking to know.

3 Q. But in regards to the discovery received, I know
4 you -- there is a contention regarding a direct appeal
5 issue, but with regards to your discovery, she explained
6 that to you and answered your questions?

7 A. Yes, I believe. I'm not too sure.

8 Q. All right. Did you discuss any plea offers made
9 by the State with her?

10 A. No. I know she came with -- well, yes, a plea
11 that they offered me a voluntary manslaughter.

12 Q. So the State allowed you to plead to the lesser
13 included offense of voluntary manslaughter, correct?

14 A. Yes, ma'am.

15 Q. And you were originally indicted by the grand jury
16 for murder?

17 A. Yes, ma'am.

18 Q. Okay. And that reduced your exposure from a
19 mandatory minimum of 30 years to a maximum of 30 years,
20 correct?

21 A. Yes, ma'am.

22 Q. Did that weigh into your decision to enter a
23 guilty plea?

24 A. Yes.

25 Q. Do you recall telling Judge Goodstein during your

1 plea that you wanted to plead guilty?

2 A. I believe so.

3 Q. And do you recall agreeing with the facts the
4 State presented, the solicitor stated to the record,
5 during the guilty plea?

6 A. Yes, ma'am.

7 Q. And do you recall apologizing to the victim's
8 family on the record?

9 A. Yes, ma'am.

10 Q. Okay. And you recall waiving your constitutional
11 rights?

12 A. Yes, ma'am.

13 Q. And do you recall telling Judge Goodstein that you
14 were satisfied with Ms. Lematty's representation?

15 A. Yes, ma'am.

16 Q. In the letter that has been marked as Petitioner's
17 Exhibit 1, you express in here you're satisfied with her
18 services, right?

19 A. I also -- as you can see, I asked her to file,
20 like Ms. Goodstein also went through with her.

21 Q. In regards to your overall representation, aside
22 from that issue, you're satisfied with her services?

23 A. Yes, ma'am.

24 Q. Correct. And one of your allegations was that she
25 was ineffective for not reviewing a possible self-defense

1 if you went to a jury trial, correct? Do you wish to
2 proceed with that today?

3 A. No, not really.

4 Q. And your testimony today is that Ms. Lematty never
5 discussed your appellate rights with you prior to your
6 plea.

7 A. Yes, ma'am.

8 Q. So the first time you knew you had ten days to
9 appeal was when you were in front of Judge Goodstein?

10 A. Yes, ma'am.

11 Q. Following your plea, did you get a chance to speak
12 to Ms. Lematty?

13 A. Well, before we came out here for me to go through
14 the whole procedures.

15 Q. But following your plea, did you have a few brief
16 moments to speak with her after Judge Goodstein handed
17 your sentence down?

18 A. No, ma'am.

19 Q. And the only correspondence that you recall
20 sending is this letter asking for, I believe, lesser
21 time, correct?

22 A. Yes, ma'am.

23 Q. Okay. And did you ever follow up with Ms. Lematty
24 after you sent this letter?

25 A. No, ma'am.

1 Q. And that letter was sent the evening of April 5th,
2 following your plea, correct?

3 A. Yes, ma'am.

4 Q. And so in the next -- did you understand at that
5 time you only had ten days for a direct appeal?

6 A. Yes, ma'am.

7 Q. Did you follow up with her within those ten days
8 after that letter?

9 A. I'm not -- no, ma'am.

10 Q. Okay.

11 MS. HARRIGAN: No further questions from the
12 State.

13 REDIRECT EXAMINATION

14 BY MS. CASSICK:

15 Q. Mr. Grant, did you write a letter to Ms. Lematty
16 asking for her to file an appeal?

17 A. Yes, ma'am. Not in those exact words, but I did
18 ask her to file for me to come back.

19 Q. And when did you write that letter?

20 A. April 5th, 2010.

21 Q. And did you follow up after this letter at all?
22 Did you have any contact with her?

23 A. No, ma'am. I know I told my mom, so -- but after
24 I -- I left that Wednesday, and, you know, R&E is very
25 fast to communicate on the outside, but no, I didn't get

1 nothing else.

2 Q. So your mom knew that you had written this letter
3 to Ms. Lematty?

4 A. Yes, ma'am.

5 MS. CASSICK: I have no further questions for
6 him.

7 MS. HARRIGAN: Nothing additional from the
8 State.

9 THE COURT: You may step down, Mr. Grant.
10 Anything further?

11 MS. CASSICK: Your Honor, the Applicant has
12 no further witnesses.

13 MS. HARRIGAN: And the State has no witnesses
14 to call.

15 THE COURT: All right. Thank you. I will be
16 requesting a proposed order from someone at the
17 appropriate time, and I'll make my decision. Okay?

18 Thank you, and thank you, sir.

19 - - -

20 (Whereupon, the proceedings were concluded.)

21 - - -

22

23

24

25

I, the undersigned Amanda K. Haffenden, RPR, CRR, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Dorchester County, South Carolina, on the 2nd of November 2012.

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

March 27, 2013


Circuit Court Reporter

MIS. Mary Lundy

How are you doing? I've written
letter about my time I just receive on the 5th of
month. I need you to file for me to come back and
lessen time. I also thought that I was suppose
a copy of my paper work at my conviction time. It
because I haven't receive a copy and for the record
appreciate your time and effort as my lawyer. =o
Thanks for everything you have done for me
and hope to be seeing you soon.

Peter Grant.

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Peter J. Grant, #340019,

Case No. 2011-CP-18-0640

Applicant,

v.

ORDER OF DISMISSAL

State of South Carolina,

Respondent.

CERTIFIED COPY
2012 DEC -7 PM 4:18
CLERK OF COURT
DORCHESTER COUNTY

PROCEDURAL HISTORY

This matter comes before the Court by way of an application for post-conviction relief filed March 22, 2011. The Respondent made its Return on November 14, 2011. An evidentiary hearing into the matter was convened on November 2, 2012, at the Dorchester County Courthouse. The Applicant was present at the hearing and was represented by Jessica L. Means, Esquire. The Respondent was represented by Assistant Attorney General Megan E. Harrigan of the South Carolina Attorney General's Office.

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Dorchester County Clerk of Court. The Applicant was indicted during the June 2009 term of the Dorchester County Grand Jury for Murder (2009-GS-18-0470). Mary LeMatty, Esquire, represented him. On April 5, 2010, Applicant appeared before the Honorable Diane S. Goodstein, where he pled guilty to the lesser included offense of Voluntary Manslaughter. Judge Goodstein sentenced Applicant to fifteen years imprisonment. Applicant did not appeal his guilty plea or sentence.

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

1. Ineffective Assistance of Counsel for failing to inform applicant that he could request a self-defense charge if the matter went to trial; and
2. Guilty plea as not voluntarily or intelligently made

At the evidentiary hearing, Applicant moved to amend his application to include the allegation that counsel was ineffective for failing to file an appeal on Applicant's behalf; this Court granted this motion and allowed Applicant to proceed on this additional ground.

TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf and presented testimony from plea counsel Mary LeMatty, Esquire ("Counsel"). This Court also had before it a copy of the Applicant's guilty plea transcript, the records of the Dorchester County Clerk of Court, and the Applicant's records from the South Carolina Department of Corrections.

During the evidentiary hearing, Applicant called Counsel to testify first. Counsel testified that she has been practicing law for approximately twenty years and her practice is exclusively criminal defense, as she is employed by the First Judicial Circuit Public Defender's office. She testified that she was appointed to represent Applicant and that she met with him at least ten times prior to his guilty plea. She testified that she also corresponded with him through letters. Counsel testified that she filed Brady/ Rule 5, SCRCrimP, motions and thoroughly reviewed these materials with Applicant. She testified that she also reviewed the elements of murder with Applicant and what the State would be required to prove at trial.

Counsel testified that Applicant discussed his version of facts with her, including that the altercation began as a fight between Applicant and the victim. Counsel testified that she discussed with Applicant the possibility of arguing self-defense at trial, but explained to him that this defense would not be legally viable based on the facts of this case. Specifically, Counsel elaborated that Applicant had shot the victim fourteen times in the back while the victim was

trying to flee the altercation. Based on these discussions, Counsel testified she believed it was in Applicant's best interest to accept the State's offer allowing him to pled to the lesser included offense of voluntary manslaughter.

Counsel testified that she never spoke with Applicant following his guilty plea on April 5, 2010. She testified that she reviewed his right to appeal following his guilty plea with him prior to the plea and that Judge Goodstein reviewed his right to file an appeal with him during his plea. Counsel testified that she did not believe that Applicant had a meritorious ground on which to file an appeal; however, if Applicant had requested she file an appeal on his behalf, she would have done so. She testified that she does not recall receiving a request to file an appeal from Applicant. Counsel testified that she keeps all correspondence from clients and did not find anything in her file where Applicant had requested she file an appeal. Applicant introduced a photocopy of an undated letter from Applicant addressed to Counsel into evidence as Applicant's Exhibit 1 and asked Counsel if she recognized this letter. Counsel testified that she did not recognize the letter, did not recall receiving the letter, and that this letter was not in her file. However, she could not state with absolute certainty that she never received this letter. In this undated letter, Applicant asks Counsel for assistance is getting his sentence reduced.

Following Counsel's testimony, Applicant testified. He stated that he lived with his mother prior to this incident, has a five year old son, and has a ninth grade education. He stated that he wrote the letter that was introduced into evidence as Applicant's Exhibit 1 on the night of April 5, 2010 following his guilty plea and sentence. He testified that he sent the letter to Counsel's address, where he had previously sent correspondence to Counsel. He stated that he did not discuss his right to appeal with Counsel prior to his guilty plea. He stated that he did not follow-up with Counsel regarding an appeal following this letter.

Applicant testified that he reviewed the State's discovery materials with Counsel and what elements the State would be required to prove during a trial. He also testified that he discussed possible defense with Counsel, including self-defense. He admitted that he shot the victim fourteen times and Counsel had explained to him why self-defense would not be a viable defense in this case. Applicant stated that he would like to abandon his ground that Counsel was ineffective for failing to advise him of the possibility of self-defense and stated that he was "completed satisfied" with Counsel's performance except for failing to file an appeal on his behalf.

Applicant testified that he was indicted by for murder, but through a plea negotiation with the State, he was able to plead to voluntary manslaughter. He acknowledged that this significantly reduced his sentence exposure. He testified that it was his decision to plead guilty and that he told the plea judge under oath that he was indeed guilty. He admitted to apologizing to the victim's family during the plea.

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 at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

Ineffective Assistance of Counsel

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). 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, 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, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test 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, 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. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

After careful review based on the standard discussed above, the Applicant has failed to carry his burden in this action. Specifically, this Court finds that Counsel's testimony is credible

while Applicant's testimony is not credible. Below are this Court's findings in regards to each of Applicant's allegations of ineffective assistance of counsel.

Counsel was ineffective for failing to inform Applicant of self-defense

This Court finds that Applicant expressly abandoned this allegation during the evidentiary hearing, stating that he did not wish to proceed forward on this ground. Additionally, Applicant stated that he was "completely satisfied" with Counsel's performance in every regard except failure to file a direct appeal. Therefore, this Court finds that this allegation or any other allegation of ineffective assistance of counsel must be denied and dismissed with prejudice.

Counsel was ineffective for failing to file a direct appeal

Applicant alleges that he is entitled to a belated direct appeal pursuant to White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974), as he requested Counsel file an appeal on his behalf and she did not perfect an appeal.

"[C]ounsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are non-frivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing." Roe v. Flores-Ortega, 528 U.S. 470, 480, 120 S.Ct. 1029 (2000). "Even in cases when the defendant pleads guilty, the court must consider such factors as whether the defendant received the sentence bargained for as part of the plea and whether the plea expressly reserved or waived some or all appeal rights." Id. Absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea. Turner v. State, 380 S.C. 223, 224, 670 S.E.2d 373, 374 (2008). "One extraordinary circumstance which would require counsel to advise a defendant of the right to appeal from a guilty plea would arise

when the defendant inquires about an appeal." *Weathers v. State*, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995).

After careful review based on the standard discussed above, this Court finds that Applicant has failed to carry his burden in this action. Specifically, this Court finds that Counsel's testimony is credible while Applicant's testimony is not credible. Counsel testified that she never received any requests from Applicant to file an appeal on his behalf and had no reason to believe that Applicant wished to file an appeal. Counsel testified that she reviewed Applicant's right to appeal with him prior to his guilty plea and that the plea court also reviewed these rights during the guilty plea. Additionally, Counsel testified that she did not believe that Applicant had a meritorious ground on which an appeal could be sought. This Court finds that Counsel's performance was reasonable and effective. Therefore, this Court finds that the application must be denied and dismissed.

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.

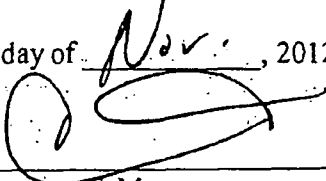
This Court notes that that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's

behalf. Applicant 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 29 day of Nov., 2012.


CARMEN T. MULLEN
Presiding Judge
First Judicial Circuit

Beaufort, South Carolina.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIRST JUDICIAL CIRCUIT
COUNTY OF DORCHESTER	)	CASE NUMBER: 2011-CP-18-0640
	)	
PETER J. GRANT	)	
SCDC ID 340019,	)	
	)	
Applicant,	)	
	)	MOTION TO RECONSIDER
v.	)	
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

PLEASE TAKE NOTICE that the Applicant, through his undersigned attorney and pursuant to Rules 52 and 59 of the South Carolina Rules of Civil Procedure, will move before the Honorable Carmen T. Mullen in the Dorchester County Courthouse, Dorchester, South Carolina, at such time as the Court may appoint, for an Order vacating the Order of Dismissal, filed on December 7, 2012, and received by Applicant's counsel on December 11, 2012, or, in the alternative, a new hearing, or granting such other relief as the Court deems just and proper.

1. Applicant respectfully asks the Court to reconsider the ruling by Judge Mullen on December 7, 2012, granting the dismissal of Applicant's Post-Conviction Relief.
2. Applicant alleges plea counsel did not file a direct appeal on his behalf, despite him mailing her a handwritten letter requesting her to file an appeal. Plea counsel informed the Court that she could not confirm or deny receipt of Applicant's request. Applicant reiterates he requested his attorney to file an appeal the day he plead guilty and was sentenced on April 5, 2010.
3. Applicant further alleges he reasonably demonstrated to plea counsel he was interested in appealing by confirming in writing and mailing directly to her office,

where she previously received his letters, and which imposed a duty on plea counsel.

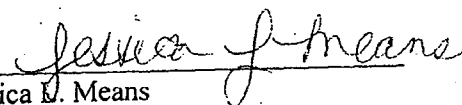
See Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000) (Counsel has a constitutionally imposed duty to...appeal when there is reason to think this particular defendant reasonably demonstrated to counsel that he was interested in appealing).

4. The Applicant reiterates each and every allegation contained in his Application for Post-Conviction Relief filed with the Court on March 22, 2011, and each and every allegation in his Amended Application for Post-Conviction Relief granted during the evidentiary hearing on November 2, 2012, as if repeated verbatim herein, and specifically requests a hearing to allow him the opportunity to be reheard on the issues stated herein.

Wherefore, the Applicant prays that the Court reconsider the ruling dismissing this action with prejudice, and allow the Applicant an opportunity to be reheard on the questions of fact arising out of his Post-Conviction Relief Application and Amended Application.

MEANS LAW FIRM, LLC

By:



Jessica L. Means

PO Box 12009

Charleston, SC 29422

Telephone: (843) 214-1367

Email: jessica@meanslawfirm.com

ATTORNEY FOR APPLICANT

Charleston, South Carolina
Dated: December 19, 2012

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2011 CP-18-0640

Peter J. Grant, SCDC 340019

State of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Jessica Means

Attorney for : ☒ Plaintiff ☐ Defendantor
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other

☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: The Plaintiff's motion to reconsider dated Decemeber 19, 2012 is respectfully denied without rehearing.

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

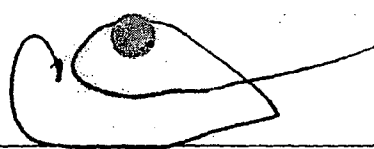
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

96



Circuit Court Judge
Carmen Mullen

2142
Judge Code

1-16-2013
Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Attached

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

For Clerk of Court Office Use Only

This judgment was entered on 1-23-13, and a copy mailed first class or placed in the appropriate attorney's box on 1-23-13 to attorneys of record or to parties (when appearing pro se) as follows:

Peter Jeron Grant Mcii-F3-A-182 386 Redemption Way
McCormick, SC 29899
Jessica Lynn Means PO Box 12009 Charleston, SC 29422

ATTORNEY(S) FOR THE PLAINTIFF(S)

Megan Elizabeth Harrigan PO Box 11549 Columbia, SC
29211

ATTORNEY(S) FOR THE DEFENDANT(S)



Cheryl Graham - Clerk of Court

Court Reporter

WITNESSES

D Peters

DOCKET NO. 2009GS18-0470

The State of South Carolina

County of DORCHESTER

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

Defendant

Dorchester County Sheriff

COURT OF GENERAL SESSIONS

TERM

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

ARREST WARRANT NUMBER

K308899

Arrested: February 12, 2009

THE STATE

vs.

Defendant

ACTION OF GRAND JURY

Peter Jeron Grant

Witness:

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

Foreperson of Grand Jury
Date: June 11, 2009

VERDICT

MURDER / MURDER

Indictment for

SC Code: 16-3-10

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

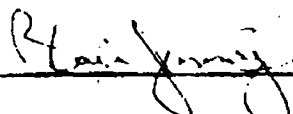
INDICTMENT
2009GS18-0470

At a Court of General Sessions, convened on June 11, 2009, the Grand Jurors of
Dorchester County present upon their oath:

MURDER / MURDER

That in Dorchester County on or about December 20, 2008, with malice aforethought, the
defendant, Peter Jeron Grant did kill one Justin Kyle Adkins by means of a gunshot. The
victim did die as a proximate result thereof on or about December 20, 2008. This offense
being in violation of the Common Law and Section 16-3-10, of the South Carolina Code
of Laws, as amended.

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


Blair Jennings, Solicitor

2-30 years

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester
 STATE VS.
Peter Jeron Grant

AKA: _____
 Race: _____ Sex: M Age: 20
 DOB: _____ SS#: _____
 Address: _____
North Charleston, SC 29420
 DL#: _____ SID#: _____

In disposition of the said indictment comes now the Defendant who was:

TO: Voluntary Manslaughterin violation of § 16-3-50 of the S.C. Code of Laws, bearing CDR Code # 0217
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS (CSC ☐ §17-25-45
 w/minor 1st or Lowd 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

Jennings, Blair C

SC Bar#

Peter Jeron Grant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 15 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 Dept. 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.

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

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	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
§ 35.13 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
§ 33.7, 1B TP (Drug Court Surcharge)	\$100	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
§ 90.11 TP (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter: Bonnet Kelly

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GS18-0470AW#: K308899Date of Offense: 12/20/2008S.C. Code § 16-3-10CDR Code #: 0116

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol ☐Fines may be pd. in equal, consecutive weekly/monthly
 pmts. 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 Dianna L. JordanJudge Code: 2113Sentence Date: 4-5-2010

SCCA/217 (06/2009)