

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Charleston County

Honorable George M. McFaddin, Circuit Court Judge

J'QUAN MARQUEL SCOTT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000470

APPENDIX

KATHRINE H. HUDGINS
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

T. CRUISE MITCHELL
Assistant Attorney General
PO Box 11549
Rembert C. Dennis Building
Columbia, SC 29211
(803) 734-3727

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

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1 Wednesday, May 27, 2015

2 MR. BROWN: Your Honor, while that's going on and
3 he's coming out, we have filed this with the clerk. This
4 is a copy. The hard copy has been served. It's a
5 substantive evidentiary motion, so I just wanted to
6 provide that for purposes of going through the roster
7 this morning.

8 THE COURT: Are you J'quan Scott? Are you J'quan
9 Scott?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Please swear the defendant.

12 (The Defendant was given his oath.)

13 THE COURT: Ms. Wilson, is the State ready?

14 MS. WILSON: Yes, ma'am.

15 THE COURT: And how long do you anticipate this
16 will take?

17 MS. WILSON: Through Friday.

18 THE COURT: Have any offers been conveyed?

19 MS. WILSON: No.

20 THE COURT: Mr. Brown, are you prepared to go
21 forward?

22 MR. BROWN: We are prepared to go forward. We do
23 have two concerns we'd like to raise that we think are
24 better done today, administratively.

25 THE COURT: Then I will handle them after I go

1 through the docket.

2 MR. BROWN: Yes, ma'am.

3 THE COURT: I will place you at this time first up
4 in front of Judge Jefferson because I understand this has
5 significant technology.

6 MS. WILSON: Yes, and we have the three-defendant
7 case which needs the big courtroom.

8 THE COURT: So we'll assign it to Judge Jefferson.
9 I'll address any pretrial matters at the end of the
10 docket.

11 MR. BROWN: Yes, ma'am.

12 THE COURT: All right. Thank you.

13 MR. BROWN: That's one of the concerns I have is
14 about the --

15 THE COURT: I'll let you get that at the end of the
16 docket. Thank you.

17 MR. BROWN: Absolutely. Thank you.

18 (WHEREUPON, the hearing was recessed.)

19 THE COURT: All right. Mr. Brown, I have several
20 matters, I guess to address with you, that you brought to
21 the Court's attention.

22 MR. BROWN: May it please the Court?

23 THE COURT: Yes.

24 MR. BROWN: As far as administrative concerns, I
25 think really two, and one is a motion to recuse the

1 prosecutor as a witness in the defense case and then
2 there is a second one regarding the judicial assignment.
3 I did not file that as a written motion because according
4 to part of the docket stuff it indicates that the
5 assignment of judges would be made this morning. So I
6 guess until -- it actually was made when that hadn't even
7 become ripe yet, and I know we had some e-mails which I
8 do have that I would like to submit for the record on
9 that and I'm not sure which one of those two
10 administrative issues you'd like to take up.

11 The evidence motion I just provided to the Court is
12 an idea for scheduling purposes what we looked at as
13 pretrial issues. When I talked to Solicitor Wilson she
14 had indicated -- the first one deals with a statement,
15 suppression statement which is a dovetail into their
16 Jackson V. Denno.

17 THE COURT: All right. Well, let's address the
18 motion -- I think the easier one is for judicial
19 assignment. What is your issue?

20 MR. BROWN: We had got the docket and, Your Honor,
21 I think the best way to do this is kind of hand up, and
22 I've got copies of these.

23 THE COURT: Let me just make it simple to you.

24 MR. BROWN: Yes, ma'am.

25 THE COURT: Until Monday I have jurisdiction over

1 which case, so even though I even assign it to Judge
2 Jefferson there is nothing written and there is no
3 written order that she's been assigned. So up until the
4 case is called as chief administrative judge I have the
5 jurisdiction to assign it to whomever.

6 MR. BROWN: Yes, ma'am.

7 THE COURT: So I don't know what your issue is with
8 judicial assignment because I certainly don't think you
9 are asking to judge shop, are you?

10 MR. BROWN: No. Absolutely not. I would like to
11 discuss --

12 THE COURT: And that one is easily addressed, who
13 it's assigned to.

14 MR. BROWN: If I may, because when we got the
15 docket --

16 THE COURT: Let me just -- the docket is prepared
17 by the Solicitor's Office. I'm the chief administrative
18 judge and I make the determination of where the case is
19 assigned. The issue is decided. Move on. All right?

20 MR. BROWN: I haven't been able to make my record.

21 THE COURT: You can make it at a later time. Move
22 on to your next issue.

23 MR. BROWN: Your Honor, I have got to be able to
24 proffer the information for the purposes of an
25 interlocutory appeal.

1 THE COURT: I have ruled. You will make your
2 motion as to recusing the prosecutor.

3 MR. BROWN: Your Honor, if I could submit the
4 attachments that go along with that?

5 THE COURT: I have not prevented you from doing
6 that but I'm going to tell you one more time and if I
7 have to direct you again I'm going to find you in
8 contempt. Now, I want to hear about the motion to recuse
9 the prosecutor.

10 MR. BROWN: The attachments you said I could
11 submit?

12 THE COURT: Mr. Brown, I said that at the beginning
13 before we began.

14 MR. BROWN: Okay.

15 THE COURT: I want to hear right now about the
16 motion to recuse the prosecutor.

17 MR. BROWN: Yes, ma'am. Yes, ma'am, and then
18 reserving the supplementation of the attachments, I
19 guess, for the time that Your Honor directs.

20 THE COURT: Correct. Let's move on.

21 MR. BROWN: Yes, ma'am. There was a motion filed
22 to recuse the prosecutor and that motion was originally
23 sent to the judge on the docket, Judge Dennis, who was, I
24 thought at the time, the one -- and if I may hand up to
25 Your Honor a copy.

1 THE COURT: You may.

2 MR. BROWN: With the attachments, Your Honor, if I
3 may hand that up. And the attachments, which I think
4 would be better marked, I guess, as Defendant's 1 for
5 purposes of reference.

6 (WHEREUPON, Defendant's Exhibit Number 1, a
7 Document, was marked for identification only.)

8 THE COURT: Thank you.

9 MR. BROWN: And they indicate that there was a
10 revaluation that occurred on Friday, May 15th of the
11 results of an interview with the co-defendant who had
12 previously been identified as a cooperating witness
13 based on a recorded statement that was provided in March
14 of this year.

15 The prosecutor took a statement that was recorded
16 from the co-defendant, Isaac Williams, in March. That
17 statement essentially indicated that my client was the
18 shooter and that Mr. Williams, himself, was innocent as
19 he had no idea there would be a crime that would be
20 committed.

21 In May we received this e-mail from the prosecutor
22 indicating that they met with Mr. Williams and that it
23 became apparent to all of us that he was being
24 untruthful, and then when I asked for the copy of the
25 recording I was told that this, which this being the only

1 interview, I have about 10 conducted in the case, that
2 was not recorded in any manner but I get a report
3 regarding it.

4 The report which is the second e-mail, which is the
5 one or one through seven, is a summary of the meeting and
6 it gives essentially bullet points, and, of course, it
7 speaks for itself about blow-by-blow of how the interview
8 was conducted. That summary of events was provided from
9 the prosecutor.

10 Now, Your Honor may be aware, this comes up
11 frequently in Federal Court where an FBI agent will
12 conduct an interview. Through routine, there's no actual
13 statement provided from the lips of cooperating person,
14 and so when the cooperating witness takes the stand he
15 can't be impeached with the FBI agent's report, and the
16 common retort from the judges is that you can call the
17 FBI agent and ask him about his notes. And a long story
18 short, these are the only notes regarding this hearing
19 and those are the notes of Solicitor Wilson. So there is
20 no one else I can call to go over these notes.

21 Now, that's pertinent because whether or not
22 Mr. Williams takes the stand and provides a statement
23 consistent or inconsistent with this the defense -- and I
24 know I'm projecting it, it's in the motion itself, is
25 primarily based upon the fact that for 18 months -- well,

1 actually, a little bit more than that, 19 months going
2 into May, the prosecution believed that Mr. Williams'
3 statement was essentially true, at least from March until
4 now. And so what we've got is a two-month time period
5 where Ms. Wilson has indicated that Mr. Williams'
6 statement that he didn't do anything or know anything was
7 truthful.

8 And two months later after intense investigation it
9 turns out that she had been duped, and that's essentially
10 the defense we are offering in trial, that the evidence
11 is not sufficient for the jury to determine beyond a
12 reasonable doubt my client's involvement, and as part and
13 parcel would be the testimony of Solicitor Wilson about
14 this part of the interview. Not the words from
15 Mr. Williams' mouth but, in fact, how she came about
16 breaking him out of his false testimony about how -- and
17 I think to use her statement it became apparent to us
18 that he was not being truthful.

19 I cannot impeach or hold to this seven-page
20 statement any other witness except Solicitor Wilson
21 because it's her statement.

22 THE COURT: And so what are you asking?

23 MR. BROWN: Well, I'm asking to call her as a
24 witness. Now, whether or not she needs to be recused I
25 think comes back to the part about her serving in her own

1 trial. So, quite frankly, I think the rules then require
2 her recusal but I'm just giving you notice I intend to
3 call her in the defense.

4 Now, she has filed a reply. She cites two cases
5 which I wish to distinguish. I do cite the only case
6 that I can find in South Carolina. It is not on point on
7 all fours factually. It does discuss the rule. And in
8 that case, they sought to disqualify an employee, who I
9 know from a firm in Beaufort, is in a personal injury
10 case and that employee is essentially an investigator.

11 So the investigator was going to take the stand and
12 they said, No, he can't take the stand because he is part
13 and parcel of the counsel on the case, and so the judge
14 disqualified that witness. And they took it up on
15 interlocutory appeal and the Court found that that
16 disqualification of that witness not -- they didn't
17 actually disqualify the lawyers but the actual witness,
18 the investigator for Jim Moss' law firm, they found that
19 that disqualification was wrong and they found that
20 interlocutory appeal based upon the forced recusal of
21 counsel or his employee was properly brought.

22 There was a dissent from Justice Pleicones
23 indicating that interlocutory appeals are regulated
24 totally by statute as a legislature matter, but that is
25 the only case. I cite in there as a reason I thought

1 this needed to be provided to the judge early because
2 instead of a June 1st ruling on whether or not Ms. Wilson
3 would have to be recused I'm trying to be efficient with
4 the Court, have a ruling early in case it's granted, my
5 motion is granted, and providing Ms. Wilson time to file
6 an interlocutory appeal. And so the reason why I'm
7 asking Your Honor to hear it is for that reason. It was
8 provided to Judge Dennis back when I thought he was the
9 assigned Judge. So that's the basis of my motion.

10 There is not one other piece of writing other than
11 what's been presented in Defendant's 1. There's no other
12 recording or anything else regarding this interview.
13 Now, there are other people in the room but, Your Honor,
14 they are not the ones that gave me the statement that I
15 can then use to make sure that they are held to this. In
16 other words, this statement helps me and I need to make
17 sure this statement is the one that gets into evidence,
18 and the person who's the witness to this statement is
19 Ms. Wilson.

20 Now, if she wants me to just introduce this
21 statement and stipulates to it I don't mind, and I'll
22 just introduce her seven-page e-mail. That works for me
23 but it is pitting her against her own case, which is odd,
24 then she wouldn't have to be a witness.

25 And, Your Honor, one thing I have to come back to

1 is that we know that offers to stipulate things like that
2 is an analogy or something that can be accepted or
3 rejected by the other side because as the law says, it's
4 up to the party to try the case the way they see fit.

5 Now, whether or not there are other witnesses to
6 interview whose statements I don't have or recordings I
7 don't have they may be eligible to be a witness. As a
8 defense lawyer I don't know what they are going to say.
9 I only know what Ms. Wilson would say.

10 And number two, that's the way that I prefer to
11 present the case because there's no better person to show
12 who was duped by the evidence or unclear of the evidence
13 than the elected prosecutor herself, the head
14 representative of the State. That's the most powerful
15 witness I could put up.

16 I'm not going to argue against their authority
17 that's from another jurisdiction and secondary authority
18 but after they give their response I would like the
19 opportunity to distinguish those two cases they cite.
20 They are federal cases from other jurisdictions, I
21 believe Indiana, maybe Idaho or Iowa. And that's
22 essentially my argument, Your Honor.

23 THE COURT: All right. Thank you.

24 MR. BROWN: Thank you.

25 THE COURT: Ms. Wilson?

1 MS. WILSON: Judge, have you had an opportunity to
2 see our response?

3 THE COURT: I have.

4 MS. WILSON: Okay. First of all, it's very
5 peculiar that this motion is being made and that there is
6 some issue being interjected into this case as to what
7 the prosecutor believed or whether or not the prosecutor
8 was duped. That's not relevant for the jury.

9 The issue is what the jury believes and how the
10 jury assess the case. And it's also an unfortunate
11 motion in that what -- the e-mail that I sent Mr. Brown
12 was to comply with my obligations under Brady. I didn't
13 have to send him an e-mail at all. I didn't have to take
14 notes at all. All I had to do was make sure that I was
15 abiding by the rules and abiding by Brady by letting him
16 know that there was an inconsistency in what the
17 defendant, the cooperating defendant said.

18 You know, this notion that that makes me a witness
19 is absurd when there are several people in the room.
20 That e-mail that I sent to Mr. Brown outlining the Brady
21 information -- and I even went beyond Brady which is
22 something I didn't have to do either. I did that to try
23 to be consistent with giving him everything that I
24 thought he would have and that he would need to prepare
25 his case, but to call that e-mail and my responsibility

1 under Brady a statement or to call it even my notes, I
2 didn't take notes during the interview.

3 We had other people there who were taking notes.
4 We have met, we have gotten together so that I can
5 compile the information from that meeting and give it to
6 the defense. That happens in almost every case where we
7 are trial prepping witnesses. Something comes up, you
8 know, say, the witness originally said the car was red
9 and now the car is green and that's somehow pertinent, we
10 provide that information to the defense because it's our
11 obligation to do that. That doesn't make us a witness.
12 There is a reason that we have investigators in these
13 meetings with us so that if a witness needs to be
14 impeached they can be impeached.

15 I don't have any indication that Isaac Williams is
16 going deny that his story has changed throughout. If
17 that were to happen, as I said in my response, you know,
18 there are three or four other witnesses who could testify
19 as to how that witness changed his statement.

20 So I really don't grasp where Mr. Brown is coming
21 from and I don't believe that the trial judge and even
22 Your Honor sitting here will see or could see that my
23 impressions of whether or not I believe Isaac Williams is
24 relevant to anything.

25 THE COURT: Okay.

1 MS. WILSON: And I don't believe I've ever told
2 Mr. Brown that I bought anything that Isaac Williams said
3 and that's been -- he has sent me several e-mails along
4 and along trying to pin me down on what I know and what I
5 believe with regards to Mr. Williams.

6 Mr. Williams is going to say whatever Mr. Williams
7 is going to say. There are parts of it that we can
8 corroborate. There are parts of it we can't, and the
9 trial court will instruct the jury that they can believe
10 all, part or none of what Mr. Williams says. So that's
11 the way I've approached it myself.

12 The e-mail that I sent Mr. Brown was nothing but an
13 attempt to comply with Brady. It is similar to the
14 correspondence that we have in almost every case when
15 Brady matters come up. It certainly doesn't make me a
16 witness and I think the motion to recuse should be denied
17 now and if he needs to raise it again at some point
18 certainly he could. But I can't imagine under these
19 circumstances it being a true issue.

20 THE COURT: Thank you.

21 Mr. Brown, anything?

22 MR. BROWN: Briefly in rebuttal. There's not a
23 question about impeaching Mr. Williams. We are offering
24 -- it's in my motion, a defense which Justice Souter said
25 in Kyles V. Whitley at page 446 of that opinion that

1 common defense tactic is to impeach the caliber and bias
2 contained within the investigation and prosecution of a
3 case.

4 And so we clearly were told that to the March
5 recorded interview with Mr. Williams, which the
6 questioning was primarily done by Ms. Wilson there and
7 that didn't generate a problem because I have a recording
8 that showed what the State did and did not think, but as
9 we go through it since that date they offered to put up
10 Mr. Williams in the case to testify regarding that
11 statement, the March statement.

12 They can't put him up if they believe that
13 statement is false. So they had to believe at least for
14 some period of time that his statement was true,
15 otherwise they couldn't put him up. They are not allowed
16 to present false testimony. That's pretty clear.

17 So they believed his March statement until May 15th
18 and that's when we get into this process. And the phrase
19 we use is in there. The only person I can impeach with
20 this is Ms. Wilson, the only person I can hold to it
21 because, quite frankly, I think I call her and I think
22 she'll testify consistent with her e-mails, and the
23 reason I say that is that's the purpose of calling her as
24 a witness.

25 But if I have to impeach her prior to statement the

1 only person I could impeach is Scarlet Wilson, and I say
2 this is no different than the FBI agents in the drug
3 cases. They take a cooperating witness' statement, the
4 cooperating witness testifies, the defense lawyer tries
5 to impeach the witness with the FBI agent's report and
6 the judge says you can call the FBI agent but you can't
7 impeach the cooperating witness with a statement he did
8 not make. It would be different if it was Mr. Williams'
9 statement that we are dealing with but it is the process
10 and bias the State went through.

11 Judge, there's no question. They had a proffer
12 deal with Mr. Williams. You give a truthful statement we
13 protect you. He gave that statement in March. They went
14 all the way to the State. The e-mails speak for
15 themselves. They then rejected it after it became
16 apparent to all of us, and this was, again, the only
17 statement that this comes from is from Ms. Wilson.

18 If there had been a statement from someone else
19 then I would have that to go with, but this is a
20 beneficial statement to me because she admits that she
21 was duped for at least two months and unable to determine
22 what happened in the --

23 THE COURT: Where does she say she's duped?

24 MR. BROWN: Well, she says she is going to put
25 Mr. Williams up at the March statement pursuant to a

1 proffer that requires him to be truthful. That's in
2 March. Between March and then that was the party lie
3 from the State. May 15 it became apparent to us that he
4 was not being truthful.

5 And, again, we don't know the events that occurred
6 in that vehicle on October 3rd and the State was willing
7 to believe something in March, that was 17 months after
8 the event, and for two more months they were stuck with
9 that, believing that and using that as the evidence that
10 they would provide against me.

11 I agree that this is compliance with Brady but this
12 isn't the same as her saying that interview with a
13 witness was done and he provided this information as
14 Brady. This is we did this, which is in part I did this,
15 and other people. This is Ms. Wilson's statement
16 regarding her interview with this person. It's not like
17 she was a witness to an interview conducted by
18 detectives.

19 And there was another way it could have been
20 handled, I think. A recording would have sufficed
21 because I could have introduced the recorded audio apart
22 from presenting her testimony. Now I do have a
23 recording, recorded the old fashioned way in writing, and
24 it's Ms. Wilson's writing.

25 As to the two cases, they weren't cited by the

1 State. They are cited in their reply. And, Your Honor,
2 just to flip to the right case here, in U. S. vs. Melton,
3 which is a criminal case, they sought disqualification of
4 defense counsel in a criminal matter, and the Court says
5 in that opinion that the beginning point is the Sixth
6 Amendment choice of counsel right of accused. That's the
7 beginning. And that there is a presumption that you get
8 to choose your lawyer, and that's a heavy presumption.

9 Now, that's not the case we are dealing with here.
10 The State has no right to choose their counsel. And so
11 that case is distinguished right off the bat because the
12 analysis actually says that they are beginning their
13 analysis in that case with the Sixth Amendment Right to
14 counsel -- choice of counsel.

15 Now, the other case is a civil case, and in the
16 Mills vs. Hossman McNalley, S. C. that case deals with a
17 malpractice claim that's brought against some other party
18 firm, and the party firm then seeks to disqualify the
19 malpractice attorneys related to their representation in
20 the plaintiff's claim and they put in there that it's not
21 even clear that the testimony even goes to the issue of
22 malpractice.

23 Further, they don't end there and they say for now
24 we are not going to disqualify and they go on to say that
25 they will address it later if they can meet that burden,

1 but the important part is this, the question about
2 whether it went to the issue at play and the issue at our
3 defense to use Kyles V. Whitley is the common defense
4 tactic to impeach the caliber and bias of the
5 investigation prosecution.

6 MS. WILSON: Judge?

7 THE COURT: Hold on one second.

8 Is there anything else? Have you marked everything
9 you needed to mark, Mr. Brown?

10 MR. BROWN: For this motion.

11 THE COURT: For the two motions that we have
12 addressed, have you marked everything you need to mark?

13 MR. BROWN: No, ma'am. On the judicial assignment
14 I do have some matters I need to have marked.

15 THE COURT: All right. Well, go ahead and mark
16 them.

17 MR. BROWN: Yes, ma'am.

18 MS. WILSON: Judge, if I could just add one other
19 thing.

20 THE COURT: I'm going to let him get his record
21 complete, Ms. Wilson, and then I'll hear from you.

22 MR. BROWN: Thank you, Your Honor.

23 (PAUSE.)

24 MR. BROWN: If I may just mark these items, Your
25 Honor. And I apologize, I had them in sets and now I'm

1 fumbling with my documents. And it's a series of
2 e-mails, e-mail or e-mail threads. If I just may mark
3 them. Defendant's 2 would be an e-mail thread that is
4 a --

5 THE COURT: They can speak for themselves --

6 MR. BROWN: They speak for themselves. We are
7 going to mark them --

8 THE COURT: Mark them and let's go.

9 MR. BROWN: -- Defendant's 2, 3, 4, and 5.

10 (WHEREUPON, Defendant's Exhibit Numbers 2 through
11 5, Documents, were marked for identification only.)

12 THE COURT: Anything else, Mr. Brown?

13 MR. BROWN: Nothing else for the record on that. I
14 appreciate it, Your Honor.

15 THE COURT: Anything else you need to put on the
16 record at all?

17 MR. BROWN: No, ma'am. Not at this time because I
18 do think that the discussion with the prosecutor has been
19 very productive.

20 THE COURT: Ms. Wilson, anything?

21 MS. WILSON: Just so we have this in this portion
22 of the record, I'm a little concerned at Mr. Brown's
23 characterization of our first interview Mr. Williams as
24 being conducted primarily by me. I think he's shading
25 things because it was actually Detective Goldstein who

1 did most of the interview there.

2 And as I heard Mr. Brown make the remainder of his
3 argument it sounded to me like he was bootstrapping into
4 his argument that the State supposedly vouches for its
5 witnesses, and vouching went away a long time ago. And I
6 certainly -- while we can't suborn perjury, I would never
7 do that. I certainly don't vouch for the defendant's
8 friends who are going to testify and who I can't
9 corroborate every word that they say.

10 The things that I can corroborate, yeah, I'll vouch
11 for that. The things that I can't I certainly don't
12 vouch for that and, again, I think that's what the jury
13 is here to do. But you have my response that's part of
14 the record. There are several witnesses who can testify
15 to anything that I would be able to testify to.

16 I don't believe that my legal correspondence
17 complying with Brady makes me a witness or constitutes a
18 statement by me but, again, if Mr. Brown needs to raise
19 this as it comes up if the case unfolds in a way
20 differently than I would imagine then maybe it can be
21 revisited.

22 THE COURT: All right. Last response, Mr. Brown.

23 MR. BROWN: I would suggest that the evidence that
24 I've submitted is supportive by efforts to call her is
25 subject to interpretation according to which side you are

1 advocating for and certainly this is different than some
2 Brady situations because Ms. Wilson is the firsthand
3 witness to the developments of their investigation as far
4 as the interviews with Mr. Williams go, and that's the
5 difference.

6 THE COURT: Well, I guess I'm not understanding the
7 totality of your argument, Mr. Brown, because what you
8 are suggesting would be to deny a prosecutor the ability
9 to interview any witness and even if there was five
10 people in the room, five investigators -- you can have a
11 seat. I appreciate you standing.

12 MR. BROWN: Well, just you were addressing me, Your
13 Honor.

14 THE COURT: I'm just addressing -- I'm getting
15 ready to rule.

16 MR. BROWN: Yes, ma'am. I understand.

17 THE COURT: All right. So I'm failing to see what
18 I perceive from the e-mail to be compliance with the
19 rules of discovery and apparently in an over abundance of
20 caution that there were more than one investigator,
21 Mr. Osborne and Mr. Hare, as well as the defendant's
22 attorney. So while what I perceive these bullet points
23 to be is Ms. Wilson's attempt to comply with discovery
24 and her analysis of what happened I do not know that that
25 in and of itself makes her the only witness or an

1 essential necessary witness from which you could not get
2 the other information that you desire.

3 So while I hear what you are saying and I do
4 understand I think the big picture would lead to an
5 absurd result if I were to rule that Ms. Wilson or any
6 prosecutor would have to be recused from doing an
7 investigation which I think clearly it is laid out she
8 has done it with investigators otherwise and then with
9 the intent and the follow up to give you the information
10 as required by law.

11 I do not find that this affects any substantial
12 rights and deny your motion to recuse the solicitor's
13 office. As indicated in several cases cited and uncited
14 by both of you in your briefs and in your e-mails to me,
15 again, the case as Ms. Wilson's indicates unfolds a
16 different way than as we have anticipated here.

17 There is nothing from preventing you from calling
18 her as a witness and thus even if you do that the case
19 law is clear that she does not have to be recused.
20 Although, I do not think that is an appropriate use of
21 what we have addressed here today. I do not think that
22 there's anything that requires her to be recused at this
23 time.

24 MS. WILSON: Beg the Court's indulgence?

25 THE COURT: Yes.

1 (PAUSE.)

2 MS. WILSON: Judge, do you have any other matter
3 besides us?

4 THE COURT: I do.

5 MS. WILSON: Because it may be helpful if we have
6 five minutes of your time --

7 THE COURT: All right. Let's take few minutes.

8 (WHEREUPON, a recess was taken and other matters
9 were heard.)

10 THE COURT: Mr. Brown, are you ready to proceed?

11 MR. BROWN: We have reviewed it all and we just
12 have four signatures he's doing. I've already signed it.

13 THE COURT: And, Ms. Wilson, you are ready?

14 MS. WILSON: Ms. Apps, can you hear us?

15 MS. APPS: Yes, I can.

16 THE COURT: And, Ms. Wilson, you are comfortable
17 proceeding with the victim via phone for this portion of
18 the hearing?

19 MS. WILSON: Yes, ma'am, Your Honor. When we left
20 the pretrial conference this morning I called Ms. Apps
21 immediately and let her know that something had come up
22 rather unexpectedly and I talked with her about the right
23 to be here and we let her know that we would like to go
24 forward. We wouldn't have to go forward but that I
25 thought this was the better course. She agreed and then

1 on the way over here I thought about maybe we could
2 conference her in, and I appreciate the clerk's office
3 working that out for us.

4 So she's ready to go forward. She understands that
5 this will be a rather technical hearing, that you are
6 deferring sentencing and that we'll get into aggravation
7 and mitigation for sentencing at a later date.

8 THE COURT: All right. Ms. Apps, did you
9 understand what Ms. Wilson indicated to you? This is
10 Judge Harrington.

11 MS. APPS: Yes.

12 THE COURT: And I will be more than happy to defer
13 this part of the plea in order for you to be present.
14 Are you ready to go forward on this part via telephone?

15 MS. APPS: Yes. I'm fine with being conferenced
16 in.

17 THE COURT: All right. Thank you.

18 MR. BROWN: Your Honor, would you like for us to
19 approach the podium?

20 THE COURT: Wherever you are comfortable.

21 MR. BROWN: I think this is a little easier if
22 that's fine, and I do have the sentencing sheets. If I
23 may approach?

24 THE COURT: All right. For the purposes of this
25 hearing let's swear Mr. Scott.

1 J'QUAN SCOTT, after having been duly sworn,
2 testified as follows:

3 THE COURT: All right. Mr. Scott, I'm going to
4 need you to remain standing. You are here to plead
5 guilty on indictment 2013-GS-10-7416, 7418, 7419 and
6 7421. You understand you do not have to plead guilty
7 here today?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: I need you to speak loudly. This is my
10 court reporter. She is writing down everything that I
11 say as well as everything that you say but I need you to
12 speak loudly. Do you understand you do not have to plead
13 guilty here today?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Do you wish to plead guilty on these
16 four indictments here today?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: And you understand that I am going to
19 take the plea and defer sentencing to a later time, that
20 I'm going to request a presentence investigation?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Is that what you wish to do here today?

23 THE DEFENDANT: Yes.

24 THE COURT: You have the right to a jury trial,
25 which I statused earlier in the morning, the docket for

1 the jury trial. You are first up next week. By pleading
2 guilty here today you give up your right to a jury trial.
3 Do you understand that?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: By pleading guilty here today you are
6 giving up your right to have a jury determine your guilt
7 beyond a reasonable doubt based upon the evidence the
8 State will present as well as any evidence you may
9 introduce. Do you understand that?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And do you give up that right?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: You are giving up your right against
14 self incrimination, which is your right to say nothing at
15 all. Do you understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you give up that right?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: You are giving up your right to
20 confront and be confronted by the witnesses against you
21 as well as the right to call witnesses on your behalf.
22 Do you understand that right?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And do you give up that right?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: By pleading guilty here today you give
2 up any defense that you may have to any of these
3 indictments. Do you understand those rights?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And do you give up any defense you have
6 on any of these indictments?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: I can sentence you on murder for 30
9 years up to life. Do you understand that's the possible
10 punishment?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: It is classified as a violent and a
13 most serious offense. Do you understand what those
14 classifications mean to you?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: I can sentence you on armed robbery
17 from 10 years up to 30 years. That is a violent and a
18 most serious offense as well. Do you understand that's
19 the possible punishment?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: I can sentence you on the kidnapping
22 not to exceed 30 years. Do you understand that's a
23 violent and a most serious offense?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: I can sentence you on possession of a

1 weapon during the commission of a violent crime up to
2 five years in the Department of Corrections. Do you
3 understand that's the possible punishment?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Knowing that, do you still wish to go
6 forward here today?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: You understand that I can run these
9 sentences consecutive to each other and you are facing a
10 life sentence plus 65 years? Do you understand that's
11 the potential punishment?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Knowing that, do you still wish to go
14 forward here today?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Has anybody promised you anything,
17 threatened you, forced you to pled guilty here today?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Whose decision was it for you to pled
20 guilty?

21 THE DEFENDANT: Mine.

22 THE COURT: Have you had the advice of counsel of
23 your attorney?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Has his advice been of benefit to you?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Any complaints about the way he's
3 handled this case?

4 THE DEFENDANT: No, ma'am.

5 THE COURT: You will have the right to appeal this
6 plea and the sentence that I impose but you will have to
7 do it 10 days after I impose sentence; do you understand?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Are you entering into this plea freely
10 and voluntarily?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Please listen to the facts.

13 Ms. Wilson?

14 MS. WILSON: Thank you, Your Honor. Before getting
15 into the facts because we are deferring sentence I just
16 want to make it crystal clear that upon your acceptance
17 of this plea there is no taking it back. He's locked
18 into his guilty plea, and I've been very straightforward
19 with Mr. Brown about our intentions in seeking the
20 maximum sentence in this case. We'll do that at a later
21 date but I just want that on the record so that everybody
22 understands the State's position and the victim's
23 position in this case.

24 THE COURT: All right.

25 MS. WILSON: I'm going to give you --

1 THE COURT: One more time before we get started.

2 I'll just go over that with Mr. Scott one more time.

3 Mr. Scott, you understand that there is no recommendation
4 or negotiation on behalf of the Solicitor to you?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: And what she just indicated to me was
7 when we come back for the pretrial -- the sentencing
8 portion after the investigation that the State will be
9 asking for the maximum penalty. Do you understand that?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And at that time, regardless of what
12 the pretrial -- the presentencing investigation indicates
13 you then cannot withdraw your plea just because you don't
14 like what it says. Do you understand that, sir?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: You still wish to enter into this plea?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: All right.

19 MS. WILSON: Okay, Your Honor. Thank you for doing
20 that. I'll just go into the bare minimum on the facts.

21 THE COURT: You all can have a seat if you want to.

22 MS. WILSON: This occurred on October 3rd of 2013
23 here in Charleston County. The victim in this case was
24 Alex Apps, and he was attending College of Charleston and
25 had a giant truck that he wanted to sell because it was

1 such a pain to operate here in town.

2 He set up an account on Craig's list and began
3 negotiating with the defendant about the price of the
4 truck. They had met one time before the 3rd for the
5 defendant to look at the truck, and then they met again
6 on October the 3rd.

7 Ms. Apps, who is on the phone, had driven up from
8 Beaufort because her son called and said, I've got a
9 buyer. She had the title so she felt like this would be
10 safe as far as him getting ripped off with the truck
11 because he couldn't do anything without the title and
12 without her being there.

13 So she and Alex, her son, met at the Hardee's over
14 on Spring Street with the defendant and a co-defendant,
15 Isaac Williams. She still had the title. The negotiated
16 price was \$17,000, and it was her understanding that the
17 two co-defendants and Alex were going to just take the
18 truck on a short test drive. She waited there and they
19 never returned.

20 She started to get texts from who she thought was
21 Alex. It turns out it wasn't Alex at all. It was the
22 defendant and perhaps the co-defendant who was texting
23 telling her to go back to Beaufort, you know, go home,
24 I'll catch up with you later. So she left.

25 She was a little puzzled by it because that wasn't

1 the plan and that wasn't their norm. They usually would
2 have dinner together or something but he told her he was
3 frustrated because the deal didn't go through. He was
4 taking these guys home and that he'd hook up with her
5 later. That was on Thursday, October 3rd.

6 As the weekend wore on she never heard any more
7 from Alex except for a call that was from this defendant
8 pretending to be Alex the next morning at 7:00 a.m.
9 Beyond that there was no more communication. Alex had
10 plans that weekend with friends. He was supposed to go
11 to a concert Friday night. He never showed for that. He
12 had a live-in girlfriend who had expected to see him
13 Thursday night at home, no contact from him.

14 On the other side through telephone records we
15 learned of the defendant and investigators, including
16 Detective Goldstein, who is here because he was here for
17 trial prep this morning, they started figuring out
18 through much of Ms. Apps's investigation that Alex's
19 credit card was being used in Beaufort, which turns out
20 to be a coincidence.

21 But, again, when Ms. Apps sees that in Beaufort
22 County she's thinking, well, maybe he came home because
23 that's where they were from. But she does more
24 investigating and finds out that an African-American has
25 used the card to buy a pair of shoes, and that really

1 alarmed her because obviously Alex, her son, is not
2 African-American.

3 She's having contact with Beaufort County. They do
4 an interview with the defendant who is still driving the
5 truck. He took it down to Beaufort to show off with all
6 of his friends, partied some that weekend. But he does
7 agree to talk with the Beaufort investigators back in
8 Charleston. He gives a story about having purchased the
9 truck, dropped Alex off in Mount Pleasant and never seen
10 him again. He claims that he's given Alex thousands of
11 dollars and somebody must have gotten him, in essence.

12 The Beaufort investigator looked at the truck and
13 noticed that the passenger seatbelt was cut out. He also
14 noticed that there was blood on the roof liner and blood
15 in other areas on the sides of the seats on the passenger
16 side. The defendant told him he didn't know where that
17 blood came from, he didn't know anything about it. Last
18 time he saw Alex, Alex was fine. That was on Sunday the
19 6th that that interview took place.

20 On the 7th, Beaufort County comes back up and works
21 with Detective Goldstein and the other detectives with
22 Charleston County. The defendant agrees to come in and
23 be interviewed, and for hours on end he is interviewed.
24 And I say on end, it was not really aggressive most of
25 the time. He wasn't under arrest for a lot of the time,

1 and he feigned cooperation but eventually his story
2 shifted. He finally admitted to cutting the seatbelt,
3 and that was the first real break. Then he gave a
4 cockamamie story about why he needed to cut the seatbelt
5 out, and things sort of evolved from there.

6 Eventually on the 7th he led the detectives to
7 Alex's body which was located just behind Channel 2 in
8 Mount Pleasant right off of -- right just beyond the
9 bridge. I don't know if you are familiar with that. So
10 he led them to the body.

11 The autopsy revealed that Alex had been shot. It's
12 unclear from the autopsy whether it was one or two shots.
13 The projectiles were not in good enough shape to tell.

14 Since that time -- he was charged with murder at
15 that point. Since that time, we developed more
16 information from text messages from this defendant with
17 his co-defendant, Isaac Williams, which made it very
18 crystal clear that there was never an intent to buy the
19 truck. It was going to be a rip off from the start. And
20 they are back and forth discussing somewhat in code but
21 enough that I think a jury would have been able to see
22 exactly what they were up to.

23 Also, since that time, as you heard this morning at
24 the pretrial conversation, the co-defendant,
25 Mr. Williams, gave us a proffer. In his proffer he

1 claimed first that he agreed to the meeting at Hardee's.
2 He claims because he worked at Rick Hendrick that he
3 thought that he was just test driving the car for the
4 defendant and that he had no idea that anything was going
5 to happen, that out of the blue the defendant sitting in
6 the backseat of the truck, he shoots Alex and Isaac
7 Williams claims he's in shock.

8 That was all well and good until we confronted him
9 with the text messages which did not support that story,
10 and that's what Mr. Brown made reference to when it
11 became clear that he wasn't telling the truth. We
12 revoked his proffer and told him that we were not going
13 to give him any benefit of a proffer. If he wanted to
14 continue cooperating he could. If he didn't that was
15 fine, that we could convict him and convict Scott without
16 it. He agreed to continue talking with us.

17 He gave a second story which I don't really buy
18 either. The mechanics of the murder are the same, that
19 he claims the defendant shot Alex on the bridge but the
20 motive he claims this story about J'quan telling him that
21 this was a hit, that there was going to be a murder to
22 take revenge for Alex having snitched on the defendant's
23 father who was in prison.

24 None of that is true. Alex had nothing to do with
25 that and I'm not sure why Mr. Williams has chosen that

1 route but that's the story he has chosen right now. But
2 my point is in all of that he continued to cooperate.
3 The facts of the murder remain the same, this defendant
4 was the trigger man. And we were prepared and are
5 prepared to go forward next week for trial when this
6 development arose.

7 Again, as far as the kidnapping indictment goes I
8 think that is supported by the co-defendant testimony and
9 the text messages which indicate that this was a ruse.
10 They were scheming and scamming Alex from the start and
11 that when he voluntarily got in the truck with him it was
12 under his belief that he was selling the truck, and I
13 believe that would fit under the kidnapping element of
14 evangelizing or decoying a victim, and I think that's what
15 they did in this case. A weapon was not recovered but we
16 do know that it was a shooting.

17 THE COURT: All right. Prior record?

18 MS. WILSON: No prior record.

19 THE COURT: Mr. Scott, you heard the facts as
20 presented by the State. Sir, are those facts true? Is
21 that what you did?

22 THE DEFENDANT: Ma'am?

23 THE COURT: Is that what you did, sir?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Again, has anybody promised you that a

1 certain sentence will be imposed upon you in order to get
2 you to pled guilty here today?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: Have you been satisfied with the
5 services of Mr. Brown?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Do you need any additional time to meet
8 with him before I accept your plea?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: And you understand what I said to you
11 before, the Solicitor recited the facts, that once you
12 plead guilty you are pleading guilty regardless of the
13 sentence that is imposed or what the pretrial -- the
14 presentence investigation indicates?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Are you pleading guilty because you, in
17 fact, did commit these four offenses?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: I find a substantial factual basis for
20 your plea, your decision to pled guilty had been freely,
21 voluntarily, knowingly and intelligently made. You have
22 given me your complete and truthful responses; is that
23 correct, Mr. Scott?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: You have indicated to the Court you've

1 had the advice of counsel of a competent attorney with
2 whom you've told the Court you were satisfied and that
3 you need no further time to meet with in order to enter
4 this plea. I hereby accept your plea of guilt to murder,
5 armed robbery, kidnapping, and possession of a firearm
6 during the commission of a violent crime.

7 I am indicating and ordering that the probation
8 office complete a presentence investigation, and once
9 that is completed we will set this matter for sentencing.
10 Until that time Mr. Scott will remain in custody awaiting
11 the sentencing.

12 Anything further, Mr. Brown?

13 MR. BROWN: I would just -- I'm going to give my
14 information to probation department and just ask that
15 they consult with me for the purposes of that.

16 THE COURT: All right. Anything further?

17 MR. BROWN: I would point for the record, and it
18 really goes to the co-defendant, his proffer never
19 influenced our decision about the strength of their case
20 and I put that out there because that has been a concern
21 about my client getting some kind of benefit.

22 The text messages which came out later on proved to
23 be the issue that we had to confront, and I do want to
24 put that out there. My job is not to go after
25 Mr. Williams but I do think it's fair to point out that

1 his offering to cooperate did not indicate any strength
2 on the government's case as far as that because my client
3 did have concern about whether he was going to get a deal
4 out of this.

5 THE COURT: And, Mr. Scott, you need not to be
6 concerned about anyone else's involvement in this case.
7 I am only going to be sentencing you as to what you have
8 indicated to me that you have done. You've indicated to
9 me that you are guilty of murder; is that correct?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And you wish to enter a plea to the
12 murder of Alex Apps; is that correct?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: You've also indicated to me that you
15 are guilty of armed robbery; is that correct?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: You have also indicated to me that you
18 are guilty of kidnapping; is that correct?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: You have also indicated that you had a
21 firearm during the commission of a violent crime, murder
22 and armed robbery being violent crimes; is that correct?

23 MR. SCOTT: Yes, ma'am.

24 THE COURT: And you still wish to enter a plea of
25 guilt on all four indictments?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Knowing that you are facing the

3 potential of a life sentence plus?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And that is still your intention here

6 today regardless of what the co-defendant may or may not

7 receive or benefit he receives?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: All right. Thank you.

10 MS. WILSON: Thank you.

11 THE COURT: Thank you, Ms. Apps. I'm sorry for

12 your loss.

13 (WHEREUPON, the hearing was concluded.)

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1 C E R T I F I C A T E

2

3 I, Sharon L. Vizer, Official Court Reporter for the
4 Ninth Judicial Circuit of the State of South Carolina, do
5 hereby certify that the foregoing is a true, accurate and
6 complete transcript of record of all the proceedings had
7 and the evidence introduced in the hearing of the
8 captioned case in Circuit Court on the 27th day of May
9 2015.

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

12

13 December 18, 2016

14 s/Sharon L. Vizer

15 SHARON L. VIZER

16 CIRCUIT COURT REPORTER

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25

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF CHARLESTON) COURT OF GENERAL SESSIONS
 3) No. 2013 GS 10 7416; 7418;
 7419; 7421.

4 STATE OF SOUTH CAROLINA)
 5)
 6 versus) TRANSCRIPT OF RECORD
 7)
 8 J'QUAN SCOTT)
 9 Defendant)

10 Charleston, South Carolina
 11 August 26. 2015

12

13 B E F O R E

14 HONORABLE KRISTI L. HARRINGTON, Judge

15

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

17 For the State: SCARLETT WILSON, Esq.
 Solicitor
 18 JENNIFER SHEALEY, Esq.
 Assistant Solicitor

19 For the Defendant: JIM BROWN, Esq.

20

21 Reporter Present: SUSAN MIA PERRON

22

23 HARRIET P. BENNETT
 Reporter, S.C. Court Administration
 24 46 Regency Oaks Drive
 Summerville, S.C. 29485

25

I N D E X

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EXHIBITS

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4 Court's Exhibits:

5 1 Pre-sentence Report

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6 2 Sentencing Memo by
7 Mr. Brown

8

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8 3 Emails

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1 (The within matter came before the Court for hearing
2 on August 26, 2015, at 2:19 P.M.)

3 THE COURT: Thank you. Be seated.

4 SOLICITOR: First up, we have the State of South
5 Carolina versus J'Quan Scott, 2013 GS 10 7416, 7418, 7419
6 and 7421.

7 His CoDefendant is also present in the Courtroom and
8 his name is Isaac Williams, and his Indictments are 2013A
9 GS 10 2054 -- really, that's the warrant number.

10 As Your Honor will recall, and just for everyone else's
11 benefit, these Defendants were scheduled for trial earlier
12 this year.

13 Mr. Williams began cooperating with us, and shortly
14 thereafter -- actually a few months afterwards and shortly
15 before the trial, we had a status conference. The Defen-
16 dant, Mr. Scott, decided to plead guilty.

17 The Court, the Clerk's Office, everybody bent over
18 backwards to make that happen that day. We actually --
19 instead of the victims being present we called it in by
20 speaker phone so that we could get that done, and we ap-
21 preciate that greatly, for the Court's benefit, and the
22 Clerk's Office.

23 Because these two are CoDefendants and because cer-
24 tain of the victims are from out of town, we asked the
25 Court to schedule these at the same time.

1 We would like to go forward first with Mr. Scott's
2 case, and then after that we will have some more to add
3 for Mr. Williams' case.

4 Again, we appreciate the Court accommmodating us and
5 we thank you in behalf of the victims. With every step
6 of this process it has taken extra effort from the Court
7 and the Clerk's Office. It wouldn't have happened with-
8 out that, so thank you.

9 THE COURT: Mr. Brown, you represent Mr. Scott?

10 MR. BROWN: I do, Your Honor.

11 THE COURT: And, Mr. Mlynarczyk, you represent Mr.
12 Williams?

13 MR. MLYNARCZYK: I do, Your Honor.

14 THE COURT: Are you prepared to go forward at this
15 time?

16 MR. BROWN: Yes, Your Honor.

17 THE COURT: And are you prepared to go forward at this
18 time?

19 MR. MLYNARCZYK: We are prepared.

20 THE COURT: I think for counsel and everyone in the
21 audience and everyone involved in this case, let me first
22 of all thank you for your patience. We had some technical
23 difficulties due to some information that Mr. Brown wishes
24 to present to the Court based upon mitigation for his cli-
25 ent. The Courtroom upstairs was not suited for that

1 technology, and the Clerk of Court here and her staff have
2 been working diligently to provide this Courtroom so that
3 we could provide Mr. Brown with what was needed to present
4 his mitigation on behalf of his client.

5 Thank you for your patience and understanding. I know
6 we are off schedule, and I apologize for that. The Clerk
7 has made every effort to facilitate the technology that is
8 needed and to make sure that it is up and running.

9 So, again, thank you for your patience, and I do apolo-
10 gize for the inconvenience.

11 Anything further, Mr. Brown? Anything further re-
12 garding that matter, Mr. Brown?

13 MR. BROWN: Just that at some point in time there are
14 some comments I would ask to put on the record.

15 THE COURT: Thank you. Mr. Mlynarczyk, anything at
16 this time?

17 MR. MLYNARCZYK: No, maam. Nothing, Your Honor.

18 THE COURT: Ms. Wilson, you have received the pre-
19 sentence investigation. Do you have any questions or con-
20 cerns about that?

21 SOLICITOR: No, maam.

22 THE COURT: Ms. Polson, you prepared that pre-sen-
23 tence investigation?

24 MS. POLSON: Yes, Your Honor.

25 THE COURT: Any questions of Ms. Polson regarding

1 the investigation for Mr. Scott?

2 MR. BROWN: No, Your Honor.

3 THE COURT: Mr. Mlynarczyk?

4 MR. MLYNARCZYK: No, Your Honor.

5 THE COURT: Then we will go ahead and mark that as
6 Court's 1. Without objection?

7 SOLICITOR: No objection.

8 MR. BROWN: No objection.

9 MR. MLYNARCZYK: No objection, Your Honor.

10 THE COURT: Thank you.

11 (Pre-sentence investigation report marked Court's
12 Exhibit 1)

13 THE COURT: And today we had an in-chambers confer-
14 ence, an in-hall conference, and, Mr. Brown, you were in
15 on that scheduling?

16 MR. BROWN: Yes, Your Honor.

17 THE COURT: Mr. Mlynarczyk?

18 MR. MLYNARCZYK: Yes, Your Honor.

19 THE COURT: And so we will let you present whatever
20 you want to present. I believe what we talked about was
21 Mr. Brown going first with his presentation. Mr. Brown?

22 MR. BROWN: May it please the Court, Your Honor?

23 (Brief pause)

24 MR. BROWN: Your Honor, there is a sentencing memo I
25 have handed up that I would introduce as Defense 1. I

1 believe Your Honor has been provided a copy, as well as
2 has Ms. Wilson, the Solicitor.

3 THE COURT: And the report was provided to the Court
4 by a copy given to my Clerk on Monday afternoon, and Mr.
5 Mlynarczyk has a copy. Is that correct?

6 MR. MLYNARCZYK: That's correct, Your Honor.

7 THE COURT: And the Videographer has been advised
8 and will abide by the Court's instructions?

9 MR. BROWN: Yes, maam.

10 THE COURT: Is that a yes?

11 VIDEOGRAPHER: Yes, maam.

12 THE COURT: And that will be Court's 2.

13 MR. BROWN: Sure. Yes, maam. I said Defense but De-
14 fense or Court's -- either way.

15 (Memo of Defendant Brown marked Court's Exhibit 2)

16 MR. BROWN: Your Honor, this will lay out four points
17 of mitigation, some traditional mediation points, and I
18 mention that as there are different types of court systems,
19 but it will be used as a mitigator in the sense of culpa-
20 bility, as well as the lack of a prior record, as well as
21 the cooperation and what is shown in the video.

22 Then, finally, his acceptance of responsibility, and,
23 if I may, I will submit some stuff on the power point.

24 What we would start with, Your Honor, is the life ex-
25 pectancy data that we've talked about as far as culpability

1 related to youth.

2 And in this case one charge has a mandatory minimum
3 and then, of course, the murder case essentially that is
4 the one that you have to give at least thirty years on
5 that, and that is the maximum you can give without there
6 being some type of consecutive sentence.

7 Of course, the maximum would be the life sentence,
8 and there has been a lot written in the Courts about the
9 propriety of a life sentence and what that means for young
10 people, and I point that out.

11 The first thing we notice in the U. S. Supreme Court
12 Opinions on cases dealing with lifers versus living expec-
13 tancy and life sentences is that there is not a good en-
14 vironment for brain development, especially the cerebral
15 cortex that deals with judgment which is not fully devel-
16 oped even with suspects who are about twenty-five years of
17 age.

18 THE COURT: How old is your client?

19 MR. BROWN: He was nineteen at the time when this
20 happened, Your Honor. He is about twenty-one years old.

21 And, Your Honor, with life expectancy as the Court has
22 mentioned -- a life sentence to a sixteen year old or a
23 seventy-six year old is the same in name only, because the
24 amount of time that they actually serve, which is the
25 punishment part of it -- the time is different when you

1 are sixteen, or in this case nineteen.

2 With life expectancy the percentage is slight, and
3 the life expectancy is seventy-seven years . .

4 THE COURT: And have you selected Michigan and not
5 the . .

6 MR. BROWN: That is Michigan. South Carolina has a
7 flat chart, and there is a contributable chart in South
8 Carolina. The spread in that is pretty significant -- so
9 it is seventy-seven years versus fifty-eight.

10 If you are sentenced to a life sentence at the age
11 of eighteen and you go by the Michigan studies of the
12 Michigan inmates, it is fifty-eight years, which means
13 that somebody who is sentenced to life at eighteen or nine-
14 teen, twenty, or even forty, they average fifty-eight
15 years -- not fifty-eight years of life but fifty-eight
16 years in prison.

17 And the information as you break it down African-
18 Americans, add about two years, and that is consistent with
19 South Carolina. The life expectancy in prison and break-
20 ing it down into life sentences is slightly lower but it
21 still is in the fifties as a whole, and it affects a large
22 amount of African-American inmates, but if you look at
23 youth -- and this is huge -- I mean, people who are sen-
24 tenced as adults in Michigan if you look down at the foot-
25 notes in the Michigan Opinion in my memo is that the young

1 people or youth or adolescents who are sentenced to life
2 in prison are likely to suffer abuse in prison more so than
3 are adults.

4 That is a significant factor and the Courts recognize
5 that fact in the Opinions, that that is something to be
6 considered in imposing sentence, and so as we consider Mr.
7 Scott's case a thirty-nine year sentence given at the age
8 of nineteen would get him to fifty-eight, and that was the
9 number, Your Honor, for all Michigan inmates sentenced to
10 life, whether they were sentenced at fifty or twenty.

11 So that type of a sentence is essentially what you're
12 going to see as a life sentence under their data, and af-
13 ter that more likely than not he would not still be living.

14 If you take the four hundred seventy-one information
15 which is what the Federal Court uses in considering sentence
16 reduction, and I mention that, Your Honor, as to life sen-
17 tences as well -- however, when they do a sentencing cut
18 for cooperation or something of that nature or they go back
19 to factor it, you can't say, well, there was a major cut
20 for somebody -- a forty percent or sixty percent -- but in
21 a life sentence there is more to it.

22 So the Court will promulgate a ritual by the U.S.
23 Sentencing Commission as to sentencing guidelines and also
24 Court Opinions, which is that the four hundred and seventy-
25 one -- thirty nine years and two months is the equivalent

1 functionally for purposes of the Federal Court guidelines,
2 which is also consistent with the same coincidentally as
3 would give Mr. Scott fifty-eight, the average life expect-
4 tancy time.

5 The average African-American youth would come out with
6 an age thirty-seven years sentence at fifty-six, and an
7 average African-American youth at eighteen would come out
8 having a thirty-one year sentence which is at the bottom
9 of the guidelines.

10 Effectively, Your Honor, that is what the odds are in
11 Michigan and that is consistent with the South Carolina num-
12 bers.

13 The next part I want to talk about is cooperation,
14 and in looking at the videos of the interrogation of my
15 client -- as Your Honor may recall, there is a case of
16 Weaver versus Williams before the U. S. Supreme Court that
17 had to do with Sixth Amendment rights; essentially that case
18 talks about the proper procedures and does an analysis of
19 what may be coercive-types of interrogation.

20 But in this case, the statement made by law enforce-
21 ment, and I quote, and I can play it for you -- but essen-
22 tially they asked my client to lead them to the body . .

23 THE COURT: Mr. Brown, your client is pleading guilty,
24 and in doing so he would waive any defense he might have.

25 So please tell me why I need to hear this . .

1 MR. BROWN: In talking about the cooperation part, he
2 did comply with . .

3 THE COURT: So do I need to hear it for purposes of
4 cooperation and not for purposes of challenging . .

5 MR. BROWN: Absolutely, and I would even suggest to
6 Your Honor that there was a point of succeeding with the sup-
7 pression of the statement but we still were not put in a
8 situation where we felt comfortable in going to trial.

9 THE COURT: Ms. Wilson, there was some Email exchanged
10 late last evening, and do you have any objections to those
11 being entered into the record?

12 SOLICITOR: My only objection -- maybe it's just a red
13 herring, but if he wants to present it I think he would be
14 able to present it in full.

15 I don't believe that the cases speak to cooperation of
16 someone who has waived their Fifth Amendment rights and has
17 agreed to be interrogated, or that someone new has been
18 charged and appointed to a lawyer and they didn't want to
19 speak with that lawyer and the Defendant was coerced through
20 the conversations that take place in his presence about re-
21 ligion and things like that that sort of coerces them to
22 speak without a lawyer.

23 This is a situation where the Defendant was cooperat-
24 ing. He waived his right. He had not been formally charged
25 or taken before a Judge or anything like that.

1 So I think that is different, and if he wants to de-
2 fend that I think he is entitled to do it.

3 THE COURT: I just wanted to place that on the record.
4 All right, Mr. Brown. Thank you.

5 MR. BROWN: Yes, maam, thank you.

6 What we have here is a number of clips which talk --
7 they talk about the fact that my client cooperated with au-
8 thorities.

9 THE COURT: Mr. Brown, you are being given this oppor-
10 tunity to turn your phone off -- everyone.

11 Thank you, Mr. Brown.

12 THE COURT: Thank you, Your Honor.

13 (Whereupon, a video was played for the Court which is
14 not contained on the record)

15 MR. BROWN: Your Honor, the fact is that law enforce-
16 ment told him to take us to the body, and we will tell
17 everybody that you cooperated -- have taken care of every-
18 body else is what they say.

19 (Video continuing to be played)

20 MR. BROWN: Your Honor, I want to point out the fact
21 that the part about take us to the body is not with a law-
22 yer. I think he formally was arrested after that had hap-
23 pened, and he went in there generally speaking and he cooper-
24 ated.

25 I tried to put that in there the best way I could to

1 show that he was assisting. He was arrested after his as-
2 sistence was provided, after law enforcement had located
3 the body. This does trigger that there is nothing to ask of
4 somebody after they have been given what they needed.

5 We do ask the Court to consider that cooperation and to
6 accept that as cooperation. Consider what he was in fact
7 told and what he did, again with a nineteen year old again
8 taking that at face value.

9 THE COURT: Mr. Brown, he pled without any recommenda-
10 tion or negotiations. Correct?

11 MR. BROWN: Absolutely.

12 THE COURT: Did you advise him the penalty he was fac-
13 ing on each Indictment?

14 MR. BROWN: I did, Your Honor.

15 THE COURT: Did he knowingly and voluntarily enter into
16 the plea?

17 MR. BROWN: Absolutely.

18 THE COURT: There was no negotiation or recommendation
19 whatsoever?

20 SOLICITOR: Absolutely not, Your Honor. I was very clear
21 that nothing was on the table.

22 MR. BROWN: I think the law is very clear and inexplic-
23 able that police officers cannot bind or make an agreement
24 with a Defendant.

25 Before we go on, he did accept responsibility. He then

1 hired a lawyer. He had a preliminary hearing in 2013, and
2 October 7th was the arrest of 2013.

3 We did in fact discuss a plea. The Solicitor and I did
4 talk about a plea, and actually we had a discussion with
5 another Judge about the plea. My client would agree there
6 was never a recommendation, and this was not last week but
7 it was much earlier.

8 Again, there was never even -- we never even filed for
9 a bond setting in this case, so we knew the time he was
10 getting was something -- we knew at some point in time that
11 it might well result in a conviction, and that was about the
12 responsibility, to have a plea without negotiations in the
13 case which carries a life sentence, Your Honor.

14 That is my presentation on that, and I do want to show
15 you something of Mr. Scott that is not a part of the legal
16 aspects.

17 It is fairly well known that Mr. Scott has starred in
18 sports and played a lot of sports. He was a two-year All
19 State Football Player, and known as one of the best quarter-
20 backs in South Carolina. He was on the All Star Team during
21 his junior year, and actually the gentleman or one of the
22 coaches at his school is actually from Beaufort and coach at
23 a high school there and coached my children. I coached with
24 him and his child. His wife taught my children and taught
25 at the same school Mr. (inaudible) attended. He coached

1 Mr. Scott, and that is how everybody is kind of inner-related
2 from that time. We have the photos from the paper.

3 I've tried to give a lot of information. My son is the
4 very same in sports. Same All State in baseball for him and
5 football for Mr. Scott with secondary sports as well.

6 I have some clips on that if I could . . .

7 (Portion of video played for the Court)

8 Your Honor, this is the way his family knows him, the
9 way they saw him before this came about. Obviously at high
10 school graduation.

11 He did attend college and was in the fall semester and
12 doing well in Minnesota. It is a Christian College that he
13 attended as a football player, Your Honor, so he was there
14 less than twelve months before he was arrested for this.

15 This is the image that Jake Long and many others in the
16 Courtroom know.

17 Your Honor, we would ask to be allowed to present some
18 people here to speak in his behalf. We have tried to make
19 it a cross-section, and there are some family members. My
20 client would then like to speak in his own behalf.

21 If I may, I would ask them to stand.

22 THE COURT: You may.

23 MR. BROWN: I would ask Jonathon Inabinett to speak to
24 you first. He was his coach at some point in time.

25 THE COURT: Sir, if you could please state your full name

1 for the record.

2 MR. INABIN: My name is Jonathon Inabin. Last name is
3 spelled I N A B I N.

4 THE COURT: Happy to hear from you, sir.

5 MR. INABIN: Thank you. I've known J'Quan for many years.
6 I had started coaching before he came along and he has actu-
7 ally come and helped me out quite a bit since were short-handed.
8 He would also come over and chill out as well sometimes.

9 I knew him well before this back when he was in school.
10 He would always apply himself and get his work done. As you
11 know, to play sports you have to be eligible and do well in
12 class, especially when you attend private school.

13 It is a little harder than public schools, and he did
14 well with that. He was always eligible to play.

15 When I was coaching we had one incident I wanted to bring
16 to light. During practice one time he refused to participate
17 in a drill that we were doing. I gave him three opportuni-
18 ties to participate in this one drill we were doing with a
19 basketball. By the third I was concerned he would not do it so
20 I asked him to leave the field.

21 The next day he came back to me and he apologized, and
22 he said that he wanted to do the drill and that he wanted to
23 be a part of the team on the field.

24 So after that he showed me his willingness to actually
25 realize that when you falter at something that you have to

1 pay for the mistakes you make, and he was willing to do that
2 and take whatever punishment he had to face. So he came back
3 and he participated again and completed all the work we had
4 for him.

5 So at that moment and that time I was reminded that he had
6 apologized for something he did like that and he did apologize
7 for his actions. In that instance he came right to me and
8 did what he needed to do.

9 THE COURT: Thank you.

10 MR. BROWN: I would ask next that you hear from Mike
11 Gooch who knows J'Quan well. Actually, he and his wife have
12 been involved with him in church. He did attend James Island
13 Christian School as well as church.

14 THE COURT: Sir, if you would please state your name for
15 the record and spell your last name.

16 MR. GOOCH: Sure. My name is Mike Gooch, and I appreciate
17 the opportunity, Your Honor, to speak on J'Quan's behalf.

18 G O O C H.

19 I am in the people business, and currently I'm employed
20 by Embassy Suites, and I'm a pastor.

21 At the time -- I've known J'Quan and his family for many
22 years now, and when I first met him I was a teacher at James
23 Island Christian School and was on the staff at James Island
24 Christian Church.

25 So that is the time I can speak to because that's the

1 time I was close to J'Quan. Like I said, I have known J'Quan
2 and his family for years, nine years. I first met J'Quan when
3 his mom Rekey was doing resident care for our special needs
4 daughter, Stefanie, and J'Quan and his brother would come with
5 their mom and I got to know them very well.

6 I spent time together with them, and I was very impressed
7 with their mannerisms and their respect and the young men they
8 were becoming.

9 So I was drawn to J'Quan and his brother, Vance, and I
10 really felt drawn to encourage and support Rekey in the good
11 job she was doing with the boys. She was a good mother to them.
12 So our son, Andrew, who is two years older than J'Quan, and
13 I started actually planning some activities with them and my
14 son and I, including J'Quan and Vance in those.

15 We began to do things like -- well, Thanksgiving we would
16 go and serve a Thanksgiving meal to the homeless down at
17 Hampton Park, and we did that for four years, and whenever I
18 needed as a student minister J'Quan -- whenever I needed some-
19 body to help me with setting up youth events and all I could
20 always count on J'Quan and Vance to come and be a part of that
21 and give me a hand.

22 We did something throughout the years in outreach events,
23 and J'Quan was always involved in that, and that included
24 things like minor home repairs, painting, yard work, and we
25 worked with agencies and their clients like Meals on Wheels

1 and Lowcountry Relief -- things like that.

2 He was always very involved in that. One of the last
3 things is I would like to mention that J'Quan during his time
4 in high school -- we had a program for the elementary kids in
5 soccer and basketball, and J'Quan twice a week gave of his time
6 to assist with the elementary kids by coaching soccer and bas-
7 ketball, and so when I heard what had taken place, the news
8 about J'Quan, my first thought was that is not the J'Quan that
9 I know.

10 Your Honor, I just appreciate the opportunity to be able
11 to speak for him. Thank you.

12 THE COURT: Thank you, Mr. Googe.

13 MR. BROWN: I would ask you to hear from Antonio Godfrey
14 briefly.

15 THE COURT: Thank you. Mr. Godfrey.

16 (Mr. Godfrey speaking in behalf of Defendant Scott but
17 his statement was not audible)

18 THE COURT: Thank you, Mr. Godfrey.

19 MR. BROWN: Your Honor, Pastor Russ Miller is the cur-
20 rent pastor at the James Island Christian Church.

21 MR. MILLER: Your Honor, Russ Miller, M I L L E R.

22 THE COURT: Thank you.

23 MR. MILLER: Your Honor, as a Pastor I'm happy to speak
24 in behalf of J'Quan. The actions that he did were evil, and
25 I want to let you know about some things that might be

1 helpful.

2 I've known the family for the last nine years, and I have
3 worked very closely with them. Our Church has a school that
4 is connected to it. J'Quañ's mother is one of the hardest
5 working people I've ever known. She would work two or three
6 jobs at a time to enable her children to get a Christian edu-
7 cation.

8 I have been here in your Court and had a chance with his
9 mom and his sister to talk specifically with him about plead-
10 ing guilty, and we encouraged him to do that, not because it
11 was a great legal move but because it was the right decision
12 to make.

13 And I saw his Mom impress on him to make that plea for
14 the sake of the family and to not have to take this to a
15 trial. We encouraged him to take responsibility for his ac-
16 tions, and he did. He definitely did and did it wilfully.

17 I wanted you to know that. There has been a bold change
18 in his demeanor since then. I've seen him go from being
19 closed off and unreachable to being humble. I was speaking to
20 him yesterday and again today, and he is very painfully tak-
21 ing responsibility by pleading guilty.

22 So I do have hopes that in his time away it will be help-
23 ful to him, and I want to assure you and him that our Church
24 has a life interest in their family. So wherever he is, we'll
25 continue to work with him and his mom.

1 The mercy on the other side of this is that he will be
2 able to live with hope and we will work with him to make sure
3 of that.

4 THE COURT: Thank you, Pastor Miller.

5 MR. MILLER: Thank you.

6 MR. BROWN: Your Honor, Mr. Walker, James Walker, is his
7 grandfather, and his grandmother is on the other side there,
8 and he wishes to address you.

9 MR. WALKER: My name name is James Walker, W A L K E R.
10 I'm a twenty year policeman for Johnson City, Johnson County,
11 and have spent as well many years with CSX in its police de-
12 partment.

13 J'Quan -- this is wrong to me. I have to repeat what
14 some of the others have said. It is not the J'Quan that I
15 know.

16 I used to take J'Quan around every summer on a riding lawn
17 mower to cut the grass, him and his brother. We went to the
18 lake, and I tried to instill in them some factor of certainty.

19 I--- my heart goes out to the victims' families. I can-
20 not for the life of me understand what happened or why this
21 here is before you, Your Honor.

22 THE COURT: Thank you, sir.

23 MR. BROWN: Your Honor, there was another gentleman who
24 wanted to be here but his wife had cancer treatment. He was a
25 co-worker and store owner and career law enforcement. He has

1 known J'Quan since he was six years old, and he is Mr.
2 Thomson -- M S O N.

3 This is Ms. Walker, his grandmother.

4 MRS. WALKER: I am Harriet Walker.

5 THE COURT: I need you to speak loudly.

6 MRS. WALKER: My name is Harriet Scott Walker, W A L
7 K E R. J'Quan is my grandson, my oldest grandson, and I just
8 want to say that he has always been special to me. (Portion
9 not audible)

10 When he was younger and his mom had to work I would talk
11 to him and try to direct him in the right way. He was raised
12 as a Christian, and he was taught that every day, and that
13 his actions affect other people, but sometimes terrible
14 things happen. J'Quan is still my grandson. I love him, love
15 him today.

16 I ask that you please have mercy on him when you sentence
17 him because (inaudible). I want to say to the victim's fam-
18 ily that I don't know what happened but we have to learn to
19 forgive.

20 My grandson, I love you.

21 THE COURT: Thank you.

22 MR. BROWN: Your Honor, beside the grandparents is Kee-Gee
23 which she goes by Scott to speak to you.

24 (Inaudible)

25 THE COURT: I'm going to need you to speak loudly.

1 MR. BROWN: I don't believe she is able to speak to you,
2 but I want to let you know that this is J'Quan's mother, Rekey
3 Scott. His brother, Vance, is seventeen years old, and af-
4 ter discussions we decided he should not be here. It's not
5 that he wasn't willing to come, but we just think this way is
6 better.

7 When this happened, of course, his brother was fifteen,
8 and he has since grown up, but I don't think it would be posi-
9 tive for him to be here at this time. This is one of the
10 things that happens, when a small bad decision becomes a big
11 bad decision, and it affects other people outside. I just
12 wanted to point that out.

13 We'd also like to have his mother at his side so she can
14 speak to Your Honor.

15 MRS. SCOTT: My name is Rekey Scott, and I am J'Quan's
16 mother, and (inaudible).

17 MR. BROWN: Your Honor, may my client speak briefly?

18 There are many other people here for J'Quan and many did
19 volunteer to speak. Your Honor, we tried to keep it to an ap-
20 propriate length of time.

21 THE COURT: Is there anyone else who wishes to address
22 the Court?

23 MR. BROWN: I'm not sure if there is anyone else. Thank
24 you, Your Honor. I believe that's all.

25 THE COURT: Please swear Mr. Scott.

1 (Defendant sworn by the Clerk)

2 DEFENDANT SCOTT: I want to apologize to everyone for
3 what happened and to my family . .

4 the court; We cannot hear you. I need you to speak
5 louder, please.

6 Mr. Brown, if you would move that microphone closer,
7 perhaps.

8 DEFENDANT SCOTT: (Portion inaudible) I am sorry for
9 the victims, and I apologize to my mother and the rest of
10 my family. I messed up my life, and I'm sorry.

11 I ask for the mercy of the Court. I'm sorry for what
12 I have done.

13 THE COURT: Thank you. Mr. Brown?

14 MR. BROWN: Thank you, Your Honor. If I might just
15 close? You have heard from many here that that wasn't the
16 J'Quan that they knew.

17 I don't think there is any indicator out there, and
18 there were a lot of text messages that we've gone through
19 most of, and some of that was just high school stuff.

20 It certainly is not a reflection on the church -- cer-
21 tainly not. There is no reflection on his family because
22 there is no past indication even from his high school days
23 that J'Quan would ever be here in this Court.

24 There is no way to rationalize an irrational act,
25 Your Honor, but I would suggest in the words of Professor

1 Delgado from law school that a person is not the sum of their
2 worst acts, and even though he only had nineteen years be-
3 fore he was arrested there was a lot more to him up to that
4 time.

5 We know that this is serious, and we know that the
6 General Assembly decided that the incident of murder, not
7 manslaughter, not self-defense -- we know the General Assem-
8 bly clearly feels that at some point a person convicted of
9 murder -- that for them a thirty year sentence was suffi-
10 cient.

11 We urge Your Honor that this is one of those cases that
12 we have presented information about to Your Honor intending
13 that you consider that on October third of 2013 was the worst
14 decision that Mr. Scott ever made.

15 The biggest decision related to this case now is the one
16 you are about to make, and we ask that you use mercy and use
17 wisdom that Mr. Scott did not use when this happened.

18 I don't think there is a person in this Courtroom who
19 wouldn't want to turn back the clock and send all three sons
20 back home to their families, Your Honor.

21 Again, we ask for your mercy and we ask that you con-
22 sider the information that we have provided today and get
23 a sense that shows retribution but certainly tempered with
24 the mercy and justice also.

25 Thank you, Your Honor.

1 THE COURT: Why wasn't he in college?

2 MR. BROWN: He did not go back for the second semester.

3 He tells me that according to the NCAA he has to go back home
4 before transferring to another school. He had had discussions
5 with another coach at another college here.

6 I understand he did not go back for eligibility purposes.
7 I see that in the text messages but I've never even spoken to
8 his mother about that. I didn't follow up on it.

9 He did talk to a recruiter and he did go in September
10 of 2013 -- the one before.

11 Like I said, anybody in this Courtroom would want to turn
12 back the clock. I'm sure they would, and we can only ask for
13 your mercy and wisdom, as I said, in this important decision.
14 Thank you.

15 THE COURT: Solicitor.

16 SOLICITOR: Judge, before I get started in talking
17 about the crime, I think it is important that we focus also
18 on Alex and his life. As we set up to get ready to come to
19 Court and show mitigation, I think they need mitigation as
20 well.

21 As I mentioned before, all of these things happened very
22 suddenly, and I think they feel a little in the dark, not hav-
23 ing known that we resolved the cases and that we were ready
24 for sentencing.

25 One of the things I've discussed with Mr. Brown and Mr.

1 Mlynarczyk was that despite how horrible this case is, we
2 have such great people on both sides. On the Defendants' .
3 side I've met Mr. Williams' mother. I know about Mr. Scott's
4 family.

5 Certainly it has been that the entire community around
6 Alex has risen to the occasion, and they have been more than
7 patient with my office. They have been fabulous to work with.
8 They have sat back and let all of us do our jobs, and that
9 isn't always the case.

10 It was certainly painful to watch today these good peo-
11 ple who I have no doubt are fine and devout people here for
12 Mr. Scott, and the bottom line is that he fooled them. He
13 was ~~really~~ a silver-tongued devil, and they believed him.

14 He was living a double life that they had no idea about
15 in all of this, and out of their good hearts and good na-
16 ture they played into the double life that he was living.

17 Alex was everybody's friend. He is what any mother
18 would want in a child. Friendly and ambitious and all of
19 those things. He was a history buff. He loved to dance. ~~That~~
20 This is a picture from when he was younger and I guess he was
21 at a cottilion or whatever civilized people do when learning
22 to dance, and that continued on through his life.

23 He was just full of life. He loved the lowcountry and
24 all that it had to offer, and he really took advantage of it.
25 Alex's mom was a single mom. Her husband, Alex's father,

1 had been killed earlier when Alex was in his high school
2 years, and that took a major toll on Alex and certainly on
3 his mom.

4 But they persevered together and it is clear what a close
5 close relationship they had. All the trauma he had in high
6 school and then coming to college unlike many others and es-
7 pecially in the United States for history. Part of the time
8 he worked as a tour guide, telling people about this great
9 place, and all of this is really a shame.

10 People ask Craig's List -- why Craig's List because
11 as you recall this is about Alex selling his truck on
12 Craig's List.

13 Well, again, for Alex and his family, this was not the
14 first time he had been involved in the purchase of a ve-
15 hicle over the Internet and that sort of thing. He had
16 actually bought the truck that J'Quan Scott wanted so des-
17 perately so that he could remain this star in everyone's
18 mind, I guess.

19 Alex had bought that truck on line or through corres-
20 pondence with someone in another State. He went to go buy
21 the truck and got it, and Alex remained friends with the
22 guy. They immediately just hit it off. Alex continued to
23 be friends with the guy from some other State who sold him
24 the truck. That's the kind of guy Alex was. He met him,
25 he loved him, and from then on he was his friend.

1 And so I have no doubt that Alex thought that he was
2 entering into the same type of agreement with this person,
3 J'Quan Scott -- not Isaac Williams -- J'Quan Scott -- who
4 he was going to be selling his truck to.

5 They had numerous interactions back and forth about
6 the sale of this truck, and I think it is important to re-
7 alize that this was not a split second decision. There was
8 always a time that J'Quan could have changed his mind and
9 not killed Alex.

10 This was a plan. This was not an armed robbery gone
11 bad. This was not a drug deal gone bad. This was a planned
12 execution, and I understand that that is not the J'Quan
13 that many good people know, but that is the J'Quan who
14 is here to be sentenced, and that is the reason that we
15 were so adamant that we were willing to go to trial -- no
16 plea offer, no nothing, because a life sentence is what is
17 appropriate for someone who sets another person up who has
18 been nothing but nice and nothing but accommodating.

19 There was no bad blood, there was no nothing. He
20 just wanted the truck. He couldn't afford a truck. He
21 knew he had conned how many people for how many years about
22 who he was and what he was, and he thought he could get
23 away with this.

24 And this notion that he cooperated -- yes, he did. The
25 authorities are here for the trial but we are not going to

1 use them. We have been through all of that with the trial
2 prep and we actually went through the trial prep.

3 While he was in his ten hour interview with the author-
4 ities, he started crying. Yes, he cried, but he even said
5 when he was crying that he was thinking about the money he
6 had lost, because one of his stories was that Alex went off
7 with the money and somebody must have robbed him later.

8 Alex went through hour after hour, even taking him out
9 there. This is not just that he couldn't own up. It is
10 not just that he thinks it was his CoDefendant. He started
11 naming people, and the cops were going out interviewing
12 real guys that he knew, that he tried to involve in this
13 murder.

14 That is not the same thing as when they talked about
15 his acceptance of responsibility and cooperation. That is
16 not what it's about.

17 I will show you in a minute, but he was looking for
18 an accomplice. He had been looking for an accomplice who
19 would help him out with this for a long time before. The
20 reason the deal didn't go forward was because Alex was hav-
21 ing trouble with the truck.

22 So Alex, being the good guy he is, he's not trying to
23 sell J'Quan a lemon. He's trying to see about getting it
24 fixed and getting it right before he turned it over. He
25 doesn't want J'Quan to have some truck, you know, that

1 breaks down or causes J'Quan a problem. He wants to make
2 good on it and to assure that J'Quan knows exactly what he
3 is getting, and so there was a delay.

4 And during that time of delay J'Quan is shopping around
5 in his buddies, not decent people, because J'Quan had plenty
6 of those. He had plenty of drug dealer friends. He had
7 plenty of armed robbery friends. He knew exactly who he was
8 dealing with.

9 So finally when they did set up the deal to make this
10 purchase, with the title needed; and all of that was there
11 waiting for them to return from the test run. I mean, there
12 was a long wait for J'Quan to do a test run and then come
13 back. Ms. Capps was actually there waiting for them to re-
14 turn from the test drive.

15 I mean, she's waiting for Alex to give J'Quan a test
16 drive and then come back, but Alex never comes back, and
17 little does she know her son is dead and this guy is text-
18 ing her for hours and even the next morning pretending to be
19 Alex.

20 I can't imagine what that did to his mother. I really
21 can't imagine that. Knowing that her son was murdered -- I
22 believe she knew in her mind that something was wrong and he
23 never showed up. Then day after day after day after day
24 goes by with nothing. She knew Alex wouldn't do that to
25 her.

1 Where are they and what are they doing? They're going
2 over to my neck of the woods where they used to go hunting,
3 looking and just doing everything to make it not be true, but
4 everybody knew Alex wouldn't have done that to his mother
5 and he wouldn't have done it to his girlfriend, Lauren.

6 These people had to suffer from Thursday on into Monday
7 before they find out the ultimate truth.

8 You know, one of the things that touched me in looking
9 at this is that this was the ~~place~~ this apartment they shared
10 with Lauren, his girlfriend, and when the police came in it
11 is what they saw -- just one shot. You can see the mounted
12 deer. He was an avid hunter. Another shot of it.

13 But what got me was that and that -- those were notes
14 Lauren had left and put them the two places she thought for
15 sure he would see. One was over the TV and another was over
16 in the bathroom -- Alex, call me and your mom.

17 You know, she had gone back to Beaufort with her mother,
18 and there was a chance -- they are still hoping, but, as we
19 know, this truck that was so important to J'Quan that he had
20 planned an execution.

21 He had an image to maintain, and I just can imagine how
22 it happened. You're at school, you're a nice looking guy,
23 you're a smart guy, you have set records, you have accom-
24 plished things, and for whatever reason all your friends are
25 doing well. All your friends have good jobs. They are at

1 USC Beaufort, and they are hanging out. You are down here in
2 Charleston. No job, no nothing. Wouldn't it make you look
3 a little bigger, more important, to have a manly truck?

4 One of the things that pained me about this case also
5 and that is so hard to get is that this was the first real
6 decision she let Alex make. She was a good mom, and she had
7 the insurance policy in her hand she thought, and that was
8 the title. She knew he couldn't mess up too bad because she
9 had the title, so she let him plan to get rid of the truck
10 because he did not need that truck living in downtown
11 Charleston. It was impractical and he insisted, so she went
12 along with it.

13 Well, guess what? Mom was right, and then he had to
14 get rid of it. That's what he was trying to do.

15 And what did J'Quan do after he bought the truck, right
16 after he got the truck, Judge? There was blood in the truck
17 so he cleaned it out. He cut some of the seats out. These
18 are just some pictures from inside of the truck. You can't
19 see it real well but there was still blood in the truck. It
20 was still on the seats.

21 He went back to Beaufort with all of his friends from
22 high school who were doing well, and he had his truck and
23 he wasn't worried about any of that. What was he not wor-
24 ried? Because he had this gift of gab. He could explain
25 it away.

1 Just like he did when the first police officers talked
2 to him. His clothes, they're at home. No need to destroy
3 them or wash them. His clothes with blood on them, and he
4 was interested in one thing at the time which was impress-
5 ing his friends with this truck.

6 We know, Judge, that eventually law enforcement found
7 Alex's body right around where that red circle is, just to
8 orient you. This is from Mount Pleasant and looking to
9 Charleston.

10 That is Channel Two right there, and this was right on
11 the other side of the road from Channel Two where they lo-
12 cated his body, and I remind you, Judge, that this took
13 place in broad daylight. That is how brazen -- that's how
14 brazen J'Quan Scott was.

15 I want to go through with you again -- I mentioned the
16 fact that this had been planned for some time. If you read
17 the texts between J'Quan and another guy, Dennis Heyward, and
18 they took place September 16th to September 18th, and event-
19 ually, Judge, he sent Dennis Heyward to meet Alex the week
20 before the murder.

21 Again, Alex did a good job getting the truck ready to
22 sell. J'Quan's words are in red. What is he saying at
23 eight P.M.? (Reading from messages) He said he would need
24 a whip lol, and then he said call and see if he got it, and
25 he wanted him to bring the strap -- the strap is a gun.

1 He might like to argue about a strap being a gun, but
2 he had called Dennis about getting a gun. Again, this was
3 on September 20th before meeting Alex for the first time.

4 (Solicitor reading from messages) Look at that. I
5 mean, this is for days that J'Quan thinks about doing this,
6 and when Dennis Heyward wanted to back out he said he could-
7 n't go through with it. He didn't go along with it, and so
8 that is where Isaac Williams comes in.

9 What Isaac eventually told us after some other stories
10 is that this was planned, and when I say it was planned I
11 don't mean just the robbery -- to say that the robbery was
12 planned, but that the murder was actually planned, and so
13 Isaac knew that as well.

14 So let's take a look at some texts between the two of
15 them, and this is now the other side of the picture. Dennis
16 had met Alex, and J'Quan couldn't get him to go through with
17 it -- Dennis wasn't going through with it or follow through
18 with it.

19 All right, so J'Quan was told by Alex that the wrong
20 part was ordered for his truck and he couldn't get it until
21 Thursday, so they would have to wait to meet up. J'Quan re-
22 sponds that is all right; just get it done.

23 (Reading from messages) Just don't say shit to anyone,
24 and he gets the response, I won't even say anything to my-
25 self.

1 That goes on and we get to the third, in the hours be-
2 fore the third. (Reading messages and video playing at
3 some points)

4 They are supposed to go meet Alex, so J'Quan is telling
5 Isaac -- telling Isaac take your lunch at three, and Isaac
6 saying, no, I'll take it at three thirty.

7 Then we have J'Quan telling Isaac he's on the way and
8 Isaac responds, all right. (Reading messages) Do you want
9 to bust a cab or do you want to drive? Drive. He said --
10 he reminds him, don't say anything in front of this other guy
11 who is giving us a ride -- don't say anything to him, so that
12 guy was going to testify. He didn't know anything about all
13 this stuff at all.

14 J'Quan tells him he needs a ride and they get in, and
15 Isaac tells him he doesn't want to drive; he wants to bust a
16 cab.

17 There are other things, you know, that are important as
18 well. They kill Alex, dumped his body in broad daylight in
19 Mount Pleasant just over the bridge, and there doesn't seem
20 to be any reaction from them and certainly no remorse because
21 later that night what are they talking about? They're talk-
22 ing back and forth about the money; whether or not they can
23 use the card.

24 It was noted that later on that week while they were
25 at USC Beaufort that J'Quan starts using Alex's card to make

1 purchases, to buy food, buy shoes, and they try to find out
2 if they can get cash from the card, and J'Quan said I don't
3 have the pin -- I forgot the pin. We don't know whether or
4 not J'Quan ever knew the pin. There is no indication from
5 either of them that he did. I don't know whether he saw the
6 pin somewhere in Alex's belongings. I just don't know, but
7 there is no question that that night they are still trying
8 to figure out a way to get money.

9 So those are the things that I need the Court to think
10 about when imposing sentence because I understand that a
11 part of mitigation can be sufficient or not sufficient, or
12 when somebody loses their cool, loses their temper or gets
13 upset -- that is not what we're dealing with here.

14 I wanted you to see, Judge, just a couple of short clips
15 from the Hardee's where Alex and Ms. Scott met J'Quan and
16 Isaac, and the white SUV you see there on the left is
17 Agatha's car. What is what she and Alex -- what she came in
18 and Alex brought the truck.

19 So what you are seeing here is that you will see them
20 greeting J'Quan and Isaac.

21 (Brief pause)

22 That is Alex standing to the right by the truck, and
23 that is Isaac and J'Quan walking there to the side of Alex.
24 You see J'Quan -- you may not be able to see it there, Judge,
25 but J'Quan had a book bag and Isaac had nothing.

1 The way Isaac tells is that there is a gun in the
2 book bag and that J'Quan got in the back seat. Of course,
3 J'Quan later lied about where everyone was seated, and then
4 you see the car, Agatha's car.

5 One of the things that has haunted her, and as a mother
6 I don't know how she has handled it as well as she has hand-
7 led it, but they shook her hand, they looked her in the eye,
8 knowing that they were driving her son to his death.

9 You know, I don't know how people deal with that. As
10 I would sit in my office and watch this stuff, you know, two
11 years later, it just was beyond comprehension. It really
12 still is.

13 If there was a time to turn back, that was it. These
14 guys knew that she was sitting in that car waiting. What kind
15 of brain is his, what kind of confidence would allow him to
16 do something like that? Yes, there has been a change in
17 his demeanor. Let him keep the change -- let's keep his de-
18 demeanor changed. Let's keep him where he belongs.

19 We see them back out and then Isaac driving. He's got
20 on a dark outfit, and they knew she is watching her son
21 driving away.

22 I think I have given you a pretty good outline of this
23 crime and the type of person that we're dealing with here.

24 Again, when we -- we can't stop someone from pleading
25 guilty straight up. Someone may -- they have a right to

1 plead guilty. He took that right and he did that, and it
2 in our view was not timely. We had been through all of this.
3 We had been forced to sit down and go through all of this
4 production. We're not talking about just a week, but when he
5 decided to enter a plea I think it is clear from what little
6 bit I have shown you here today that he knew where this was
7 heading. This wasn't an about-face. This is about a life
8 sentence which I think is called for.

9 Judge, I have a number of people who wish to speak to
10 you, and I don't know if the mother wants to speak. I am
11 not sure what words she could tell you.

12 (Brief pause)

13 MS. FORD: My name is Stacy Ford, F O R D, and I am
14 friends with Alex and his mother. My daughter -- I have
15 three daughters -- we have been present with the family, and
16 Alex is like my son. Unfortunately, two of my daughters had
17 other commitments and could not be here today. They wanted
18 me to read this statement to you from each of them about how
19 they are feeling.

20 (Reading statements of daughters to the Court)

21 My name is Allison Ford and I am currently a fourth year
22 medical student (inaudible). I've known Alex since the
23 first grade. We were friends, we were study buddies, we
24 were (inaudible) -- together our whole lives so the relation-
25 ship was amazing.

1 (Balance of statements read by Ms. Ford were inaudible)

2 THE COURT: Just so the record can be clear, the letters
3 were already a part of what I have been given.

4 MS. FORD: I won't read the rest of them in that case,
5 but I want to say that I know that Alex's friends and family
6 and his mother and myself and my family will continue to
7 miss him.

8 My best friend will never have the opportunity as his
9 mother to be at his wedding and watch Alex grow, and it truly
10 breaks my heart that my friend's life will never be the same.

11 Thank you for your time.

12 THE COURT: Yes, maam.

13 MR. BOSWORTH: Your Honor, my name is Bill Bosworth, B O
14 S W O R T H. I have known Alex since I started dating Agatha
15 some ten years ago. It was not hard to see the loving rela-
16 tionship they had together.

17 He became my buddy, and Alex adored his mom. It's been
18 almost two years and the real fact is that she will never hold
19 her son. That's heart-wrenching. She has become a different
20 person in her relationship with me, with her family and her
21 friends. That is changed forever as a result of this crime.

22 She will never see Alex get married, never hold a grand-
23 child in her arms, and will never recover from it. She has
24 lost her son and not a day goes by that Alex isn't missed.
25 Not a day goes by that I don't miss the sound of Alex coming

1 through the front door and you can hear his voice from one
2 end of the home to the other.

3 As people come and go on this earth we know that Alex was
4 a truly exceptional soul.

5 Thank you.

6 MS. EPPES: My name is Agatha Eppes, E P P E S. (Por-
7 tion inaudible)

8 Alex was an average sort of man but he was a very special
9 person. Alex was a good person, a good son, a good friend to
10 people. Most importantly, Alex was kind, the kind of friend
11 everyone would want. He was always loyal and trying to be
12 helpful. He would be there for me for whatever I needed from
13 him.

14 (Portion inaudible) Alex will never meet and marry the
15 mother of my grandchildren. Alex was not only my friend but
16 he was my only child. (Portion inaudible)

17 At times I may have been too hard on him or expecting
18 way too much but (inaudible).

19 His thirst for knowledge really began when he was about
20 three, and he by the time he was twelve he could recite all
21 the proper names of about anything you could ask him about.
22 (inaudible) He really did love and enjoy learning and I was
23 so proud of him. I wish I had told him that if I never did.
24 He really loved school and he established himself as a leader
25 very early on. He did well in school. (Inaudible)

1 He began playing soccer when he was five and later on he
2 coached a soccer team with his dad. He was -- he really loved
3 soccer and especially loved it when he was with his dad.

4 I know he loved Charleston. He loved talking about it
5 with people and just loved it. (inaudible)

6 He loved the College of Charleston (inaudible).

7 (Transcription note: Witnesses speaking in behalf of
8 the victim were very emotional, making it extremely hard to
9 understand)

10 MS. EPPES: I would ask you to please stop anybody else
11 from suffering. I heard what all of these people said about
12 him but that is not the person I know. They talked about how
13 young he is and how many years he may have to be in prison,
14 but my son is gone forever.

15 SOLICITOR: Judge, this Defendant sat for hours telling
16 law enforcement about how he had gone to Beaufort the week
17 before or the Sunday before or Monday, but he was out with
18 his friends.

19 And I believe he thought he could get away with it. He
20 thought he could get away with it because he had done so well
21 living this double life.

22 It was interesting to meet with some of Alex's friends
23 and some of his buddies, and, you know, they seemed a lot like
24 Alex. There was indication from some of them that they were
25 covering for him that first night he didn't come home and he

1 maybe was out catting around or something like that, and they
2 said no, no, he wouldn't have done that. He loved Lauren
3 and that was not what he was about. He said he had found
4 the one.

5 He was just a prince of a guy, and J'Quan Scott -- I
6 do not know what his problem is but he's got one, and to
7 let him out of prison to continue with whatever is wrong
8 with him or to hurt somebody else is just not an option.

9 We were ready to go to trial, and he did not want a
10 trial, and we would ask for a life sentence because that's
11 what he deserves. That is exactly what he deserves.

12 Justice in this case would be for him to receive the
13 life sentence.

14 THE COURT: Mr. Brown.

15 MR. BROWN: Thank you, Your Honor. Briefly, . .

16 THE COURT: Mr. Brown, take all the time you need. If
17 there are any additional people who wish to address the
18 Court I will be happy to hear from them.

19 MR. BROWN: I don't believe there is anybody else that
20 we would present.

21 I would like to briefly respond to some of the facts
22 stated. There is no question that sometime in September
23 there was a change in the text messages, or some before
24 that, but there were no drug-dealing friends or anything
25 like that. There was a lot of discussion about the time

1 we're talking about, and I point that out because these are
2 dealing with lots of friends and now these drug-dealing
3 people.

4 The question was he was going to buy a truck as law
5 enforcement asked, and, in fact, they were very clear you're
6 not a drug dealer. It was about the truck.

7 They can't have it two ways where there was this one
8 friend who was a big drug dealer or a small drug dealer.
9 No question at all. That reference was very wrong.

10 We see some . .

11 THE COURT: Was there some indication of counterfeit
12 money used to buy the truck, is that correct?

13 MR. BROWN: The only reference to that is what was in
14 that pre-sentence report, Your Honor, that statement.
15 There has been no other reference to that.

16 THE COURT: Are you saying that was a statement given
17 to you?

18 MS. POLSON: Yes, Your Honor. That was the statement
19 given to me during the pre-sentence investigation with coun-
20 sel present.

21 MR. BROWN: We would . .

22 THE COURT: All right, thank you.

23 MR. BROWN: . . absolutely agree and there is no other
24 reference to that anywhere or in any of the text messages,
25 or anything in fact.

1 About six weeks before this incident there was a
2 friend that J'Quan was in discussion with who asked what
3 happened to your old car that he had got during high school,
4 and he said, why, do you want to buy it, and he says yes.
5 So they were talking about a car or activity about a car,
6 and that is one period of time when school had started back
7 and everybody else had gone to school.

8 That is where there was some change, and I just wanted
9 to point that out, that J'Quan was not involved with drugs
10 or drug people. That was very wrong.

11 Certainly he hangs out with people of a poor socio-
12 economic class.. That is what he grew up with and it's hard
13 to change that.

14 His mother worked multiple jobs to send him to a good
15 school. His sister actually attends medical school as well and
16 graduated from Clemson.

17 This is the same family that raised J'Quan, and she
18 said he had pulled the wool over their eyes during all of
19 that time.. That was not what it was, and there's no way
20 they can say that.

21 There is no way to make this a rational act, Your
22 Honor, but, again, I ask that you take into consideration
23 what he did do as far as accepting responsibility. There
24 was never a phone call, hey, what do you want to see hap-
25 pen in this case.

1 The text messages that were delivered by us were de-
2 livered in the weeks before trial, if not two weeks before
3 trial.

4 As far as whether or not we were somehow or another
5 trying to game the system, we never asked for a bond hear-
6 ing before the plea, as they did.

7 It was clear what the Solicitor said -- and I would
8 have to ask for the actual transcript of the Solicitor's
9 statement -- saying that Mr. Williams was reliable which
10 is a rather awkward and backward to my client's benefit, to
11 say that, and to cut a deal with the CoDefendant, which
12 they did in some ways.

13 And we had no actual notice of the date of trial until
14 we got the actual trial notice, and she dealt entirely dif-
15 ferent with the CoDefendant. The charge comes from what
16 happened, and we know that, Your Honor, but we would ask
17 Your Honor to deter people from taking a chance where there
18 is not a benefit.

19 My client realized that he was guilty, and he accepted
20 that and pled.

21 It was not a conditional plea and there was no hesi-
22 tation at the time. You asked him if he was guilty and he
23 said that he was.

24 And I tell you that because when he pled he knew that
25 the case would turn to you to decide whether or not he was

1 making something out of what he could not change, and, Your
2 Honor, that is acceptance of responsibility. That's where
3 we are right now, in spite of the Solicitor's remarks be-
4 fore you.

5 What you rule, Your Honor, in a lot of ways will go
6 out into the community and people may say, hey, it's in your
7 benefit to plead guilty -- it is in your benefit to cooper-
8 ate with the law.

9 It is in your benefit to come and tell people what it
10 is you did, and that is a deterrent to people to keep them
11 from going to trial, and it is when they will consider some-
12 thing like the sentence.

13 You understand, Your Honor, that we ask that you con-
14 sider that he did take responsibility. I think the words
15 of the Solicitor and Mr. Williams' plea made a big differ-
16 ence and did not put people through the anguish of having
17 to go through a trial.

18 We ask that you encourage that type of judicial dispo-
19 sition by recognizing that it is acceptable.

20 Thank you.

21 THE COURT: Would you approach the bench for schedul-
22 ing, please?

23 (Conference at the bench between counsel and the Court
24 off the record)

25 (Whereupon, the Court took a brief recess, after

1 which the matter was continued.)

2 THE COURT: Just for the benefit of everybody who is
3 here in the Courtroom, Mr. Williams and the attorney repre-
4 senting Mr. Williams are here, as well as the CoDefendant,
5 Mr. Scott and his counsel, and I will do the sentencing at
6 this time.

7 Due to the large amount of people and the observations
8 from both sides, it is for the benefit of caution and to
9 make sure of everyone's safety being preserved that we are
10 here.

11 Is there anything further from anyone before I impose
12 sentence?

13 (No response)

14 Mr. Scott, is there anything that you wish to tell the
15 Court before I impose sentence?

16 DEFENDANT SCOTT: I just would . .

17 THE COURT: Mr. Scott, I apologize. I cannot hear
18 you, and it is vitally important that everything you say
19 is on the record. Can you repeat what you just stated?

20 DEFENDANT SCOTT: I'm sorry, Judge. I just want to say
21 to everyone that I apologize and to the Court. This is
22 your decision to make, and I would just ask for your mercy.

23 Thank you.

24 THE COURT: Anything further, Mr. Brown?

25 MR. BROWN: No, Your Honor.

1 THE COURT: I appreciate the information you have pre-
2 sented to the Court and the work you had done earlier in
3 the week, as well as the courtesy you have shown the Court.

4 Mr. Scott, one of the toughest things that I have to
5 do as a Judge is to impose sentence, and your attorney has
6 done an excellent job going through the sentences, the
7 philosophy behind sentencing, retribution and the protec-
8 tion of the public and all of those things.

9 I have listened to you plead guilty. I certainly
10 did not understand what had happened then, and I under-
11 stand less after hearing from your pastor, your friends,
12 plus your family members and their support.

13 Mr. Brown can probably tell you that I sentence peo-
14 ple every day and rarely do I have people that have grad-
15 uated high school and have had the support that you have
16 had throughout high school, the athletic abilities that
17 you have and the ability to go to college that you had.

18 Looking back, people have said very kind things and
19 supportive things about you, but I cannot get over the
20 facts of what you did.

21 I do not understand what you did. It makes absolutely
22 no sense to me, what you did. You had more than one oppor-
23 tunity to stop what you did.

24 You planned it based upon your text messages and the
25 information you gave to police officers as well as in the

1 pre-sentence investigation.

2 Based upon everything that has been presented, it is
3 the Order of this Court on Indictment 2013 GS 10 7418 that
4 you be committed to the State Department of Corrections
5 for a term of thirty years. I will give you credit for
6 the time you have served.

7 It is the Order of the Court that on 2013 GS 10 7421
8 that you be committed to the State Department of Correc-
9 tions for a term of five years. I will give you credit
10 for the time you have served.

11 It is the Order of the Court that on 2013 GS 10 7419
12 that you be committed to the State Department of Correc-
13 tions for a term of thirty years. I have noted that this
14 is not a sexual offense.

15 It is the Order of the Court that on 2013 GS 10 7416
16 that you be committed to the State Department of Correc-
17 tions for a term of life.

18 Good luck to you, sir.

19 We'll take a small break before we continue.

20 SOLICITOR: What about Mr. Brown's . .

21 THE COURT: We will take up the matters Mr. Brown is
22 wishing to put on the record after the break.

23 (Whereupon, the Court took a brief recess, after which
24 the matter was resumed) (Plea of CoDefendant Williams entered)

25 THE COURT: Out of courtesy to you, I know there were

1 some things that have transpired and so I wanted to allow
2 you to express those outside of the presence of your client
3 and everyone else and place those on the record.

4 MR. BROWN: Yes, maam. Thank you, and may it please
5 the Court?

6 Primarily, I guess, the issues are that today twice
7 in Chambers and before sentencing there was chastisement
8 of me by Your Honor, and it put me in an awkward situa-
9 tion, because if I come in and say that I ask you to re-
10 cuse yourself because I may have done something to anger
11 you -- and again I'm not implying that it was Your Honor
12 that did anything.

13 But it would put me in an awkward situation because
14 if you denied recusal then that would just add insult to
15 injury, and, on the other hand, if I don't do it and I'm
16 looking in the rear view mirror by saying . .

17 THE COURT: Mr. Brown, after spending eleven hours
18 or six hours on some issues, you never once let me know
19 you were even thinking about asking me to recuse myself.

20 MR. BROWN: That's because I didn't think that it was
21 in my interest or in my client's interest.

22 We had folks who had taken two days off and traveled
23 from out of State to come here. Quite frankly, I didn't
24 think it would happen, and I thought if I made the motion
25 it would just add insult to injury.

1 We have assembled today the equipment and the folks who
2 have traveled and took days off to come here. I didn't
3 think it would happen, and I have never seen a recusal be
4 granted in nineteen years personally, although I've heard of it.

5 THE COURT: Just so the record is abundantly clear and
6 you haven't asked, but would you state for the record why
7 you would want me to recuse myself?

8 MR. BROWN: Your Honor, I have used the word chastised
9 and you may not agree with that characterization, but I did
10 not know the video was not available but I did take offense
11 to that.

12 I don't disagree with the Court because I know what we
13 did during the last two and a half days.

14 On top of the embarrassment of standing in the Court-
15 room, then I get insulted because even though there had
16 been a non-stop effort in this case since Sunday on my part
17 in preparation that didn't work because I guess for some
18 reason there wasn't a TV in the Courtroom that worked or
19 we didn't have a table.

20 I was told to bring a table and bring my TV out of the
21 wall, and then I was told there was no place to put it in
22 that Courtroom or we didn't have a table unless we found a
23 video table.

24 So I was told all of that . .

25 THE COURT: That was the Courtroom I was told to . .

1 preside in this week, and out of courtesy to you the Clerk's
2 staff then made arrangements to move the entire Courtroom,
3 including my staff, my Court Reporter, . .

4 MR. BROWN: Yes, maam.

5 THE COURT: . . to accommodate you.

6 MR. BROWN: Yes, maam.

7 THE COURT: My comment to you where your client had
8 pled in May . .

9 MR. BROWN: Yes, maam.

10 THE COURT: I ordered a pre-trial investigation, and
11 we had set the plea -- I do not have the dates in front of
12 me but I believe it was fairly accurate, and we are now six
13 weeks from that.

14 I didn't get the information until about nine thirty
15 or ten o'clock last evening that there was any issue with
16 technology.

17 I received your pre-trial brief given to my Clerk on
18 Monday, and out in that very hallway from that Courtroom it
19 would have behooved you to just simply say I don't have the
20 technology.

21 And so my staff, which is very hard-working, and I
22 have never seen them not accommodate anyone which should be
23 evidenced by the fact that we moved the entire Courtroom and
24 all of the people involved . .

25 MR. BROWN: Yes, maam.

1 THE COURT: We moved from the Courtroom where we had
2 planned to take the plea. Out of courtesy to you, the
3 Clerk of Court's staff made arrangements to move the en-
4 tire Courtroom to accommodate you.

5 MR. BROWN: Yes, maam, and . . .

6 THE COURT: My comment to you was that -- when your
7 client had pled -- is that I ordered a pre-trial investiga-
8 tion.

9 MR. BROWN: Yes, maam.

10 THE COURT: We had met the day I believe when a Co-
11 Defendant had pled -- I can't be specific but I think that
12 is fairly accurate -- and that we would meet six weeks
13 from that, and I didn't get the information until about
14 nine thirty or ten o'clock on that evening that there was
15 a need for technology.

16 I received your pre-trial brief that got to my Clerk
17 on Monday.

18 MR. BROWN: Yes, maam.

19 THE COURT: In that very hallway or in that Courtroom.
20 It would have behooved you to just simply say I need the
21 technology. And so I think my staff did very well. I
22 have never seen them not accommodate anyone.

23 But the entire Courtroom was moved with all that it
24 involved just to accommodate you, and I have heard or it
25 got back to me that you -- I don't know if it was from you,

1 but there were comments made that it was the Judge's fault
2 or the Clerk of Court's fault or that we were not accommo-
3 dating.

4 So I clearly in chambers -- in a conference in cham-
5 bers and in the hallway said that it was noone's fault,
6 and it had nothing to do with you. I have had solicitors
7 and attorneys who were not prepared, but I made a comment
8 to you that I have made every effort to be accommodating
9 and especially to you because you have worked hard to get
10 the case prepared for sentencing and for trial, and to
11 hear that anyone on my staff or the Clerk's staff did not
12 accommodate you is not acceptable.

13 MR. BROWN: And I would say that there was a discus-
14 sion between the tables and the Solicitor or the Deputy
15 Solicitor and myself very casually about the number of
16 people out there, and I think the concern was like wow or
17 something -- or something like that.

18 But by someone in the hall saying that -- that would
19 mean there was a discussion about whether or not somebody
20 else had said something, and I can tell the Court that it
21 wasn't me.

22 THE COURT: But here's the thing . .

23 MR. BROWN: That doesn't mean . .

24 THE COURT: We don't need to discuss this issue any
25 further. My comment was simply that from what I had been

1 told and from what I know in my interactions with getting
2 the case back for sentencing my people -- the first I heard
3 this morning that you needed technology was . .

4 MR. BROWN: I had told the Solicitor and Assistant Soli-
5 citor.

6 THE COURT: I did not receive that so I do not know.

7 MR. BROWN: It was for the power point presentation.

8 THE COURT: Okay. My comment to you and to every-
9 one was that we need to make sure you have the equipment
10 available in whatever Courtroom.

11 MR. BROWN: Yes, maam.

12 THE COURT: In this Courtroom, in Berkeley, in Beau-
13 fort -- whatever. This is not a practice test.

14 MR. BROWN: I'm not suggesting that it is anyone's
15 fault about the breakdown. I will suggest this, that we
16 did send an Email out and that we had ten witnesses in or
17 whatever it said.

18 THE COURT: Let me say that an Email would not affect
19 the Courtroom location. Unless you get a response back
20 from a person who says, yes, Mr. Brown, we have got your
21 Email, you have no way of knowing whether that Email was
22 received.

23 This is an important case, as all of my cases are, and
24 we had cleared the time to have everybody come in the Court-
25 room.

1 MR. BROWN: Absolutely, and I . . .

2 THE COURT: You could have avoided all of this.

3 MR. BROWN: I'm just saying that, assuming it was my
4 fault that this is the way it transpired, then we have --
5 I never said -- we were not dealing with jurors so it was
6 not like there was some type of concern between the Bench
7 and defense counsel -- not a concern that was germane to
8 the decision to be made by finders of the facts, but a de-
9 cision, so to speak, as a matter of law or a ruling on the
10 law, so to speak.

11 So I would say that that is why it is a little dif-
12 ficult -- more difficult than being chastised about a trial
13 type of thing in Chambers outside of the presence of the
14 jury because in this case they were the same comments made
15 by the very person that I am seeking to speak to as an equal
16 and I say that assuming we are not typical.

17 We came in, and I spoke to this gentlemen here to my
18 right -- whose name I think is Sam -- I'm not sure -- and
19 I asked him where to unload the TV, and he responded that
20 wouldn't work because there wasn't a table on which to set
21 it up.

22 I actually called Ms. Wilson on my cell phone at the
23 time and about the power point -- that that was what we
24 were going to try to do and that wouldn't work because the
25 Court had not asked for it, or I think what we were told

1 was that maybe the actual device would not work on the sys-
2 because it was so old. I could certainly understand that.

3 All I'm saying was that I needed to put some things
4 on the record because otherwise something may later come
5 up. So I asked Your Honor if I could do that because of
6 that concern.

7 I did not choose to make the motion, and I have ex-
8 plained the dilemma of making my motion before, Judge; and
9 that, if denied, and it is before the same Judge I'm be-
10 fore -- I have concerns about whether she can be fair; that
11 if I make the motion before her and it is denied that then
12 I still would have to appear before her.

13 So that is the kind of dilemma -- that is the dilemma
14 that I . . .

15 THE COURT: You chose not to make the motion?

16 MR. BROWN: I chose not to.

17 THE COURT: Thank you.

18 SOLICITOR: If I could say something for the record as
19 well. I think we need to have a contemporaneous record.

20 You know, I know everybody was stressed and everybody
21 is trying to get a lot done, and we certainly appreciate
22 the accommodation of everyone, but my concern is, and what
23 I think Mr. Brown is getting at is or what he is trying to
24 lay out here, is that because you may have been agitated,
25 irritated, angry, whatever, about how things were going,

1 and because you felt that you somehow got something added
2 to the sentence, and I just think that is juvenile and re-
3 diculous to think that any Judge would do that and certainly
4 not Your Honor.

5 I would note that the Court chastised me in Chambers
6 as well and that I got the look which I received. That has
7 never affected your ability to be fair and impartial and
8 to make rulings on the things you were supposed to make
9 rulings on.

10 I think you made it very clear that life was still on
11 the table, as I did, and I think when we spoke to him about
12 a plea that he was very concerned that because, you know,
13 life was a very real possibility.

14 So while we are here and while it's still fresh, I
15 think it is important to note that you have ample basis
16 for your sentence.

17 I have known you professionally for many years and I
18 . . .

19 THE COURT: I hope you are not thinking that your
20 client received life because you did not bring the proper
21 equipment.

22 MR. BROWN: What is clear to me is that I did not
23 make the motion. If I had thought it would be successful
24 I would have, Your Honor.

25 THE COURT: You're thinking about PCR.

1 MR. BROWN: That is exactly why . .

2 THE COURT: That is why we're here? More than
3 anything else?

4 MR. BROWN: That is why I'm on the record now, abso-
5 lutely.

6 THE COURT: I would say that I have allowed you more
7 than I typically allow in a presentation, not that I chas-
8 tised you or that you did not have the power point ready
9 to go at the time, but because I feel like that is what
10 you wanted to do.

11 You had prepared the case, and I think the record is
12 abundantly clear that even if I were, as was said, annoyed
13 or irritated with you which I was not -- the record was
14 clear that you were allowed ample opportunity to present
15 whatever you wanted to in behalf of your client.

16 Do you agree?

17 MR. BROWN: Absolutely, Your Honor. I did not ask Your
18 Honor to recuse herself. I chose not to but I wanted to
19 put on the record that that was a concern that I had.

20 SOLICITOR: I understand your concern but Your Honor
21 is a professional.

22 MR. BROWN: I just wanted to put that on the record,
23 that I chose not to in my client's behalf.

24 That's why I'm here.

25 (Mr. Brown and The Court speaking at the same time)

1 THE COURT: Anything you would like to add?

2 MR. BROWN: No, thank you.

3 SOLICITOR: Nothing further.

4 THE COURT: This was a very difficult case, and I un-
5 derstand why you were advocating strongly for your client.
6 I have never seen that many people say such complimentary
7 things about others.

8 I understand, Mr. Brown, and I understand that tem-
9 pers or things may have been perceived as to what you were
10 accomplishing, but I do believe from what I saw and heard
11 that your client got more than generous representation on
12 behalf of you and the individuals who were here.

13 Thank you, again.

14 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

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1 CERTIFICATE

2 I, HARRIET P. BENNETT, Court Reporter for South
3 Carolina Court Administration, hereby certify that the
4 foregoing Transcript was prepared from the records of Susan
5 Mia Perron to the best of my ability, having been heard
6 in the Court of General Sessions for Charleston County on
7 August 26, 2015.

8 The letter of request was for a plea entered in the
9 case by the Defendant, but the record only contains the
10 mitigation presented as well as the sentencing.

11 It was noted during the record that the plea was
12 taken some months earlier, prior to the pre-sentence in-
13 vestigation, and as well that it was taken by speaker
14 phone.

15 Further, I would certify that I am neither of kin
16 nor counsel to any party to this action, nor do I have any
17 interest in the same.

18 *Harriet P Bennett*

19 October 4, 2016

110

SAW20131007665

WITNESSES

Charleston County Sheriff's Office

AGENCY CASE NUMBER

2013014940B

ARREST WARRANT NUMBER

2013A1010205478

DATE OF ARREST

October 8, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

DEC - 9 2013

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2013GS1007416

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

December 2013 Term

THE STATE

vs.

JQUAN MARQUEL SCOTT

DOB: [REDACTED]

B/M

Indictment for

MURDER

FILED

12/12/2013 11:38:27 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on December 9, 2013, the Grand Jurors of Charleston County present upon their oath:

MURDER

That in Charleston County on or about October 3, 2013, with malice aforethought and while acting in concert with another, **JQUAN MARQUEL SCOTT** did kill and murder William Alexander Apps by means of shooting him, and that William Alexander Apps did die in Charleston County as a proximate result thereof on October 3, 2013; in violation of Section 16-3-10 of the South Carolina Code of Laws (1976) as amended.

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



SCARLETT A. WILSON
SOLICITOR

112

SAW20131007665

WITNESSES

Charleston County Sheriff's Office

AGENCY CASE NUMBER

2013014940B

ARREST WARRANT NUMBER

2013A1010205479

DATE OF ARREST

October 8, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date:

DEC - 9 2013

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2013GS1007418

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

December 2013 Term

THE STATE

vs.

JQUAN MARQUEL SCOTT

DOB: [REDACTED]

B/M

Indictment for

ARMED ROBBERY

FILED

12/12/2013 11:38:27 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on December 9, 2013, the Grand Jurors of Charleston County present upon their oath:

ARMED ROBBERY

That on or about October 3, 2013, in Charleston County, South Carolina, the Defendant, **JQUAN MARQUEL SCOTT**, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of William Alexander Apps with the intent to permanently deprive the victim of possession thereof, in violation of Section 16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

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



SCARLETT A. WILSON
 SOLICITOR

114

SAW20131007665

WITNESSES

Charleston County Sheriff's Office

AGENCY CASE NUMBER

2013014940B

ARREST WARRANT NUMBER

2013A1010205480

DATE OF ARREST

October 8, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: - OCT - 9 2013

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2013GS1007419

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

December 2013 Term

THE STATE

vs.

JQUAN MARQUEL SCOTT

DOB: [REDACTED]

B/M

Indictment for

KIDNAPPING

FILED

12/12/2013 11:38:27 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

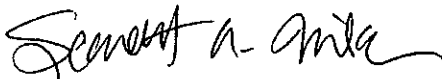
INDICTMENT

At a Court of General Sessions, convened on December 9, 2013, the Grand Jurors of Charleston County present upon their oath:

KIDNAPPING

That in Charleston County, South Carolina, on or about October 3, 2013, the Defendant, **JQUAN MARQUEL SCOTT**, while acting in concert with another, did unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, William Alexander Apps, without authority of law; all in violation of Section 16-3-910 of the South Carolina Code of Laws (1976) as amended.

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



SCARLETT A. WILSON
SOLICITOR

116

SAW20131007665

WITNESSES

Charleston County Sheriff's Office

AGENCY CASE NUMBER

2013014940B

ARREST WARRANT NUMBER

2013A1010205481

DATE OF ARREST

October 8, 2013

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

DEC - 9 2013

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2013GS1007421

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

December 2013 Term

THE STATE

vs.

JQUAN MARQUEL SCOTT

DOB: [REDACTED]

B/M

Indictment for

POSSESSION OF A FIREARM DURING
THE COMMISSION OF A
VIOLENT CRIME

FILED

12/13/2013 8:57:45 AM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on December 9, 2013, the Grand Jurors of Charleston County present upon their oath:

POSSESSION OF A FIREARM DURING THE
COMMISSION OF A VIOLENT CRIME

That in Charleston County, South Carolina, on or about October 3, 2013, the Defendant, **JQUAN MARQUEL SCOTT**, did possess a handgun or visibly display what appeared to be a handgun during the commission, or attempted commission, of murder, a violent crime. This is in violation of Section 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

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



SCARLETT A. WILSON
SOLICITOR

COUNTY OF CHARLESTON
STATE VS.JUAN MARQUEL SCOTT

AKA:

Race: Black Sex: M Age: 21DOB: [REDACTED] SS#: [REDACTED]Address: Greenhill RdCity, State, Zip: Chas, SC 29412-5314DL# [REDACTED] SID# SC02124234*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTO: MurderIn violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(def.'s initials)

The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Scarlett A. Wilson

65315

Scarlett A. Wilson, Solicitor

SC Bar #

Defendant

Jul

Attorney for Defendant

12213

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of Life days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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: \$ _____

_____ days/hours Public Service Employment

Payment Terms: _____

Obtain GED: ☐☐ Set by SCDPPPS _____

Attend Voc. Rehab. Or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund.

Other: _____

☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge: [Signature]Judge Code: 111Sentence Date: 8/26/15

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 \$ _____

Proviso 47.9 (Public Def/Prob) \$500 \$ _____

§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00

§14-1-213 (Drug Court Surcharge) \$150 \$ _____

§50-21-114 (BUI Breath Test Fee) \$50 \$ _____

§56-5-2942(J). (Vehicle Assessment) \$40/ea \$ _____

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ \$ 3.90TOTAL \$ 133.90Clerk of Court/Deputy Clerk: [Signature]Court Reporter: Mia Person

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE VS.

IQUAN MARQUEL SCOTT

AKA:

Race: Black Sex: M Age: 21DOB: [REDACTED] SS#: [REDACTED]Address: Greenhill RdCity, State, Zip: Chas, SC 29412-5314DL#: [REDACTED] SID# SC02124234*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADSTO: Armed RobberyIn violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lowd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Scarlett A. Wilson 65315
Scarlett A. Wilson, Solicitor SC Bar #[Signature] 12213
Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years and/or to pay a fine of \$ provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 HearingTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Ordered PTUP days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: 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 \$ Proviso 47.9 (Public Def/Prob) \$500 \$ §14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ §50-21-114 (BUI Breath Test Fee) \$50 \$ §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ \$ 3.90TOTAL \$ 133.90Clerk of Court/Deputy Clerk: [Signature]Court Reporter: Mia PersonPresiding Judge: [Signature]Judge Code: 118207Sentence Date: 8/26/15

COUNTY OF CHARLESTON

STATE VS.

IQUAN MARQUEL SCOTT

AKA:

Race: Black Sex: M Age: 21DOB: [REDACTED] SS#: [REDACTED]Address: Greenhill RdCity, State, Zip: Chas, SC 29412-5314DL# [REDACTED] SID# SC02124234*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

TO: KidnappingIn violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Samantha A. Wilson 65315
Scarlett A. Wilson, Solicitor SC Bar #

Defendant

Attorney for Defendant

12213
SC Bar #WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ provided that upon the service of days/months/years and or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.☐ The Defendant is to be placed on 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: \$ days/hours Public Service EmploymentPayment Terms: Obtain GED ☐☐ Set by SCDPPPS Attend Voc. Rehab. Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther Not a sexual offenseRecipient: *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 \$ Proviso 47.9 (Public Def/Prob) \$500 \$ §14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ §50-21-114 (BUI Breath Test Fee) \$50 \$ §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ \$ 3.90TOTAL \$ 133.90Clerk of Court/Deputy Clerk: Samantha A. WilsonCourt Reporter: Mia PersonPresiding Judge: [Signature]Judge Code: 18/26/15Sentence Date: 2/5/1

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

STATE VS.

JOUAN MARQUEL SCOTT

AKA:

Race: Black Sex: M Age: 21DOB: [REDACTED] SS#: [REDACTED]Address: Greenhill RdCity, State, Zip: Chas. SC 29412-5314DL# [REDACTED] SID# SC02124234*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF☒ PLEADSTO: Possession Of A Weapon During The Commission Of A Violent CrimeIn violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549.☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

Scarlett A. Wilson 65315

Scarlett A. Wilson, Solicitor SC Bar #

Defendant

[Signature]

Attorney for Defendant

12213

SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and or paymentof \$; 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 Service standard conditions of probation, which are incorporated by reference.☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on 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 HearingTotal: \$ 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 \$ Proviso 47.9 (Public Def/Prob) \$500 \$ §14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ §50-21-114 (BUI Breath Test Fee) \$50 \$ §56-5-2942(J) (Vehicle Assessment) \$40/ea \$ Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.40TOTAL \$ 133.40Clerk of Court/Deputy Clerk: [Signature]Court Reporter: Mia PersonINDICTMENT/CASE#: 2013GS1007421
A/W: 2013A1010205481
Date of Offense: 10/03/2013
S.C. Code §: 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

☐ Ordered PTUP: days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab, Or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ Beginning \$ Paid to Public Defender FundOther: ☐ Appointed PD or appointed other counsel,

§47.12 requires \$500 be paid to Clerk

during probation.

Presiding Judge: [Signature]Judge Code: 210Sentence Date: 8/20/15

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF CHARLESTON	)	Indictment Nos: 2013GS1007416, 418, 419, & 421
	)	

STATE OF SOUTH CAROLINA	)	
	)	
	)	
VS.	)	MOTION TO
	)	RECONSIDER SENTENCES
JQUAN MARQUEL SCOTT	)	
	)	
	)	

THE DEFENDANT BRINGS BEFORE THIS COURT this Motion seeking reconsideration of the sentences imposed in the above-referenced matter.

As a matter of context, the Defendant was sentenced on August 26, 2015. The Court imposed a sentence of life on the charge of Murder, 30 years for the charge of Armed Robbery, 30 years for the charge of kidnaping, and 5 years for the charge of Possession of a Weapon during the Commission of a Violent Crime. These sentences were ordered to run concurrently.

However, reconsideration is appropriate given the Court's misapprehension of facts related to the sentencing presentation made by undersigned counsel. For purposes of sentencing, undersigned counsel prepared a sentencing memorandum and a power point type presentation highlighting aspects of the sentencing memorandum. This presentation included several photos and video clips.

Unfortunately, the original courtroom to which this sentencing was assigned, 3E, was not equipped for any type presentation. Undersigned counsel endeavored to facilitate the presentation by contacting the clerk of court. Undersigned counsel offered to bring his own office television to use as a monitor for the presentation.

The clerk's office informed counsel that there was no table to position the TV. The

clerk's office also informed counsel that no other courtrooms with monitors were available. In contrast, the Solicitor graciously offered counsel use of her office's projector.

On the day of sentencing, undersigned counsel could not get his presentation to work using the solicitor's projector. It was suggested by an IT tech employed with the Solicitor's office that the projector was not current enough to operate in conjunction with undersigned counsel's computer. Undersigned counsel endeavored for more than an hour to reach a solution while the attendees and witnesses for the sentencing as well as the Court patiently waited.

At some point, counsel was directed to go to a different courtroom, 4B, with sufficient technological ability to allow for a presentation. This courtroom was dark and locked when counsel arrived. Within seconds of connecting to the monitor in that courtroom, the Defendant's presentation worked without problems.

The Court then moved the sentencing from courtroom 3E to 4B. The Court met with counsel in the hallway behind the courtroom, outside the presence of the Defendant, before the sentencing. During this off the record meeting, the Court chastised counsel for the Defendant, telling him that it was "all [his] fault" for the sentencing problems and that this could have been avoided if counsel would have let her office know about the presentation.

The Court then brought the mother of the deceased into the hallway. The Court apologized to her for what she was going through. This apology was not on the record and was outside the presence of the Defendant.

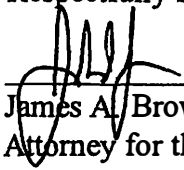
Apparently unknown to the Court at this time was the fact that undersigned counsel had previously informed the Judge, through email to her Law Clerk and the Solicitor, that a presentation was being offered and that a sentencing memorandum had been served. The Solicitor responded to this email that she had received her copy of the memorandum. The

Court's copy had been delivered to the law clerk just minutes before the email. See attached email dated August 24, 2015.

It is urged that the sentencing of the Defendant was negatively affected by the problems with the presentation. It is clear from the comments made to counsel for the Defendant that the Court blamed the Defendant for these problems. In fact, the Court was obviously not aware of the email communication.

Therefore, because the Court overlooked or misapprehended the nature of undersigned counsel's efforts to effectively provide an effective sentencing presentation, the Defendant's sentences should be vacated and a proper sentencing proceeding conducted without negative attribution toward's Defendant or his counsel.

Respectfully Submitted,

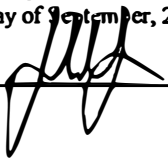


James A. Brown, Jr.
Attorney for the Defendant

9/4, 2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document was served upon all counsel of record in this proceeding this 4th day of September, 2015.



THE STATE OF SOUTH CAROLINA
Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

The Honorable Kristi L. Harrington

Indictment Numbers: 2013GS1007416, 418, 419, & 421
Appellate Case Number: 2016-000559

State of South Carolina.....Respondent.

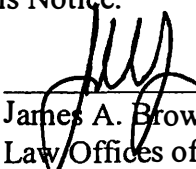
v.

Jquan Marquel Scott,.....Appellant.

AMENDED NOTICE OF APPEAL

Jquan Marquel Scott appeals his convictions and sentences for the offenses of Murder, Armed Robbery, Kidnaping, and Possession of a Weapon during the Commission of a Violent Crime. Mr. Scott was convicted by plea on May 27, 2015, sentenced on August 26, 2015, and received notice of the denial of a timely filed, pursuant to Rule 29, Motion to Reconsider Sentences on March 4, 2016. The issue to be raised on appeal is the denial of this Motion to Reconsider Sentences. The factual basis for this issue is contained in the attached written Motion to Reconsider Sentences and involves statements made by the sentencing judge to undersigned counsel in the hallway of the judge's chambers in the presence of the solicitor, counsel for the co-defendant, and the mother of the deceased. The written denial of the reconsideration is included with this Notice.

March 28, 2016



James A. Brown, Jr.
Law Offices of Jim Brown, P.A.
1600 Burnside Street, Suite 100
P.O. Box 592
Beaufort, SC 29901-0592
(843) 470-0003

Other Counsel of Record:

Scarlett A. Wilson
Solicitor, 9th Judicial Circuit
101 Meeting Street, Suite 400
Charleston, SC 29401

THE STATE OF SOUTH CAROLINA
Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of General Sessions

The Honorable Kristi L. Harrington

Indictment Numbers: 2013GS1007416, 418, 419, & 421
Appellate Case Number: 2016-000559

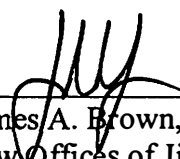
State of South Carolina,.....Respondent.

v.

Jquan Marquel Scott,.....Appellant.

PROOF OF SERVICE

I, James A. Brown, Jr., certify that I served a copy of the Amended Notice of Appeal with required attachments upon the Respondent by depositing a copy of this item in the United States Mail, postage prepaid, on March 28, 2016, addressed to its attorney of record, Scarlett A. Wilson, 101 Meeting Street, Suite 400, Charleston, SC 29401.



James A. Brown, Jr.
Law Offices of Jim Brown, P.A.
1600 Burnside Street, Suite 100
P.O. Box 592
Beaufort, SC 29901-0592
(843) 470-0003

March 28, 2016

Other Counsel of Record:

Scarlett A. Wilson
Solicitor, 9th Judicial Circuit
101 Meeting Street, Suite 400
Charleston, SC 29401

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA)

v.)

JQUAN MARQUEL SCOTT,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS
 FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2013-GS-10-7416

2013-GS-10-7418

2013-GS-10-7419

2013-GS-10-7421

ORDER

THIS MATTER IS BEFORE THE COURT on Defendant Jquan Marquel Scott's Motion for Reconsideration of Sentences. The Defendant pled guilty to all charges on May 27, 2015. The Court ordered a Pre-Sentence Investigation and Report. On August 26, 2015, the Defendant was sentenced to the South Carolina Department of Corrections for life on the charge of Murder, 30 years for the charge of Armed Robbery, 30 years for the charge of Kidnapping, and 5 years for the charge of Possession of a Weapon During the Commission of a Violent Crime. Defendant filed the instant Motion for Reconsideration of Sentence on September 10, 2015. The State filed a Response on October 9, 2015.

After careful review of the record and materials submitted, Defendant's Motion to Reconsider Sentences is DENIED. The sentence imposed August 26, 2015, shall remain in place.

FILED
 2015 OCT 19 AM 10:27
 JULIE J. ARMSTRONG
 CLERK OF COURT
 BY *[Signature]*
IT IS SO ORDERED!

[Signature]
 The Honorable Kristi Lea Harrington
 Presiding Judge

October 19, 2015
 Charleston, South Carolina

State of South Carolina
Department of Probation, Parole and Pardon Services

NIKKI R. HALEY
Governor



JERRY B. ADGER
Interim Director

2221 DEVINE STREET, SUITE 600
POST OFFICE BOX 50666
COLUMBIA, SOUTH CAROLINA 29250
Telephone: (803) 734-9220
Facsimile: (803) 734-9440
www.dppps.sc.gov/

Presentence Investigation

Judge – K. Harrington

Name: Jquan Scott

DOB: [REDACTED]

Age: 21

Present Offense: Murder, Armed Robbery, Poss. Of Weapon during Violent Crime, Kidnapping

Solicitor: Scarlett Wilson

Defense Attorney: Jim Brown

Prior Criminal History:

N/A

Prior Probation History: N/A

Family/Resident:

Mr. Jquan Scott, was born and raised in Charleston, SC by his mother Rique Scott. He never met his father, and spoke to him over the telephone for the first time in 2012 but never met him face to face. Jquan's father went to prison when Rique Scott was 2 months pregnant with Jquan. He has a younger brother who is currently in rehab in Greenville, SC and an older sister who is a graduate from Clemson University and currently in Medical School at the Medical University of South Carolina. Mr. Scott reports that his childhood was "rough" with no father figure, but states his grandfather was always in his life and attended his extracurricular activities. Mr. Scott, attended James Island Christian School and was a star athlete. Mr. Scott, states that he was always closer to his aunt Akia Scott than his mother and feels that his mother was never around. Mr. Scott, graduated from High School and received Athletic Scholarship to Minnesota Crown

College. He states he stayed for one semester and left because of financial reasons. When Mr. Scott returned to Charleston, S.C. he worked at Doschers grocery store, he stated he worked there for 3 months and began selling marijuana at work. Once he left the grocery store, Mr. Scott states that he continued selling marijuana for money.

Statements from Jquan Scott's Family members:

James Walker- Grandfather of Jquan Scott

Mr. Scott's grandfather James Walker, states that this situation surprises him because he always spent time with Jquan. Mr. Walker, stated he doesn't understand the whole situation, being that he is a retired police officer after 43 years. Mr. Walker stated he taught Jquan, how to cut grass and how to work around the house. He states this is out of character for him, and that he never showed aggressive behavior growing up. Mr. Walker, believes that Jquan can be saved and something major had to happen in his life to make him realize life is not a party.

Brenda Young- Friend

(See Attachment)

Kiandra Scott- Sister of Jquan Scott

(See Attachment)

Harriett S. Walker – Grandmother of Jquan Scott

(See Attachment)

Ricque Scott- Mother of Jquan Scott

Ms. Scott, stated that Jquan is the middle child and has an older and younger siblings. She states that she has always worked two jobs to try to provide for her children. Jquan's father went to jail when Ms. Scott, was 2 months pregnant with Jquan for drugs and that Jquan never met his father and only spoke to him on the telephone once in 2012. His younger brother Vance recently came home from rehab in Greenville, SC and his sister Kiandra is currently in school at MUSC. She states that she feels that Jquan did have a "rough" childhood growing up without a father, she states that Jquan was always an average student but excelled in athletics. Ms. Scott, states that her other two children father are in their lives and that Jquan's father was never in his life, she goes on to state that Jquan was always the kind of child that avoided trouble and would walk away, so this incident is out of character. In reference to the incident Ms. Scott, states that she empathizes with the victim mothers and every time she thinks of the crime she thinks of Mr. Apps mother, but that she does love her son Jquan. Ms. Scott, states that when the police came to her house she immediately contacted Jquan and told him that he needed to call the police.

Offender version of offense: (Please be advised that is an abbreviated version)

Mr. Scott, states that he was looking to purchase a vehicle, so he looked on Craig's list to find a vehicle at the same time he received a call from the Co-defendant (Isaac Williams), stating that he needed money and wanted to sell marijuana to make money. Mr. Scott, stated that he knew the co-defendant because they went to Pre-School together, but they were never friends, when he received the call from Mr. Williams he told Mr. Williams "I got you" he stated that once he told Mr. Williams that he was looking for a vehicle, they came up with the robbery plan. Mr. Scott saw on Craig's list that the victim was selling his truck he stated that he met the subject on one

occasion prior to the day of the murder at Hardees on Spring St. in Charleston, SC. On the day of the offense, Mr. Scott, stated that he and the co-defendant met the victim William Apps at the Hardees on Spring St. to purchase the vehicle for \$15,000. Mr. Scott, stated that he had \$4,000 in actual currency and the remainder was counterfeit. He stated that the victim's mother was present and that he asked for a test drive, Mr. Scott states that he shook the victim's mother hand and him and the co-defendant drove off with the victim William Apps in his vehicle towards Mt. Pleasant leaving the mother of William Apps at the Hardees, he states that co-defendant Isaac Williams was driving and they pulled into a gas station in Mt. Pleasant where they changed seats and Mr. Scott got into the driver's seat and the co-defendant got into the back seat the victim Mr. Apps, remained in the passenger seat. Mr. Scott, states that he gave the victim a backpack which contained the money for the purchase of the vehicle. He states that the co-defendant and the victim started arguing, when asked what they were arguing about Mr. Scott, stated that he was not sure, he states that is when the co-defendant pulled out a gun and continued to argue with the victim. I asked Mr. Scott, what was he doing, while they were arguing and when the gun was pulled out, he stated he was concentrating on the traffic, because traffic was "real bad" he stated that the co-defendant then shot the victim in the back of the head. They then proceeded back to Coleman Blvd. They went to an apartment complex and dumped the remains at the apartment complex and took the victim's wallet and phone, and went back to the City of Charleston. He stopped downtown, for the co-defendant to change for work and he then took the co-defendant to Rick Hendricks Chevrolet on Savannah Hwy, where the co-defendant Isaac Williams worked in the detailing shop. Mr. Scott, stated that he went across the street into the Kmart parking lot and the co-defendant brought him cleaning supplies to clean up the blood in the truck, while at Kmart Mr. Scott texted the victim's mother and stated that "The deal didn't go through" pretending to be the victim, the victim's mother replied back "What Happened" and Mr. Scott responded "I have to go my phone is about to go dead". Mr. Scott, stated that he then went to Folly Beach to pick up his girlfriend to go to a flag football game after the game he went back to Folly Beach and received a call from his friend CJ who needed to be picked up from work at the Bilo on James Island. They then went to a James Island Charter Football game and after the game Mr. Scott went back to Folly Beach. The next morning Mr. Scott, headed to Beaufort, SC to "hang out" with some friends. He stated during that interview that he was also going to see the victim's mother to tell her what happened, but he changed his mind. While in Beaufort Mr. Scott smoked marijuana and "chilled" he states that the co-defendant kept calling wanting to discuss the case so he met with the co-defendant to talk about the case when he returned back to Charleston. Mr. Scott, states that he was contacted by Beaufort Police in reference to using the victim's credit card and he was later contacted by Charleston County Sheriff Office, Mr. Scott states he was interviewed by the Charleston County Sheriff Office for 10 ½ hours and he finally took the Sheriff Office to the remains of Mr. William Apps.

Victim Statement:

The Mother of victim of victim William Alexander Apps (Alex) would like to make a statement during sentencing. However Ms. Apps, wanted to court to be aware that at age 15 Mr. Apps father was murdered and that he didn't deal with that unresolved grief over the loss of his father until his first year in college, which resulted in poor academic performance, but once he addressed his grief through counseling he return to College.

Assessment on Jquan Scott, conducted on 6/15/2015 at the Al Cannon Detention Center:**Clients Strengths**

High School Diploma

Positive Peers and family members

Criminal Associates/Peers

Mr. Jquan Scott, reported that none of his friends and associates have ever been arrested. He reported that few of his friends and associates take drugs regularly. He reported that none of his friends and associates are gang members. Mr. Jquan Scott reported that none of his friends and associates have ever spent time in jail or prison. He reported never having been a gang member. Mr. Jquan Scott did not have the appearance of a gang member.

Substance Abuse

Mr. Jquan Scott reported that his current past legal problems are not due to drug or alcohol use. He reported that he was not using alcohol or drugs at the time of the current offense. He reported no prior substance abuse treatment. Mr. Jquan Scott indicated that he would benefit from substance abuse treatment at this time.

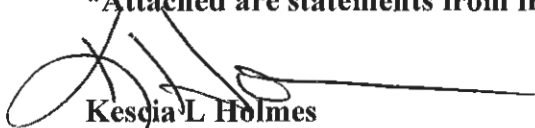
Criminal Personality

Mr. Jquan Scott's assessment indicates a low likelihood of an antisocial personality. Thus, high risk factors such as impulsivity, risk-taking, restlessness/boredom, selfishness, and so on, appear to be absent from Mr. Scott.

Vocational/Education

Mr. Jquan Scott reported having a good chance of being successful if he were able to get a good job right now. Mr. Scott reported that he has been suspended or was expelled from school. Mr. Scott reported that he never failed or repeated a grade level and Mr. Scott reported that he usually received C's in high school. Mr. Scott reported graduating from high school.

***Attached are statements from friends and family of the victim William Alexander Apps.**



Keshia L Holmes

Probation & Parole, Court Supervisor

(843)958-5171

Statements from the family and friends of Jquan Scott

Quentin & Monique Carr

420 Fruitwood Terrace
Williamsville, NY 1221

July 6, 2013

Apps Family

C O The Honorable Kristi Harrington
Circuit Judge, Ninth Judicial Circuit
300b California Ave.
Moncks Corner, SC 29461

Dear Apps Family and the Court,

We are so sorry for the events of October 3rd, 2013 that caused you and your family so much pain and loss. Our prayers go out to you and we pray that God will provide you comfort and solace. There are no words that we can say that will take the pain you may be feeling now away.

Psalm 112:6 Surely the righteous will never be shaken they will be remembered forever. We did not know William but I feel this scripture is fitting of his character and the man he was. From the outpouring of the community he truly made an impact and was loved dearly.

We so wish that we could go back in time and change the events of that evening, but that is not possible, just as we do not know what events led to our family member Jaquan Scott to take part in such a heinous crime. Jaquan throughout high school excelled in basketball, football, soccer and baseball, we were so proud of him and his accomplishments and not that he was an excellent athlete but that he was a scholar athlete.

Some may say he came from a broken home, yes but that is not an excuse for his actions. He may have been a statistic in the sense of the word, but he was surrounded by a loving extended family Grandparents, Aunts Uncles and a host of cousins who supported him on and off the field, and were so happy for him as he went off to college. I so wish that he would have reached out to one of us to let us know the pressures he may have felt he was under, I so wish he would have spoken to someone

in the family. Again we apologize for your loss, and we know that Jaquan has to stand in judgement for his actions. I ask that you find in your heart to forgive him as this will help you to heal.

Psalm 55:22 Cast thy burden upon the LORD, and he shall sustain thee: he shall never suffer the righteous to be moved.

Your Honor, Jaquan has to take responsibility for his actions, but his family is blameless in this crime and also have been impacted by his actions, there is no comparison to the Apps families but we respectfully ask that in your sentencing decision that you consider all the counts to run concurrently. I do believe he can be reformed and make a difference one day.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Quentin Carr".

Quentin Carr

Re: J'Quan Scott

My name is Brenda Young and I attend James Island Christian Church, James Island, SC. I have attended this church for the last 15 years and have been an active prayer person participating in the church service at the end of the service. Over the years I have prayed with J'Quan a number of times at our church. He is my friend and a believer in Jesus Christ.

When he was first arrested I was there to visit him at the Correction Center. I have visited him a number of times. Our friendship has always been sharing Jesus Christ and the word of God. I have seen him grow spiritually. I have sent him study books to the jail for him to grow in his faith. The last book I sent him was "The Greatest Words Ever Spoken" Everything Jesus Said About You, Your Life, and Everything Else by Steven K. Scott. I have been told that his bibles and books have been taken from him as he has been moved around the jail.

Over the time he has been there, I have been told he has had at least two dreams that he has been given spiritual encouragement from the Lord. Once I prayed with him at the correction center and he experienced the anointing from the power of Jesus. These incidents ministered to him greatly.

God, Jesus, the Holy Spirit is what our friendship is about. I pray for him a lot.

I was at his last court appearance with his mother, sister and two of our pastors from his church, James Island Christian Church. I care deeply about what happens to J'Quan. I care deeply for people.

Brenda Young

J'Quan Scott Biography

KiABri Scott [kiandrascott.ks@gmail.com]

Sent: Wednesday, July 01, 2015 10:06 AM

To: Kescia Holmes

Good Morning Mrs. Holmes,

This email is in reference to my younger brother, J'Quan M. Scott.

J'Quan has had a very difficult life, especially within the past 2 years. We both were partially raised by our sweet, God-fearing grandmother, Harriett Walker, while very young. Our mother gave birth to me at the age of 18 and J'Quan at the age of 22. We also have another younger brother, Vance Scott, who is 17 years old. Our family was definitely not perfect. We came from the typical low socioeconomic, African-American single parent household in Charleston, SC. I did not have the pleasure of knowing J'Quan's father very well and J'Quan never met his father. He was in prison for all of his life. From what I do know of his father is that he was not at all a very good man. Luckily, J'Quan did not have any of his qualities and was not able to be influenced by him. As a child J'Quan was very energetic, always loved athletics, and had a great sense of humor. Even now when I visit him he still makes me laugh. He always had good, stand up friends, most of them Caucasian, and none of them from our neighborhood; my mother would not allow that. Him and his friends would play basketball in our backyard or pile up in his little room and play video games or go cruising around Charleston. It may seem biased but J'Quan is not at all the person that the media or App's family or the prosecutor thinks he is. Any of his faults I attribute to the strained relationship he had, or rather we both have, with our mother. I knew that whenever she looked at my brother she saw his father, who beat her incessantly in private or in public. I knew that she did not want her son to be anything like his father so when J'Quan would not study or be disobedient she would take punishment to the maximum. But instead of that helping J'Quan like she'd hope it would, I think it made him resent her and he turned to his own ways of dealing with the world. He invested a lot of his energy into basketball and football at James Island Christian School, the star athlete at the school. He always had issues with studying and focusing at school; for years he was on ADHD medications to help cope with this problem. I had the pleasure of teaching at JICS for one semester as the pre-calculus and calculus teacher. J'Quan was one of my students and although he barely passed my class, he passed. I did not give any special treatment because he was my brother and once he realized this he studied constantly for my final exam and passed. J'Quan went on to Crown College in Minnesota to play football at this wonderful, small Christian college. He excelled in athletics there and did the best he could with academics but was forced to come home after one semester when we could no longer afford to pay his tuition being that the institution was private. So here he comes back to Charleston with no money, a partial college education, and the devastating reality that he can no longer play football. I took him that spring to go look for jobs and speak with military recruiters. He still had dreams of studying sports medicine but he wanted to try a different route. He found a job at Dorscher's grocery store worked there for a few months. He also had a very pretty girlfriend, named Tessa, whom he spent most of his time with, especially when him and our mother had their disagreements. He was in love and when Tessa opted to have an abortion with their child, he was devastated but he supported her and was there with her. Everyone else sees a poor black boy with no home training and destined to be in jail or dead, but I see a boy who could have had so much potential if someone had just invested a little time in him. I can't say that I knew everything or every move my brother was making. At the time I was in my second year of medical school when I heard that he was arrested and arrested for murder. I kept thinking that I should have and could have done more. I also knew immediately that he did not kill Mr. Apps. And definitely not over something material like a car. I know that he plead guilty because he was scared that in this state of South Carolina, a trial would have probably landed him the maximum penalty. Because no matter what we as his family know of him, it is what other people (lawyers, the media, the Apps' family) think of him. I wish I would not have encouraged him to plead guilty and I will forever blame myself for my part. He knows deep down that he did not take this man's life but he also knows whatever

part he did play was wrong. He was scared and some of his decisions he made immediately after were not intended to be mischievous or sneaky; he was genuinely afraid and out of his element because he is not a killer, unlike his co-defendant. Despite what you or whoever thinks, Mrs. Holmes, J'Quan is very apologetic about what happened to Mr. Apps. I pray and I hope that the judge will have mercy when sentencing my brother. Too often are we quick to use one mistake to define a person, especially within our justice system. It amazes me how our brains and sense of judgement are not even fully developed until our 20's yet so many young teenagers are hauled off to prison for poor judgement in life and no one has any mercy on them. I write letter asking for mercy, but most importantly I write this letter in love for my brother.

Thank you,

Kiandra Scott

J'Quan M. Scott

Harriett S Walker [hswalker52@aol.com]

Sent: Monday, June 29, 2015 8:46 PM

To: Kescia Holmes

Honorable Kristi Harrington

I am J'quan grandmother, I help in raising him. J'quan was born [REDACTED] into a loving and christian home to a single mother, whom lived with me. J'quan was taught at an early age to be respectful, kind, caring and humble. J'quan was and is a good person. J'quan love people and have never met a strange.

J'quan went to church with me and his mother, older his older sister and his aunt. after church we would have dinner with my mother (deceased) and their grandmother. after dinner we would attend the local baseball game as a family outing.

As J'quan grew, he wanted to play baseball so his mother enrolled him in peewee baseball and he enjoyed, so every year we would go watch him practice and play. then J'quan wanted to play football, J'quan played wide receiver, running back, in his senior year at James Island Christian School, J'quan their (QB) Quarter Back and he was good, they team loved him and he loved them and the game. Once football was over J'quan play basketball, was point guard, they won several awards in basketball and football. J'quan also played soccer. J'quan love sports. J'quan was honor at a banquet in Columbia SC, where several high school students through the low country was honored receive awards for being outstanding.

J'quan attended and graduated from James Island Christian School. J'quan attended Crown Christian College after graduation. He played football at Crown. J'quan wanted to do sport Medicine.

J'quan would mentor his younger brother and cousin in played and understanding the games.

He would go to the gym help other kids.

During part of his summer break from school, he would come to NC and spend time with his grandfather, (whom spent him career in law enforcement, as police office, a detective and retired from CSX as special agent), J'quan loved his grandfather and loved up to him. They played football, and video games together. He taught J'quan to operate the riding lawn more, how to put together a wheel barrel. He is J'quan mentor and J'quan looked up to him and love him.

I love my children and grandchildren, we always stayed connected by phone and visiting. We would have family gethering just because!! no special reason. On holiday and birthday we would invite other family members and friends and just celebrate in good fun. Laugh and talk about stuff.

J'quan is a good person, a good son, a good brother, a good grandson, a god nephew and a good christian young man.

J'quan is remorseful and feel much pain for Mrs Apps and her family.

Your Honorable Kristi Harrington, I ask for mercy and compassion for my grandson (J'quan), please I ask..

And for the family of Alex Apps, I truly apologize for all the pain you and your family members have endure in the loss of Alex. My heart aches for her loss and pray that Mrs Apps finds forgiveness through Jesus Christ.

Sincere

Mrs Harriett Scott Walker

Statements from the family and friends William Alex Apps



Your Honor,

My name is Alyson Ford, I am currently a 4th year medical student at the University of South Carolina School of Medicine. I have known Alex since I was in first grade. We were friends, study buddies, ballroom dance partners, and lovebirds in several parts of our lives. There are plenty of kids who have grown up together their whole lives, but the relationship that Alex and I shared was truly unique. Despite writing his eulogy and writing this letter over and over again I have never been able to find the right words to articulate how special Alex was to me. Our relationship is a feeling that is so deeply engrained that there are truly no words able to express the magic of our wonderful memories. Every day I hear Alex's big belly laugh and see his beautiful smile with those adorable dimples. Every day I can feel myself blushing as he teased me for taking too long to get his jokes. I see him roll those dark hazel eyes at me as I would tell him I was too busy to go out with him because of school. I can feel his arms around me as he walked me through the streets of Charleston one night to cheer me up. I can feel the pride he would have as we would walk into a bar, head straight for the dance floor and gracefully twirl me 6 times in a row just to show off. I hear his deep voice on the telephone telling me goodnight. And now even almost 2 years later I feel hope for Alex. I hope every time when I see the horse and carriage go by on the streets of Charleston that the driver will turn around and it will be Alex holding the reins of the horses wearing his khaki hat smiling at the passengers. I hope that I will go to our family's annual Christmas party and that he will show up and try and beat my daddy at a game of basketball outside. I hope that he will make it to my wedding next year and sweep me onto the dance floor and twirl me around and around until I am too dizzy to stand up. I hope that he will call me or even send a quick text and tell me that he knew how special he was to me.

I remember as a little girl being out on the dance floor waltzing with Alex at a Christmas ball in Beaufort, SC. He was dressed in a rented Tuxedo and I in a beautiful silver dress and he whispered the lyrics into my ear "Can I have this dance for the rest of my life." At that time we both chuckled as I replied "yes." We were probably 10 at that time and the rest of our lives seemed so far away. If I had known that we would not dance together forever I would have never left the dance floor. I replay moments like this over and over in my head. I try hard to hold onto the string of the most wonderful memories and feelings I have had with Alex. As I write this letter I have an entire box of tissue paper in my lap and my keyboard is flooded with tears. Many of them at the happy memories that Alex and I shared but most of them in despair for the emptiness that I am left with following Alex's tragic death. Please consider the deep ache and loss that those close to Alex experience everyday as you sentence the young men who committed this senseless and terrible crime. I hope this letter can convey the tragedy that Alex's loss has had not only myself but for an entire community. I hope that you can feel Alex with you as you read this letter because these words on a page will never be enough to capture what a truly special man Alex was.

Thanks for your time,
Alyson Ford

I first met Alex in "lower school" at Beaufort Academy I remember we were in a small group reading aloud a short story. I hated to read and especially hated to read aloud. It was my turn though and I remember starting off stumbling over the first few words and remember turning red as Alex corrected me saying its "island not is land." I laugh now at this small but vivid memory and think now who would have ever thought that the kid who made me tell my mom I would never read again would be one of best friends.

Alex and I progressed through life together: taking ballroom dance lessons as kids, celebrating birthday's and holidays with him and his family, and finally going to the College of Charleston together. I can remember in college taking him as a date to a sorority event and them playing shag music and us dancing all night. My friends told us we should be on dancing with the stars and I remember him laughing and smiling his crooked smile saying, "we are better than the stars."

I met my now husband Mark in Charleston and I remember him coming home for the first time and meeting all my friends from Beaufort, all but Alex. I remember I was so excited for them to meet because I knew they would instantly get along sharing a similar sarcastic sense of humor. Alex and Mark would have met Christmas 2013 but they never did. That's something I will regret for a lifetime. I can share with Mark my many memories of Alex, but unlike Alex, who could tell one heck of a story, I can't relay in words the type of person Alex truly was. I got married this May on the most Beautiful day a Bride could dream of. I was in the perfect dress, in the perfect venue, marrying the perfect man. I remember dancing with all my friends from Beaufort having the time of my life but couldn't help wishing Alex was there to share a dance with me on one of the biggest days of my life. Instead his name rested on a wedding program amongst the words "I know you would be here if heaven wasn't so far away." And this I know to be true.

There isn't a day that goes by that I don't think about Alex. A song on the radio, a black pick-up truck driving by, or while watching dancing with stars. His memories invade my mind and I gladly cling on to what I have left of him. He loved deeply and was loved deeply by all of those he met and his memory will never be forgotten. I smile when I think about the impact Alex had on the lives of so many in such a short period of time and I thank God that I was lucky enough to have him in my life.

Katie Lasater

7/3/2015

Gmail - Alex



Alyson Ford <rememberingalex88@gmail.com>

Alex

1 message

Katy Kilgore <kilgore.katy@gmail.com>

Wed, Jul 1, 2015 at 8:46 AM

To: rememberingalex88@gmail.com

Alex was known in many groups as the "glue" that brought people together. He is one of the most nonjudgmental, caring, trusting, and genuine men I've ever had the privilege of knowing and loving. Losing Alex robbed family, friends, and a community of an incredible man.

It's very difficult for me to put into words what it meant to have Alex in my life and what it meant to lose him so tragically. How can you put into words what it means to lose someone you fully expected to be in your life forever? It's heartbreak at the highest degree. And to be honest, I could go for days talking about it - but the short side of it is going home to Beaufort doesn't and will never, ever be or feel the same. Alex was one of the first people I always picked up the phone to call when I'd get into town. There's not a day that goes by that I don't think about him and the urge to pick up the phone and call him still hasn't faded...and I don't see that happening any time soon.

- Katy Kilgore

Your Honor,

I have had the pleasure of knowing Alex Apps and his family since he was 6 years old. My twin daughters enjoyed many extracurricular activities with Alex, over the years. Alex and his parents became less like friends and more like family as we traveled to ballroom dance competition, soccer tournament and vacation together. We are very blessed and privileged to have had Alex and his parents (Bill and Agatha) as part of our lives.

Bill and Agatha are two of the most beautiful people inside and out. They are kind, caring, loving and genuine. Needless to say, the apple does not fall far from the tree. Alex had a passion for life and people. He always had a way of making you smile.

Alex never met an enemy only a friend. He had this ability to carry on a conversation with anyone from young to old. As my husband would say, "he was comfortable in his own skin".

He loved his family always finding time to travel to his grandparents' house in Georgia and help on the farm. He would come back and tell stories of the farm. Alex treasured the stories his grandparents would tell of the good ole days.

When my twin daughters went off to the College of Charleston, Alex was there in the August heat helping to move them in. He carried what seemed like a million boxes of shoes and put together endless amounts of furniture all the while keeping us entertained. I was frightened to leave my two baby girls that evening. Alex reassured me that he would take care of them and they were not alone; he was there and he was their friend. With tears in my eyes I said goodbye to my girls as I dropped them off at Alex's dorm. I knew with Alex's friendship they would not be alone but safe and happy. This is the type of person Alex Apps was, a true friend

Adjusting to life without Alex has been very difficult for my entire family. There is not a day that goes by that we all don't mourn his loss, I personally have cried the Atlantic Ocean full of tears. My heart is broken deeply. Although there are so many beautiful memories of Alex, the heartache and pain will always be with us for the loss of new memories with Alex that we all should have made but instead, he was so abruptly and senselessly taken from us. We will never get to see what difference he would have continued to make in our lives. My heartbreaks when my 26 year old says to me I don't have my little buddy anymore. My heartbreaks that his mom, Agatha, will never have a mother son dance at his wedding or rock her grandchildren. Our lives will never be the same again with out Alex.

Thank you for your time,
Stacy Ford



Alyson Ford <rememberingalex88@gmail.com>

Remembering My Friend Alex.

1 message

Bryan Thompson Jr. <bjrthompsonbuilders@gmail.com>
To: rememberingalex88@gmail.com

Tue, Jun 30, 2015 at 10:54 PM

To whom it may concern,

Alex was a great friend to me as he was to so many. Alex was the kind of person that gave without any thought of gaining from it. He achieved true happiness through helping others. Alex more than helped me through many difficult times in my life. The perfect example being the Christmas of 2006. I was having a hard time in life and had no place to go for the holidays. Alex and his mother, Agatha, opened their beautiful home to me without hesitation. I had nothing to offer and only troubles came with me. So close to Alex finishing his rigorous senior year and moving on to any of the numerous colleges that he was accepted to. None of that mattered to him or his mother. They saw an opportunity to help someone that was in desperate need of it. I remember waking up that Christmas morning and walking down stairs to find at least a dozen gifts or so. Alex made it a point to make sure that I had just as many gifts under the tree as he did. WOW! No one has ever done anything close to that for me in my entire life. The kid went out of his own pocket, with money that he made or had received from friends and relatives for Christmas, to give me the very most memorable Christmas I have ever had. That's just who he was. He wasn't the kid out partying and getting into trouble. He was the designated driver. He knew he had too much to lose and knew that he could achieve anything in life that he so chose. He could have been President one day if he so chose. He was that smart, motivated and driven. It breaks my heart that everything he worked so, so hard for is for nothing. That someone with no future could take the life of someone with an unlimited future. All the times Alex stayed home to study instead of hanging out with his friends and family.

I could look the rest of my life to find a friend like Alex Apps, and never find it again. God only makes people like Alex once in a lifetime. Please, may justice prevail.

Bryan Thompson

Dear mam/sir,

My name is Eliza I was Alex's step sister. The first time I wrote that I said am I'm instead of was because I am so used to his great self being here. I just can't think of a world where he is not sitting by me watching soccer and me think he is so good at soccer and I wish I could be just like him when I grow up.

I am the one that has to be by Agatha comforting her on her bad days. I am the one who has to see how sad Agatha gets. I can't help to cry when I see Agatha cry because it's just so sad.

I am only 11 and don't remember all the awesome times we had together but I do know he was so giving, kind, fun, and downright awesome. I am so sad that I can't grow up knowing he could help guide my way but, I know some way he will give me signs. It was like a tragic love story with him and his girlfriend. I so thought she was the one.

The look on my step moms face whenever she heard the door opening and it was Alex was priceless. She was always so happy to see him home from college and he was always so happy to see her.

The funniest time was when I turned the T.V. in the living room. At this time he was on the sofa. When my dad turned the volume on the T.V. up his snoring got louder. My dad turned the volume up a couple of times and each time his snoring got louder.

Alex touched so many people's hearts that I can't keep track. There are some people that have written about Alex that his mother don't even know. I remember when I would want to try on Agatha's clothes or shoes or just want to talk to her and I couldn't because she was talking to Alex and when she talk to Alex it was for a long, long, time.

Sincerely,

Eliza

June 20, 2015

Jquan,

It has been almost two years since you brutally, ruthlessly and senselessly murdered my best friend, William Alexander Apps, whom I was only given 17 short years of memories with. When asked how I have handled the loss of the most kind-hearted, loving, and genuine man I have ever known, I can only answer that the vibrancy he brought to my life in those 17 short years will be enough to last my lifetime.

You took from the child who at 8 years old loved that I was a tomboy and read every R.L. Stein Goosebumps book with me in the back of our 2nd grade classroom.

You took from me the boy who consoled me when I failed my first test in 4th grade — History, none the less, Alex's best class and a test he of course scored extra credit on.

You took from me the teenager who was my first kiss at age 13, behind a tree near the giant pond in my neighborhood.

You took from me the gentleman who taught me how to ballroom dance and who would become my ultimate Motown Shag partner.

And finally, you took from me the man I was supposed to marry at age 30 when we hadn't found anyone strong enough to handle our crazy, larger than life, outspoken personalities. A promise we made to each other a few cocktails one night in college.

I was the first to read a Eulogy at his funeral, in which I referenced a song from "The Band" called Atlantic City.

Although I quoted lyrics that pertained to Alex and my friendship, I have replayed that song hundreds of times since October 3rd, 2013 and only recently have I realized there were hidden lyrics tucked in there for you too:

"Well I got a job and I put my money away // But I got the kind of debt that no honest man can pay."

You may have been honest and admitted to your wrong-doings, but murdering my Alex is a debt that you will never, ever be able to pay.

This is a debt you will live with in jail for the rest of your life.

May you lay your head down every night in the cold, hard bed that you so shamelessly made for yourself — and I'm glad it's not six feet under for you deserve to reap the consequences of your

actions from behind those decrepit metal bars for taking something that was not rightfully yours to take — the life of my best friend.

The best friend whose picture I fall asleep next to every night, where he is smiling ear to ear, and yet a smile I will never see again on this Earth because of you and your selfish decision. Although my anger has subsided, it doesn't change the fact that he's gone. I still reach for the phone to call him when I wake up after he's found his way into my dreams, I still expect to see him when I go home to South Carolina, and his phone number, one that I've had memorized for years, is still saved in my phone to this day.

You may have attempted to delete him from our lives, but his memory and the joy he brought to everyone lucky enough to know him, will fill our lives forever. In turn, making us better children, siblings, neighbors, friends, significant others, and even mere acquaintances to those who we are so lucky to meet on Alex's behalf going forward in life.

Your days, Jquan, will be spent wasting away in a concrete cell, with no purpose — never getting the chance to live life to the fullest the way Alex did. The luckiest thing that ever happened to you was the chance to shake my best friend's hand. Replay that moment — every morning when you wake up and every night before you attempt to sleep, because it's the closest you'll ever get to become any form of a human, as opposed to the murder our justice system is going to punish you for.

In loving memory of my friend Alex,

Courtney Alexandra Turcotte

COURTNEY TURCOTTE

EDWARD C. WHITE PARKWAY, FLEMINGHAM, NEW YORK

BY GREENATCH & CO., LLP

NEW YORK, NY 10011

TEL: 212.311.1111

F: 212.311.1111

Eulogy for Alex Apps by Courtney Alexander Turcotte

I want to share a story with you in hopes of encouraging you to keep your heads high and always walk in His name.

I awoke the morning after learning Alex was gone with the heaviest of hearts, in physical pain realizing I had to go to work and face a world that seemed cruel because it had just stolen one of my best friends.

I put my headphones on as I usually do for my walk to work, this time praying that the music would distract me from the morning's cold reality. One block from my apartment a song titled "Atlantic City" by a group ironically named, "The Band" started playing on my iPhone. As I reached the corner of 23rd + Lexington in NYC the chorus of the song stopped me:

"Everything dies, baby that's a fact...
But maybe everything that dies, someday comes back
Put your makeup on; fix your hair up pretty
And meet me tonight, in Atlantic City"

The song was interrupted by a man's voice exclaiming "Free Bibles!"
A feeling unlike any other washed over me and I turned back, compelled to accept this free little Book. He handed me a small, green + white pocket size Bible, with a nature motif on the cover. (show the Bible here)

Inside the front cover was printed: "This Testament is presented in memory or honor of a friend or loved one."

I clutched this little book tightly to my chest and the tears flooded my eyes. This was from Alex.

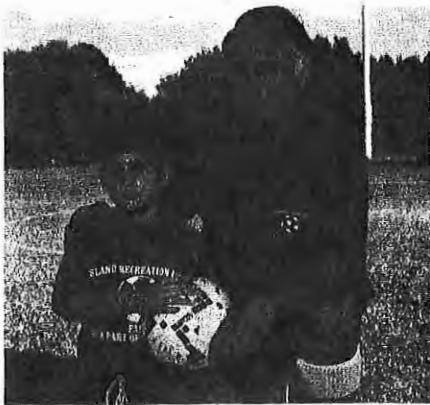
"Atlantic City" was still playing and it all suddenly clicked. Alex's love of history and nature was so suddenly confirmed: "everything dies, baby that's a fact." But this little Bible was Alex's way of coming **back** and he was telling me, "Wipe the tears, Fix your makeup and go on, get going Court, you still have a life to live..."

We must continue to persevere in the tough days ahead, for there will be many. Although mourning is inevitable, we all know Alex wants us to remember all the good times with him and live our lives to the fullest—remembering friends, cherishing family, persevering against the all the curves life throws our way and believing in the good as Alex always did.

I've carried this little Bible everywhere with me since that day, and when I opened it to read a random scripture, I read this from 2 Corinthians 4:6

'For God, who said, "Let light shine out of darkness," made His light shine in our hearts to give us the light of the knowledge of the glory of God in the face of Jesus Christ". God charges us to the 'light' in this darkness.

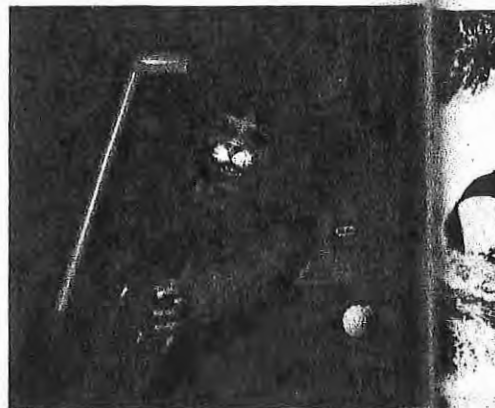
Our memories of Alex will be a beacon of light that will help lead us out of the darkness we feel today. May our memories of Alex go with us as we walk with the Lord.



Dearest Alex,

No matter what curves life has thrown your way during your high school years, you have persevered. You have experienced difficult times that most do not face until much later in life. Your strength of character has enabled you to keep your head up and plough through it all.

Keep pressing forward even when you feel like you have lost sight of purpose and motivation. You have always been comfortable in your own skin—you know who you are and what is important. Let your strong spirit guide the way, and I know you will find wonderful things ahead.





*You are such an inspiration to me,
and I am grateful for every moment
that you are in my life. Remember all
the things Dad taught you and know
how proud he would be of the special
young man you have become.*

*Congratulations with
all my love,*

Mom



*"What we once enjoyed and deeply
loved, we can never lose, for all that
we have deeply loved becomes part of
us."*

-Helen Keller



Don't party too much.

My name is Buzzy Bosworth and I am Agatha's companion. I was introduced to Agatha Apps in 2005 around the one year anniversary of her husband Bill Apps being murdered at their Chelsea plantation home. I came to know Alex in the beginning through spending time with Agatha and observing how she interacted with Alex. It was not hard to see the loving relationship they had together. My first impression of Alex was that of an intelligent teenager working hard in school during the week and spending his weekends with his friends. Agatha had a very demanding schedule during the hunting season with long hours; however, they always found time to spend with each other every day even if it was dinner in her office. Alex was the world for Agatha and Alex adored his mom, it was obvious in his actions and demeanor towards her.

I came into Alex's life a few years before he went to college in Charleston. It did not take me very long to notice that Alex was a very special person that had a way with people. He handled himself with great confidence. It did not matter if he was talking to a young man cutting the grass in his back yard or talking to a college professor, he would keep you engaged. His education and grasp on the world was that of a leader. He had a great network of friends. I'm not talking about someone you call a friend. I mean friends you keep for life, because that's what friendship meant to Alex.

Alex had deep roots within his family, especially within Agatha's side of the family. They are a very loving and tightknit unit of siblings, uncles, aunts, cousins and children. I love the way they all come together at Alex's grandfather's farm when a large job needs to be done, the men and woman will go out in the field and work side by side. Or the way in which they all respond to a crisis of a family member when life makes a wrong turn is inspirational.

I have experienced death and loss in my lifetime, however watching Agatha struggle with the fact she will never hold her son in her arms again has been heart wrenching. She will never see Alex get married nor will she ever hold a grandchild in her arms. Agatha is constantly reminded of this as the next generation of Durden children are being born in the family.

Agatha's life has truly changed forever now that she is a parent of a murdered son. Nothing will ever change that fact. Time does not heal; we just get numb to the truth until our coping skills take over.

I can tell you through my observations in this tragedy that not a day goes by without Agatha missing Alex; not a day goes by without a tear being shed for Alex; not a day goes by without you seeing the pain in her heart for Alex, not a day goes by that we don't miss the sound of Alex coming through the front door; not a day goes by that I ask God to ease the pain in her soul for Alex being taken from all of us.

Buz Bosworth

I would like to begin by telling you three things that I really appreciate about Alex, or that really evoke his presence for me. The first is that, in addition to being a fantastic history student and historian, he was an excellent writer. I appreciate that fact all the more as I look out in the crowd and see more than a few faces of students who were not as proficient at writing as Alex! I want to read you the introduction of an essay that Alex wrote in AP USH during the first quarter of his sophomore year:

[I should tell you that this was written in-class by hand under a 35-minute time-restriction]

During the early to mid 19th century, great technological advances swept the country. After the War of 1812 America developed a fledgling manufacturing industry in the Northeast by using new mill technologies and combining all aspects of production under one roof. These factories grew and made more than enough products for everyone to have. Except there was one problem; many of the consumers were from the newly settled western territories that needed finished goods shipped to them because they could not supply themselves efficiently enough. This created a problem because there was no means of transporting the goods to the West.

Not only does Alex use the word “fledgling” correctly and effectively in this introduction, he goes on in the body of the essay to incorporate references to the Lowell Factory System, Gibbons v. Ogden, the Mayesville Road veto, Clay’s American System, and the Charles River Bridge Case. Alex was an incredibly smart person, and I will always remember him as one of my very strongest students.

Second, Alex was a true soccer afficianado. He followed the Premier League way before direct tv, fox soccer channel, and NBC sports made it easy and even fashionable to do so. I have been involved in the soccer scene in Beaufort for 20 years now, and when I reflect back on that time images of Bill and Alex Apps always appear to me. Blue Crab United was an important part of the lives of a number of us here today, and that would not have been possible without the Apps’ family’s dedication, commitment, and sheer love for the sport of soccer. I am a huge soccer fan, a history teacher, and an incurable anglophile and Alex was a great soccer player, an exceptional history student, and his father was English so the affinity that we had for one another seems clearly to have been inevitable.

Third, I can never think of Alex without thinking of Rome, or think of Rome without thinking of Alex. I am referring more specifically to the HBO/BBC television series, but really anything about the city or its history or its rulers makes me think of Alex. We both loved Roman history, but at the time when Alex was in my classes, he was a considerably more avid television-watcher than me. As soon as he started watching the show he begged me to watch it—he harassed me, he harangued me, he basically stalked me. Not all of you will get this reference, but for those of you who will it will illustrate my point: he bothered me more about watching Rome than I bothered my father about watching *Ferris Bueller’s Day Off*. I never did watch the show on HBO, but the December after Alex graduated I bought myself the first season on dvd as a Christmas present. I became

a rabid Rome fan, and Alex and I lamented the fact that the show lost its funding after the second season in one of the last long conversations I had with him, and I am sure he would defend my opinion that neither *Breaking Bad* nor *Homeland* nor any other of these more recent tv phenoms could hold a candle to *Rome*.

I would also like to share a few things that I remember about Alex's school days at BA:

#1. "Performing" with him under the full weight of Josh Mixson as the horse in Alice in Wonderland when Parker bruised his ribs, and Alex's frustration with how long it took me to learn the little horse-feet dance. (I am pretty sure I screwed it up!)

#2. Alex holding forth about colonial history on a field trip to Drayton Hall while Norman, Griffin, and Walter ran around like 8-year-olds and Megan kept sinking into the mud in her high heels.

#3. 9th grade PE, 2003-2004 school year. I think it was the last year we required a full year of PE credit, and it may also have been the last year that we had block scheduling. Anyway, I had B-day 4th period free, and pretty much every day Snowbird, Sharpshooter, Gang Leader, Horatio, Clay the Silent, Parker, Griffin, Norman and Megan would try to get Alex into basketball, while coach Van Horn, War Chief, Katy, Courtney, and Joni would work out in the weight room. For all of you member of the Class of 2007 that are here today, I want you to know that those are some of the absolute best memories of my 20 years at Beaufort Academy.

#4. Courtney, Joni, and Katy working incredibly hard all year in APUSH and keeping a good attitude toward the class despite Alex constantly telling them how easy it was and bragging about how well he did on tests and essays.

#5. AP Euro 2005-2006 school year. First period. One room, five people: me, Alex, Katy, Parker, and Clay. Clay is being silent, Parker is rambling or possibly dozing, Katy is asking questions and taking notes, and Alex is snoring so loud that it is hard to believe that any of the other things could possibly have been going on!

I would like to share one last thing about Alex, about myself, and about Alex and me. When Alex's dad died tragically in 2004, my dad was dying of cancer. He died less than a year after Bill died. Men are notoriously bad at processing grief and expressing emotion, and Alex and I never actually spoke about our feelings or our father's deaths, but our mutual grief created a sort of space that we both walked in during those 2 or 3 years and I think it helped both of us to know that, any time we were in the same room, we were at least not alone with the worst pain a son can feel.

I always hoped that someday Alex and I would sit down together over a beer and talk about that incredibly difficult time in our lives, and I still can't understand how it is possible that I am making these comments at his funeral, like I did at my dad's funeral, rather than having a beer with him, or with my dad, or with Bill, or what would be the best of all possible worlds, having a beer and watching a soccer match with all three of

them. I would not end these comments by remembering this sad period except for the fact that it is precisely this that defines Alex for me. No one here remembers Alex as a person who was sad, or sullen, or dejected, or depressed, or dispirited, or angry, or bitter or resentful, yet I would be willing to bet that no one here knows anyone who would be more justified in having and projecting all of these feelings about life. I am quite certain, in contrast, that we all remember Alex as a person who was happy, enthusiastic, friendly, funny, energetic, hopeful, and grateful. Alex had a love of life that would not be beaten down and that will never fade away, and that is what I hope we will all remember about him.

Bill Dalton

Good Morning,

For those of you who don't know me, my name is Katy Kilgore and I'm honored to be here today with all of you who loved Alex as much as I did.

My grandmother always described Alex as "that beautiful boy." Never by his name, just "that beautiful boy." And he was, in so many ways.

I feel truly grateful, blessed, and privileged to have shared some of the best, and most defining years of my life with that beautiful boy.

Among many things, I have been reflecting on how much I learned from him and what a constant presence and solid rock he was for me and everyone he met. I don't think it mattered how well or how little a person knew him...no one ever doubted his genuineness and ability to laugh at life. Or his ability to dance. In fact, I'm not sure many of us girls will ever come across a better dance partner. And I think it's safe to say he showed us all what a true southern gentleman looks like.

Mrs. Apps, your handsome son taught me how to listen, how to give a proper hug, how to have a good time, and how to be devastatingly charming. And I know for certain how deeply he loved you.

Alex made everyone feel like a friend. And on a personal level, he was the first boy to ever make me feel special. He somehow found a way to love a part of everyone, and I think because of that, people couldn't help but be in love with him.

I will always be thankful for the last time I was with Alex this summer. We spent the evening with two other close friends...having a very typical Beaufort night. Just hanging out on a porch, drinking beer, and laughing about life. But somehow, just hanging out with Alex always turned in to a memorable occasion, and this was no different. I will cherish that memory forever.

I'd like to leave you all with a quote from one of my favorite poems by ee cummings,

"here is the deepest secret nobody knows
(here is the root of the root and the bud of the bud and the sky of the sky of a tree called life;
which grows
higher than the soul can hope or mind can hide)
and this is the wonder that's keeping the stars apart

i carry your heart (i carry it in my heart)"

My name is Bryan Thompson and I would like to thank Ms. Apps and the rest of the family for allowing me to speak here today.

I would like to start by asking you all, have you ever met someone that you instantly felt you had known your whole life? For me that was Alex.

I first met Alex my senior year in high school. We were both 17 and less than 2 months apart in age, however, he was a year behind me in school. It was at a small get together at Ross's parents house that I was introduced to Alex. He was in desperate need of a partner in Beerpong and I was happy to step in and help him out. We shared the same side of the table that night, however more importantly, layed the foundation of a friendship that would last forever. We laughed and told jokes all through the night, until it was time to go home for curfew. We exchanged numbers and from that point on became brothers.

When I think of Alex I think back to riding down the road in his white Honda Accord blaring Audioslave as loud as his stereo could play it; armadillo hunting on the fourwheeler at night in Chelsea; the concerts: OAR, Shinedown, or Hootie and the Blowfish; and of course playing FIFA on the xbox(that's soccer for those who do not know) no telling what his mother thought of us up in his room throwing the controllers, stomping around and shouting terrible things at each other because we each hated to lose so much. No matter who would win or lose we always shook hands afterwards, even if the game did let him win(that's what I would tell him).

What I will remember most of all about Alex is his generosity. Alex was always someone to count on in a time of need. No matter what the situation, Alex was always there to assist in any way he knew how. At one point in my life I fell on hard times due to a series of poor choices that I had made. Alex was there for me every step of the way. Opening his ears, arms and heart to a friend in need. Only when I felt I had no place to go, Alex and his mother opened their home to me.

I moved in with Alex at the end of the first semester of his senior year at Beaufort Academy. For the time being, we were just going to share his HUGE KING size bed. I would always try so hard to beat Alex to sleep because if I did not, I would not get any sleep. He would snore so loud I swear the sheetrock on the ceiling would move every breath he took. When Alex fell asleep before me, I would push him, knee him and hold his nose but you can't stop a train. I would just give up and go sleep on the couch.

On Christmas Eve Ms. Apps held a small Christmas party at their house in Chelsea. There are many memories that make that particular night special, other than it being my first white elephant gift experience. I don't remember who opened their gift first, nor do I remember exactly what I opened, but I will always remember Alex holding up his brand new Giant Red Thong.

One of the happiest moments of my life was the Christmas that I had the privilege of spending with Alex and Agatha. I will never forget how special it was to feel so welcomed and at home with you two. Ms. Apps went out of her way that year to make sure that I had just as many gifts under the beautiful Christmas tree as Alex did. It was easy to see where Alex had

learned to be so generous, thoughtful and caring to others. He always was a mamma's boy.

I remember when Alex and I would run late getting home and Ms. Apps would call fussing at us, and for some reason Alex would always say "there is a wreck on the broad river bridge". I wish I had a quarter for every time I heard that one. Some how he used that excuse twice in one week and somehow got away with it. Those were the good ole days.

Ultimately, time moves on and Alex moved to Charleston to attend college and I remained in beaufort. Even though we were further apart and got to see each other less and less, when we did get together it was like we were never apart. Its easy when you have a friend like Alex.

Ill never forget the last time he called me to say he was in town. I offered to take my fathers boat out to the sandbar if he was interested. Alex was all excited and ready to go. However, the next morning I received a phone call from another friend of mine reminding me of the golf foursome that I had committed to before I had talked to Alex the previous day. I called him and explained the situation to him. Alex being the great friend he stressed the fact that it was no problem and that he would catch me the next time he came down. It was then that I told him we had an extra spot on the golf course. He replied with, "Bryan, my body type doesn't quite fit a golf swing." Therefore, he would not be joining. Alex went on to call me just a few weekends later. However, I did not answer purposely, because I knew the reason for the call. His Georgia Bulldogs had beaten up on my Carolina Gamecocks and Alex was calling to make sure I knew it, like so many friends do. Alex and I had been to a Carolina game and strangely enough a Clemson game, yet never to Athens to see the Bulldogs together. He always

reminded me that we had to do that together even though I am a huge Carolina fan. I would always tell him I would rather lose a leg than step foot in that place with him. Little did I know that the day would come that I would give anything in the world to be able to join him for that game.

Alex was more than a friend to me, he was, is and always will be my Big/Little brother. I thank you all so much for the time to share the cherished memories with our friend Alex. I will forever miss you my Brother.



Alyson Ford <rememberingalex88@gmail.com>

Impact statement

1 message

Dee Durden <ddurden312@gmail.com>

Wed, Jun 17, 2015 at 10:22 PM

To: Rememberingalex88@gmail.com

To whom it may concern,

I am Dee Durden, Alex's uncle. Alex had come such a long way since the violent loss of his dad. He had become a happy go lucky type person. He brought life to gatherings of family and friends. He loved to make people smile.

Alex had finally realized his future was ahead of him. He started setting goals to achieve. I would talk to his mom, my sister. She would be so excited telling me things he was doing. She, we, were so proud of him. Alex was maturing into a great young man. It was like our prayers were being answered. Alex's mom had started feeling like a successful parent. It made me feel warm inside watching them laugh. They had succeeded in putting the tragic past behind them.

I had to do something I would not wish on my worst enemy. I am the one that had to tell Alex's mom he was not coming home. I can not describe the look in her eyes when I told her. It is hard to look at pictures of Alex because I keep getting flashes of the look that was in my sisters eyes and face when I told her.

I will miss how Alex made us laugh, how he made his mother's eyes light up. We have lost a piece of us when lost Alex. I will always have an empty feeling in my heart now when it comes to Alex.

Best Regards,
Dee Durden



Alyson Ford <rememberingalex88@gmail.com>

Letter for Alex

1 message

Allison Sutcliffe <allisonsutcliffe@gmail.com>
To: rememberingalex88@gmail.com

Thu, Jun 18, 2015 at 11:11 AM

June 18, 2015

To whom it may concern,

I have started writing this letter over a dozen times and each time, I erased my first two paragraphs and started over. I don't believe a letter can explain the kind, generous and charismatic young man that Alex was. WAS, that's a tough word to write. It still seems impossible that one of my dearest friends life was taken by such evil. I grew up with Alex. I'm sure if you read these letters you will see that sentence quite a few times. The meaning behind that statement may be a little different from my perspective. I met Alex freshman year of high school and we became great friends and dance partners at any event we attended together. The one thing I can say about that time in our lives is that I was still trying to "find myself" but Alex was the only one of our friends that knew exactly who he was and who he would always be. Alex was such a kind, trusting, intelligent and giving person, he always put others first. I'd like to think that Alex rubbed some of those qualities off on all of us. He impacted so many lives because the genuine spirit he was made you want to be a better person.

I believe there are two types of people in this world, good and evil. I believe this is very black and white with no grey area in between and Alex was good. He was the definition of good. The world needs more good and less evil. Alex was the type of person that would give you the shirt off of his back if you needed it. The unfortunate part of this senseless crime is that he would have given his truck, wallet, and cellphone, everything he had, to avoid this outcome. His friends and family miss him dearly. Death is a difficult aspect of life to deal with but losing someone for such a senseless reason makes it so much harder. I will keep Alex close to my heart as I continue my life and keep him as a reminder of being good.

I pray for justice to be served to allow his family closure and time to heal.

Sincerely,

Allison Greco

To the Court,

My name is Katie Brookins. I am an editorial and marketing associate at Smyth & Helwys Publishing and I knew Alex when I attended Beaufort Academy from the middle of our second grade year through the end of fifth.

Alex and I were not exactly friends; we were more of foes. We liked to argue and were too young to realize we could bicker without actually getting upset. (Alex was studying law, so I know we both did come to understand this distinction.) We were intelligent, quick-witted. One year we sang a duet in a school musical, playing the roles of wizards competing for an accolade on our prince's birthday. We pranced and stomped around opposite sides of the stage, always remembering our audience. Now, I find this very apt because, when there was no audience—no friends or classmates to watch us argue like tennis champions—Alex and I got along great. Those quiet times, sitting alone at our assigned art table or sitting on the steps of the office building waiting for our moms to pick us up, we were kind, understanding, encouraging.

I left BA before Alex and I could grow out of our squabbles and be friends even when others were there. I never saw Alex again, but we still had mutual friends and through middle and high school they told me how he was doing, about his soccer games and roles in plays. I went out of state to college, travelled abroad, and even on other continents I saw things that reminded me of Alex: a football floating in a pool, a suit of armor in the Tower of London with a round chest, the cover of the second Harry Potter book, the constellation Orion. Alex was a large figure in my formative childhood years, a foil who challenged me in important and unimportant ways. Periodic reminders of him felt normal, though I know it isn't. But Alex's spark wasn't normal. Bright and warm and surprising, the spark of Alex Apps seared itself onto my memories, making them easy to come back to again and again, even in seemingly strange places.

After I heard about Alex's father, I hurt for him and thought about him, but still Alex was out there and I had no doubt that he was the same exuberant, sensitive, clever person he'd been as a child. A little forgetful. Athletic. Generous. As capable of impressing as infuriating me.

Ballroom dancing, of all things, became big in the fifth grade. Alex and several others performed at BA's talent show. I remember watching from the bleachers, impressed that Alex's soccer footwork translated so well to his dancing. At one point the partners shifted and Alex was leading two girls at once. I don't remember how it came to be, but I remember how great he was, dancing with both girls as the other boy on stage led his partner into turn after turn, no one paying them any attention.

Spark. That was Alex.

Alex was murdered. Held at gunpoint and murdered, so he was afraid when he died.

More than a decade after I had last seen my childhood foe, I sat in my car, horrified, reading the article on my phone, having to roll the windows down to help me breathe. I remembered, again, Alex's father, and I thought of his sweet, gentle mother Agatha. Thinking of her, I began to cry. And then I did the math and realized how long Alex had been missing, his body waiting to be found. I went home and wrote down every memory of Alex, trying to lay over the senselessness as much dignity as possible. I wrote for hours, remembering, feeling a fresh wave of aching pain for his last moments and for Agatha, who had already lost her husband.

Alex is the first of my childhood anythings—friends or foes—to die. And he felt afraid when he died. This knowledge has kept me awake several nights and distracted several afternoons.

Now, over a year later, I am still trying to remember everything I can about Alex Apps, the boy he was, to lay some dignity on the tragedy of how Alex Apps, the man, died.

Respectfully,

Katie Brookins

Dear Sir/Madam,

I am writing to you to give you some insight as to the great loss we all feel with the murder of Alex Apps.

My family has known the Apps family for many years. My youngest child, Katherine, was a very close friend of Alex from the age of approximately 10 years old.

We first met them through Blue Crab Soccer, a local Club Soccer Team. When Katherine was invited to try out for the team, I, as her Mom, was a little nervous as the Team was all boys at the time and the teams that they played across the state were also all boys. One of the first boys from the team that welcomed her was Alex. He was a tall boy for his age and made my little girl seem even smaller than she truly was when she stood by him. Once again, it made for a nervous Mom. And yet as large as he was he was always so well-mannered and protective of my girl that you just had to love him. He was very competitive in both games and practice and brought out the best in all of his teammates, but let someone say something about Katherine being 'just' a girl and he would put them in their place.

They played soccer together until High School when the team split up and the kids started playing for their school teams, but that did not in any way split up their friendship. Alex always called or stopped by to see how Katherine was. He'd make a point of stopping at the house to say hi to my husband and I if he was in the area, or if he saw us out in town he would always take a minute away from his friends to come over to us to 'check in' as he put it.

College came and nothing changed. We may not have seen Alex as often, Katherine may not have received as many calls, but when you saw him it was always just like it always had been. Alex always put a smile on our faces when we saw him. I always received a big hug and an I Love you Mom from him whenever I saw him. He'd tell me about his classes and what he was doing, never embarrassed to tell me if he wasn't doing well in a class, would just look me in the eye and tell me the truth.

I am smiling as I type this because I just remember so many happy, fun times we spent together over the years. But I also have tears in my eyes as I will never again be able to hug him and tell him how proud we are of all he has accomplished.

Alex Apps loved life, he loved people. Those who were a part of his life, be it for years or a short time were changed for the good. You couldn't help but be a better person after spending time with him. He wasn't perfect, no one is, but with Alex it was hard to find those imperfections because he was always so kind, helpful and loving. He was a bright spot in our lives and now we have a hole, as he is no longer there.

I could say so much more about him. How he handled the death/murder of his father. How he took care of his Mother through that awful period of their lives. How he was always there to make sure his Mom was happy. How he accepted her new husband as he knew it was best for his Mom. Alex always thought of others before he thought of himself, but no one was more important to him than his Mom. That this has happened to him and to her for a second time is just beyond anything anyone could believe.

We will always miss Alex. The thought that he is no longer here is very hard to comprehend, if only we could have just one more smile, laugh, joke, hug.

Thank you for your time.

Pam Tritschler

Beaufort, SC 29907

843-812-3540



Alyson Ford <rememberingalex88@gmail.com>

Alex

1 message

Ryan Robertson <rkrobert86@gmail.com>

Wed, Jun 17, 2015 at 3:34 PM

To: rememberingalex88@gmail.com

I met Alex the summer of 2009. I was working at Carolina Polo & Carriage Co. when he was offered the job there. Even though I had never met him before we had an instant connection. were both tour guides driving visitors around in a horse and carriage. I thought that I was well versed on the history of the Holy City but when he joined the team... he taught me more than that book (issued by the city of Charleston) ever could. He had the most interesting facts about every home and street corner and I eventually started to think he was making it up... nope... after every fact check he was 100% correct. Alex later told me that he had a photographic memory and that remembering facts came natural to him... he was 2 years younger than me but he was the most intelligent person I had ever met. I knew for a FACT that this guy was going to go to Law School and become a politician and eventually a sitting president of the United States of America. Everyone that knew him was blown away by his kindness, generosity to help others and his wealth of knowledge. He knew more about Charleston than any historian I had ever met... and being in that industry... I knew a lot of them. We considered him to be the Ambassador of Charleston! He was the definition of a Southern Man with a true gentile manner.

Alex and I became best friends and I spent much time with him over the course of that year. Hanging out at college parties, playing video games, studying, taking the ladies out for shag lessons, going to the beach, helping each other move into our new homes, visiting each others home towns and family, hunting/fishing trips, etc... He was truly one of a kind. Plus, we were both bigger/heavier guys... and no one knows the struggle unless you have been there. I loved Alex... I owe Alex my life... I owe him everything... I would not be married to my wife if it were not for his introduction. He was ALWAYS willing to help his friends and anyone who had a kind nature about them. He never judged anyone...

When our mutual friend/my fraternity brother Sam... who is a police officer (we worked together at Carolina Polo) called me early October to let me know that Alex was missing for 2 days... my initial reaction was... well, he is probably in the woods scouting out some deer. No worries, he'll be fine... On the third day, Sam called me again and said they had still not found him. Sam informed me statistically, the likeliness of finding someone alive that has been missing for that long is slim. My thoughts still did not go negative because I knew if Alex was in the woods (where he spent the majority of time during deer season), he would find his way out! The next day I received a crushing call from Sam again... but this time it was to say that they had found Alex's body... dumped in a creek in Mt. Pleasant... That he had been shot in the back of the head. I sobbed... My heart felt so heavy as it still does today. Who would do such a thing to my friend? To the nicest guy in the world... a guy willing to help anyone... Who would do this and for what?!?!

I later found out it was over his truck he was trying to sell on Craigslist so that he could help fund his way through Law School.. these thugs just needed a joy ride to Beaufort to attend a party and they happened to come across Alex's truck. When I heard the last time Mrs. Apps saw her son was to drop off the title to Alex to hand over... it breaks my heart... She never saw her boy again after that. No one did... It makes me treasure my loved ones and every minute that they and I have left on this Earth.

My anger and confusion of the Incident only grew worse as more information started coming out. Like the men were making posts on Instagram and titling it, "The Alex Blunt"... and that they found video footage of them washing Alex's blood out of the truck after they shot him at a car wash station... Monsters... Such a lack of respect for human life.. For such an amazing person with the brightest future I've ever seen.

I think about Alex every single day. I think about his jovial laugh, his love for life, his compassion for others, his knowledge, his hard work and dedication. I think about his roll in society and what it could have been. All of these thoughts run through my head everyday. I've rehearsed these thoughts so many times that they come and go quicker and quicker... like a passage that can close my eyes and recite without missing a beat. He was my best friend...

* 166

I've learned several things from this incident. One, is to never trust ANYC... met on the internet. I'm glad to see that Police are allowing the public to use their stations as a point to meet... craigslist private sales. This helps weed out the wicked from those trying to do honest business.

Two, this has opened my eyes to the wickedness that lurks around our city and streets. This world has never been a safe place... I doubt it ever truly will be... so for that you have to take personal responsibility in self protection. Had Alex had his pistol on him that day.... maybe the story would go much differently.

And Three... To love, hold and cherish those that you love in your life as you never know when you will see them, talk to the or hug them again. I had a dream about 5 months ago... I have only spoken about this to my wife... but after writing this letter, my emotions I'm feeling let me know it's ok to tell... I saw Alex again. It was in Greenville where we currently reside. I remember the dream starting out, someone was screaming my name, "Ryan... Ryan... RYAN!!!" I turned around and it was Alex. I ran up to him and gave him the biggest hug.. we embraced and sobbed for about 3 minutes straight. I was so happy to see him again and find out about him. He told me that he was doing great, and that those thugs did him a favor. I asked him if heaven was real? He replied, "Oh Brother, it's real... and no words I speak can ever equate to it's beauty." At this point in the dream we were ridding in my truck talking. I asked him if he had seen God, he replied, "Absolutely, and he is taking such good care of me." The dream felt so real... it was funny because as we were driving around Greenville a place he may not have known much about.... he was spewing out random historical facts about what we were driving by like he always used to do on the carriage. I remember saying bye to him and giving him another hug. He said to take care of Madison (My Wife) and I woke up. I rolled over crying and told my wife that I saw Alex again and that he had came to me in a dream. I wrote down the dream in a journal and recorded one of the facts about Greenville. The fact was regarding the old dam on the trail to Paris Mountain. It had an old pump that used to distribute water to the city of Greenville... the next weekend I went up there and he was right. I have thought about that dream everyday because I had no idea about what he was talking about... so could it have been my sub conscience in the dream or did I really see him again? It is still a mystery to me... but I know in my heart that I saw my friend one last time and got to say goodbye.

RIP Alex... I will never forget you or our friendship.

Ryan Robertson

Ryan Robertson
rkrobert86@gmail.com
864-706-8740



Alyson Ford <rememberingalex88@gmail.com>

Alex

1 message

Martie Wand <Martie.Wand@danielislandclub.com>

Tue, Jun 16, 2015 at 12:29 PM

To: "rememberingalex88@gmail.com" <rememberingalex88@gmail.com>

Alex Apps was a true southern gentleman and the type of man you would want your daughter to bring home as a potential husband one day.

I came to know Alex Apps through my nephew in Beaufort, SC. When visiting my sister and her family over the last 30 years she has lived there, her boys always had their "buddies" hanging around. Alex was always with Ross Holmquist whenever I visited. They were a pair joined at the hip as the saying goes. If it involved any hunting, boating or adventure they were together. Alex was always delightful to be around...one of those fine young men that would stand up and offer his seat or hold the door for the ladies. It was not just a gesture to him, it was him! He was a dear young man that had a twinkle in his eye and always a smile on his face. When both of them moved to Charleston to live, I saw more of Alex. He was part of our family...with us for cookouts and any family event. He was always there to greet us with a big hug. Alex was a charming young man with a passion for history. The last time I spoke with him he was telling me how he loved being a tour guide for the carriage company and that he hoped to go on to law school. He really seemed to have his life figured out. He truly loved life and had a passion to live it. It is beyond sad that his life was taken!

Martie Fulghum Wand**Member Relations**Daniel Island Club

600 Island Park Drive

Charleston, SC 29492

843-971-3555

843-971-3541(fax)

Martie.Wand@danielislandclub.com



Alyson Ford <rememberingalex88@gmail.com>

Alex Apps' Impact Statement

1 message

martha parker <mbparker@hotmail.com>

Thu, Jun 18, 2015 at 9:50 PM

To: rememberingalex88@gmail.com

Date: June 18, 2015

Impact Statement Concerning Alex Apps

I am the mother of one of Alex Apps' many friends. Alex and my son attended the College of Charleston together and were fraternity brothers. "Apps," as he was called by his friends was always willing to help those in need in any way possible never wishing harm to come to anyone. Apps and my son were/are alike in that they were/are big men while at the same time being gentle giants.

The murder of Apps affected the lives of so many people both young and old. The day of his funeral my son and other of Apps' friends attended his funeral held in the low country of South Carolina, and then later that same day had the bittersweet responsibility of traveling to the up state of S.C. to celebrate the wedding of another friend of theirs and Apps.' Such a memory for many of Apps' friends to carry throughout their lives.

Due to the horrific circumstances ending Apps' life, we will never know what heights Apps' would have reached or the effect he would have had on others had he not been take before he reached his full potential. Sadly we will never know what this smart, outstanding young man, Alex Apps, would have been able to accomplish had he been allowed to live a much longer life.

For us Apps will never grow old, but will forever remain for us the young, intelligent, vibrant,

★ strong, faithful friend who is always willing to go the extra mile to help others.



Alyson Ford <rememberingalex88@gmail.com>

Impact statement for Alex Apps

2 messages

Carrie Grant <susie9657@gmail.com>

Thu, Jun 18, 2015 at 11:32 AM

To: "Rememberingalex88@gmail.com" <Rememberingalex88@gmail.com>

I have know Alex since he was 6 years old. My son and Alex started first grade together at Beaufort Academy. It is a small private school in Beaufort, SC. The class size was very small so all of children and families became very close. This was how it was with the App's. They were more than friends they were family.

Alex and Parker were in Boy Scouts together. We went on camping trips and group projects. The pine wood derby and soap box derby. The building of the cars on the front porch with the boys and dads. The laughter and completion of which car would be the fastest and looked the best.

Alex and his parents became part of our family. We did family vacations, traveled with club soccer and dance competitions. We were always doing or making plans to be together. The memories we have still make us smile and laugh. It was a great time.

He could carry on a conversation with anyone and never met a stranger. He always had many friends around. His smile and presents would fill a room. He trusted people and enjoyed life. Even when his father was murder he did not become bitter or distrustful.

Alex and my son were together for 12 years at Beaufort Academy. They were good friends that could argue with the best of them. They had their differences but respected and loved each other. When Parker was station in Afghanistan he called very upset in the phone about what was going on with Alex. I had just learned a few hours earlier he was missing. My son was so upset I was worried for his safety in being able to carry on his mission. When he returned from Afghanistan he had to go to Alex's grave. He had to say goodbye. To this day it still affects him. Alex was family.

Alex always greeted me with a big hug an a smile. The news of his murder tore a big hole in my heart. He loved life. I miss seeing him laughing, dancing and in the middle of the crowd. He loved his mother. He was ready to graduate from college. He had plans to continue in school. He was soon to be engaged to a beautiful young woman. Life was going so good. It was taken away abruptly by 2 men who have no regard for life.

To this day I still have his name and number in my contact list. I can not delete it. It will always be there.

I miss those big hugs and his smile.

Susie Grant

Sent from my iPad

Carrie Grant <susie9657@gmail.com>

Thu, Jun 18, 2015 at 11:42 AM

To: Rememberingalex88@gmail.com

Sent from my iPad

Begin forwarded message:

From: Carrie Grant <susie9657@gmail.com>



Alyson Ford <rememberingalex88@gmail.com>

(no subject)

1 message

Andrew Makepeace <andrewmakepeacemusic@gmail.com>

Tue, Jun 16, 2015 at 3:04 AM

To: rememberingalex88@gmail.com

When I arrived at College of Charleston as a freshman in 2008, Alex was one of the very first people to reach out to me. I was a couple of years younger than him and from another state, so needless to say, the fact that he went out of his way to show me a good time meant a lot to me. Alex was one of the main reasons I ended up joining Pi Kappa Phi, where I met many other great guys who remain some of my closest friends. Had I not been so fortunate as to cross paths with him in my first semester at CofC, my life may have been very different, and I may have missed out on knowing some wonderful people, none of whom I have more respect for than I did for Alex. I miss him dearly, and every time I attend any sort of Pi Kappa Phi function for the rest of my life, it will be a bittersweet experience, remembering one of my favorite brothers who was taken too soon.

--

Thanks,
Andrew Makepeace

Performer and Songwriter

Andrew Makepeace Music / Three Make Peace

B.A. 2012 - University of Georgia

AndrewMakepeaceMusic@gmail.com

404-805-9615 (c)

 Talent 2 Cropped.jpg



Alyson Ford <rememberingalex88@gmail.com>

Impact Statement for Alex Apps

1 message

Audrey Ammons <aaammons@me.com>

Tue, Jun 16, 2015 at 8:25 PM

To: Rememberingalex88@gmail.com

Your Honor,

Alex Apps was a fine, young man I met when he began first grade. He and my nephew attended Beaufort Academy together and in addition to the many school athletic and social activities they shared, they were also part of a quartet of youngsters who took ballroom dancing together outside of school. Alex was one of my nephew's friends that I had the pleasure to meet and interact with during the years. However, it wasn't until 2004, when tragedy struck his family that I came to know him better.

In 2004, Alex's father was murdered (by gunshot) in front of his mother, Agatha. My husband had died nine months before as a result of cancer so I reached out to Agatha and we bonded over the shared loss of a spouse. Alex was aware of our friendship, but it wasn't until a couple of years later that I realized how much he was aware. Alex thanked me for helping his mother deal with his father's death. He said he knew it was harder on her than on him, and he knew that I had helped her in a way no one else could, even him. That was a profound statement from a teenager and showed great love and sensitivity to his mother. I was amazed and wept. Subsequent conversations with him in the following years were equally as amazing. And it was his heartfelt thank you and sensitivity to his mother that ran through my head over and over again when I learned of his murder and again I wept. But this time it was not appreciation but sadness and despair. How could this young man, with so much promise, be taken away in the same horrific manner that his father had been taken? And how would my friend Agatha deal with this loss, the loss of a child?

The loss of Alex cannot be quantified. My interactions with him were infrequent, but amazing and profound. I will miss knowing the man he would have become. His death is a loss for all of us.

Audrey A. Ammons, Ph.D.

Sent from iCloud

Brenda L. Manley
10030 Marion Drive
Santee, S.C. 29142

June 16, 2015

Your Honor,

I have known Alex Apps since he was approximately six years old. My daughter, Stacy Ford and son in-law, Arthur Ford, as well as their 25 years old twin daughters, Katie Ford Lasater and Alyson Ford had been friends with Alex and his family since the children were in first grade. Alex's family and the Ford family, as well as myself grew to become very close friends due to the multiple activities involving the children at their school and outside of school.

Alex was a very intelligent child and strived in school especially loving history. He was on the soccer team at Beaufort Academy. He loved the outdoors spending as much time as possible hunting, fishing, target shooting as well as being involved with wildlife preservation. Other activities Alex and his family, along with the Ford and Manley families, was ballroom dancing; the children would dance in school programs and nursing homes.

After high school graduation Alex went to the College of Charleston as well as the Ford twins, which kept that bond together. Alex's love for history prompted him to apply for a job in Charleston doing historical carriage tours, which he absolutely loved. Alex was planning to go into Law School and I believe he would have offered a great deal to society if he had this opportunity.

Alex had a wonderful childhood with his family traveling outside of the United States and was very well spoken and well rounded. Alex was a very loved child/adult both by his family and friends. His smile, wit, humor and general love is so greatly missed. The Ford family and myself, saw Alex grow into a fine young gentleman and the loss of him has devastated family and friends. I cannot describe how much Alex meant to us and he is missed beyond words.

Brenda Manley,
Family Friend



Alyson Ford <rememberingalex88@gmail.com>

#justiceforalex

1 message

Karen Brown <kponbrown@hotmail.com>

Wed, Jun 17, 2015 at 8:46 AM

To: "rememberingalex88@gmail.com" <rememberingalex88@gmail.com>

Your Honor,

I write today to ask for justice for Alex. I met Alex when he worked with my daughter as a server. He was a very nice, polite young man. He was funny, he was smart and he always had a smile on his face.

Alex worked hard in school and out. He was honest and trusting, sometimes a little too trusting. He did not deserve to die because he had a truck to sell. He deserved to live and graduate from college, have a wife, and have a family. They took away a son, a brother a friend and left him with no regard for his family. They left a hole in the universe that can not be filled.

Please carefully consider the effects his murder has had on his family and friends.

I hope the court will hand down the appropriate sentence for Alex's killers. #justiceforalex

Respectfully yours,

Karen P. Brown
1440 Ben Sawyer Blvd, ste 1101
Mt. Pleasant, SC 29464



Alyson Ford <rememberingalex88@gmail.com>

Character reference for Alex Apps

1 message

Parker Grant <parker.grant0189@gmail.com>

Thu, Jun 18, 2015 at 11:42 PM

To: rememberingalex88@gmail.com

I knew William Alexander Apps since 1995. We attended school together and were close throughout our years together. We not only attended school but were on sport teams, close family friends, and travelled together. During our years I got to know him very well and came to call him one of my closest friends. Through our time I could definitely say that he is one of the most genuine and generous people I came to know. He was one of the most outgoing people I knew. There was never a stranger around him. He took it upon himself to make sure that everyone was having a good time and feeling included. He will be truly missed and the world is a lot emptier without him being here and will be missed.

Very Respectfully,

Parker H. Grant
CPT, FA
1-509th IN (ABN)
US Army



Alyson Ford <rememberingalex88@gmail.com>

Alex Apps

1 message

Lawrie Haasis <Lawrie3@aol.com>

Tue, Jun 16, 2015 at 10:37 AM

To: "rememberingalex88@gmail.com" <rememberingalex88@gmail.com>

I did not know Alex, but my son just graduated from The College of Charleston and I, like many, was deeply touched by this tragedy. Charleston is a city, but the college is a close knit community of people who look out for each other. This crime, or the meeting place that led to this crime, took place very close to my son's house. Alex could have been any of our children. Just from following his story on Facebook, you realize what a kind, caring human being he was. He loved his friends, his school, his home, both Beaufort and Charleston, and mostly his mom. I am blessed with 3 sons, I know the love boys have for their Mommas. That was all taken away from Mrs Apps by a bunch of thugs. So senseless, so incredibly senseless. We can only hope justice will be served.

Sent from my iPad

FORM 5

STATE OF SOUTH CAROLINA

County of CharlestonSpurn Marquel Scott #365229

Full name and prison number (if any) of Applicant

v.

State of South Carolina

2019-CP-10-5340
IN THE COURT OF COMMON PLEASAPPLICATION FOR
POST-CONVICTION RELIEF2019 OCT 17 PM 5:46
JULIE J. ARMITAGE
CLERK OF COURT

FILED

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Perry Correctional Institution 430 Oakland Rd.
Alexander, SC 29669
2. Name and location of Court which imposed sentence Charleston County
Court of General Sessions
3. Name(s) of co-defendant(s) (if any) Isaac Romell Williams
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) MURDER 2013-GS-1007416
 - (b) Armed Robbery 2013-GS-1007418

- (c) Kidnapping 2013-GS-1007419
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) August 26, 2015 LHC
- (b) August 26, 2015 30 years
- (c) August 26, 2015 30 years
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ✓
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. The Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Submitted September 1, 2018 - Filed October 17, 2018
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Did the circuit court err by sentencing Scott to 30 years kidnapping
- ii. in light of section 16-3-910 of the SC Code (2015) and State v. Vicks
- iii. 384 SC 189, 682 SE 2d 275 (Ct. App 2009)?
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
- (b) GUILTY PLEA NOT VOLUNTARILY & INTELLIGENTLY MADE
- (c) INVALID SENTENCE
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE ATTACHMENT WITH ANSWERS
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? YES
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. MOTION TO RECONSIDER SENTENCES
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. CHARLESTON COUNTY COURT OF GENERAL SESSIONS
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. Dismissed
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. October 14, 2015
- ii. _____
- iii. _____
- iv. _____

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

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

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

No

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

(a) which grounds have been presented:

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

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

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

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) My first PCR and I could not bring it up in direct appeal
 (b) _____
 (c) _____

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

(a) your arraignment and plea? yes
 (b) your trial, if any? _____
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

yes

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

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

i. Jim Brown 1600 Burnside St. Beaufort S.C. 29902
 ii. Robert M. Pachak and Lara M. Cauley South Carolina Commission on Indigent Defense PO Box 11589 Columbia SC 29211
 iii. _____

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

i. Arraignment and plea, sentencing and motion to reconsider sentences
 ii. Direct Appeal
 iii. _____

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

CONVICTION AND SENTENCES VACATED

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

No

STATE OF SOUTH CAROLINA)

County of Charleston)

VERIFICATION

I, Squid Marquel Scott, 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.

J. Scott

SWORN to and subscribed before me this 10th day of October, 2019.

Jamarcus Conwell (L.S.)
Notary Public

My Commission Expires Sept-25-2023

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

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

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

J Scott
Applicant

SWORN or affirmed to and subscribed before me this

10 day of October, 2019.

Tamara Conwell
Notary Public

My Commission Expires September 25 2023

Attachment for finished answers for Post-Conviction Relief

4. The indictment number or numbers upon which and the offenses for which sentence was imposed:

(d) Possession of a firearm during the commission of a violent crime
2013-GS-100742)

5. The date upon which sentence was imposed and the terms of the sentence:
(d) August 26, 2015, 5 years

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

(A)

- 1) Counsel ineffective for failing to go over possible defenses with petitioner.
- 2) Counsel ineffective for failing to adequately investigate and present mitigating evidence to petitioner's mental illness.
- 3) Counsel ineffective for advising petitioner that he would get less time if he plead guilty.
- 4) Counsel ineffective for failing to advise petitioner prior to entry of plea that the incriminating statements made which were induced by the officers threats and promise may have been made involuntarily and if so would be inadmissible at trial.
- 5) Counsel ineffective for failing to properly move to quash the kidnapping indictment in accordance with S.C. Code Ann § 17-19-90 (2003) violating my due process and equal protection rights.
- 6) Counsel ineffective for failing to properly move to quash the murder indictment in accordance with S.C. Code Ann § 17-19-90 (2003) violating my due process and equal protection rights.

- 7) Counsel ineffective for failing to object to prosecutors closing argument on guilt that the petitioner showed no remorse. (See attachment of transcript A p. 38 L. 20)
- 8) Counsel ineffective for failing to object to sentence.

(B)

- 1) Guilty plea invalid due to counsel's advise of getting lesser time making it not voluntarily and intelligently made. (See attachment of transcript B p. 32 L. 22)
- 2) Guilty plea not voluntarily and intelligently made due to petitioner holding on to officer's promise during interrogation

(C)

- 1) Sentence invalid because the Court could not sentence petitioner to 30 years for the offense of kidnapping when he was already convicted and sentenced to life for murder.

Attachment A

1 That goes on and we get to the third, in the hours be-
2 fore the third. (Reading messages and video playing at
3 some points)

4 They are supposed to go meet Alex, so J'Quan is telling
5 Isaac -- telling Isaac take your lunch at three, and Isaac
6 saying, no, I'll take it at three thirty.

7 Then we have J'Quan telling Isaac he's on the way and
8 Isaac responds, all right. (Reading messages) Do you want
9 to bust a cab or do you want to drive? Drive. He said --
10 he reminds him, don't say anything in front of this other guy
11 who is giving us a ride -- don't say anything to him, so that
12 guy was going to testify. He didn't know anything about all
13 this stuff at all.

14 J'Quan tells him he needs a ride and they get in, and
~~15 Isaac tells him he doesn't want to drive, he wants to bust a~~
16 cab.

17 There are other things, you know, that are important as
18 well. They kill Alex, dumped his body in broad daylight in
~~19 Mount Pleasant just over the bridge, and there doesn't seem~~
20 to be any reaction from them and certainly no remorse because
21 later that night what are they talking about? They're talk-
22 ing back and forth about the money; whether or not they can
23 use the card.

24 It was noted that later on that week while they were --
25 at USC Beaufort that J'Quan starts using Alex's card to make

1 He might like to argue about a strap being a gun, but
2 he had called Dennis about getting a gun. Again, this was
3 on September 20th before meeting Alex for the first time.

4 (Solicitor reading from messages) Look at that. I
5 mean, this is for days that J'Quan thinks about doing this,
6 and when Dennis Heyward wanted to back out he said he could-
7 n't go through with it. He didn't go along with it, and so
8 that is where Isaac Williams comes in.

9 What Isaac eventually told us after some other stories
10 is that this was planned, and when I say it was planned I
11 don't mean just the robbery -- to say that the robbery was
12 planned, but that the murder was actually planned, and so
13 Isaac knew that as well.

14 So let's take a look at some texts between the two of
15 them, and this is now the other side of the picture. Dennis
16 had met Alex, and J'Quan couldn't get him to go through with
17 it -- Dennis wasn't going through with it or follow through
18 with it.

19 All right, so J'Quan was told by Alex that the wrong
20 part was ordered for his truck and he couldn't get it until
21 Thursday, so they would have to wait to meet up. J'Quan re-
22 sponds that is all right; just get it done.

23 (Reading from messages) Just don't say shit to anyone,
24 and he gets the response, I won't even say anything to my-
25 self.

1 weapon during the commission of a violent crime up to
2 five years in the Department of Corrections. Do you
3 understand that's the possible punishment?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Knowing that, do you still wish to go
6 forward here today?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: You understand that I can run these
9 sentences consecutive to each other and you are facing a
10 life sentence plus 65 years? Do you understand that's
11 the potential punishment?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Knowing that, do you still wish to go
14 forward here today?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Has anybody promised you anything,
17 threatened you, forced you to pled guilty here today?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Whose decision was it for you to pled
20 guilty?

21 THE DEFENDANT: Mine.

22 THE COURT: Have you had the advice of counsel of
23 your attorney?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Has his advice been of benefit to you?

The Honorable Julie J. Armstrong
 100 Broad St. Ste. 106
 Charleston SC 29401

Re: Filing PCA Application

Dear Honorable Clerk,

Please find enclosed an application for Post-Conviction Relief, an attachment with my answers on a separate sheet of paper, my kidnapping indictment, murder indictment as well as two other proofs for PCR claims. Would you send a stamped clocked filed copy return to me. Thank you for your time and considerations.

Juan Scott #365229
 430 Oaklawn Rd.
 Pelzer, SC 29669

Truly,
 J Scott

Sworn to and subscribed before me this
10th day of October, 2019
Lamara Conwell
 Notary Public

My Commission Expires: Sept. 25 - 2023

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

J'Quan Scott, #365229

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

Case No.: 2019-CP-10-5340

**RETURN AND MOTION
FOR MORE DEFINITE STATEMENT**

The State (Respondent), making its Return to the application for Post-Conviction Relief ("PCR") filed on October 17, 2019, would respectfully show this Court:

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Charleston County Clerk of Court. In December 2013, the Charleston County Grand Jury indicted Applicant for murder (2013-GS-10-07416), armed robbery (2013-GS-10-07418), kidnapping (2013-GS-10-07419), and possession of a firearm during the commission of a violent crime (2013-GS-10-07421). James Brown, Esquire represented Applicant at his plea. Solicitor Scarlet Wilson prosecuted the case. On August 26, 2015, Applicant plead guilty before the Honorable Kristi L. Harrington. Judge Harrington sentenced Applicant to life imprisonment for murder, thirty years for armed robbery, thirty years for kidnapping, and five years for possession of a weapons during the commission of a violent crime.

Applicant filed a timely notice of appeal. Laura Caudy, Esquire, of the Office of Appellate Defense perfected the appeal. Appellate counsel filed an Ander's Brief of Appellant on February 16, 2017. The Court of Appeals directed appellate counsel to brief further issues on December 15, 2017. The remittitur was returned to the circuit court on November 5, 2018.

FILED
2020 FEB 14 PM 2:08
JULIE J. ARMSTRONG
CLERK OF COURT

Attached to this Return and incorporated by reference are the records of the Charleston County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the application. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II. Statement of Facts

Sometime before the murder, Alex Apps ("victim") decided to sell his truck on Craigslist as the vehicle was becoming cumbersome to operate in downtown Charleston, where victim was a college student. (R. p. 34, 1. 24-p. 35, 1. 2). Victim met with appellant once to discuss the sale of the vehicle, and agreed to meet again on October 3, 2013. (R. p. 35, 11. 4-6).

On October 3, 2013, at 7:00 AM, victim and his mother, who drove from Beaufort carrying the title to the vehicle, met with appellant and Isaac Williams ("Co-Defendant") at Hardee's on Spring Street. (R. p. 35, 11. 7-15). Victim, appellant, and co-defendant got in the truck to take a short "test drive," while victim's mother stayed at Hardee's with the title to the truck as a security measure. (R. p. 35, 11. 13-18). Rather than victim returning, victim's mother received text messages indicating the sale fell through and suggesting she return to Beaufort, which she did. (R. p. 35, 1. 18-p. 36, 1. 5). The texts conveyed a promise that the victim would contact her later. (R. p. 36, 11. 1-5). However, that would not occur. During the short drive, appellant had shot and killed victim in the truck. (R. p. 40, 11. 3-4). Appellant then discarded victim's body just over the Arthur Ravenel Bridge in Mt. Pleasant. (R. p. 38, 11. 7-9).

In the days following the murder, appellant used victim's credit card to go shopping and also showed off the truck to friends while partying in Beaufort. (R. p. 36, 1. 18-p. 37, 1. 6). Eventually, after four days of investigation by victim's mother, Beaufort County police, and Charleston County police, appellant led detectives to victim's body. (R. p. 36, 1. 23-p. 38, 1. 10). Further investigation

indicated that this crime was premeditated and that appellant and co-defendant intended the purchase of the truck to be a ruse all along. (R. p. 38, 11. 15-22).

III. Current Application

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

1. "Counsel ineffective for failing to go over possible defenses with petitioner."
2. "Counsel ineffective for failing to adequately investigate and present mitigating evidence to petitioners mental illness."
3. "Counsel ineffective for advising petitioner that he would get less time if he plead guilty."
4. "Counsel ineffective for failing to advise petitioners prior to entry of plea that the incriminating statements made which were induced by the officers threats and promise may have been made involuntarily and if so would be inadmissible at trial."
5. "Counsel ineffective for failing to properly move to quash the kidnapping indictment in accordance with S.C. Code Ann. 17-19-90 (2003) violating my due process and equal protection rights."
6. "Counsel ineffective for failing to properly move to quash the murder indictment in accordance with S.C. Code Ann. 17-19-90 (2003) violating my due process and equal protection rights."
7. "Counsel ineffective for failing to object to prosecutors closing argument on guilt that the petitioner showed no remorse."
8. "Counsel ineffective for failing to object to sentence."
9. Involuntary Guilty Plea
10. Invalid Sentence

IV. Response to Allegations of Ineffective Assistance of Counsel

Respondent submits Applicant's allegations of ineffective assistance of counsel are without merit. In a PCR action, 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, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as

having produced a just result.” Strickland v. Washington, 466 U.S. 668 (1984); Butler, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland v. Washington, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). The Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. 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.

Respondent submits Applicant can satisfy neither 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, Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V. Failure to Investigate Mental Illness

Applicant contends that Counsel was ineffective for failing to have him professionally evaluated for his mental health issues. “Due process of law prohibits the conviction of a person

who is mentally incompetent.” Jeter v. State, 308 S.C. 230, 232, 417 S.E.2d 594, 595 (1992). An accused is competent to stand trial if he or she has sufficient capability to consult with his or her lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him. Id., 308 S.C. at 232, 417 S.E.2d at 596. “The focus of a competency inquiry is the defendant’s mental capacity; the question is whether he has the *ability* to understand the proceedings.” Garren v. State, 423 S.C. 1, 14, 813 S.E.2d 704, 711 (2018) (quoting Godinez v. Moran, 509 U.S. 389 (1993)).

As to the deficiency prong under Strickland, an attorney may reasonably rely upon his or her own perceptions of a defendant in determining whether or not their client should be mentally evaluated. Jeter, 308 S.C. at 233, 417 S.E.2d at 596. When establishing Strickland prejudice in the context of counsel’s failure to request a mental competency evaluation, the applicant need only show a reasonable probability that he was incompetent at the time of the original proceeding. Garren, 423 S.C. at 12, 813 S.E.2d at 710 (citing Ramirez v. State, 419 S.C. 14, 21, 795 S.E.2d 841, 845 (2017)). As is the case with any other allegation that a defense attorney failed to adequately investigate some matter, an applicant must present some proof of identifiable mental health issues which undermine his or her competency; mere speculation and conjecture by the applicant is insufficient to establish prejudice. Id., 423 S.C. at 13-14, 813 S.E.2d at 711.

Applicant is merely speculating as to his mental competency and has not presented any proof of mental incompetency. During trial Officer Brandon Gardner testified that Applicant did not appear to have any mental disabilities during Applicant’s interrogation. (Tr. at 313:20-23). Therefore, Applicant was not prejudiced for trial counsel’s failure to request a mental evaluation.

VI. Response to Allegations of Insufficient Indictment

Applicant has claimed that indictment was insufficient. Defects in the indictment do not affect subject matter jurisdiction. *See State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005); *U.S. v. Cotton*, 535 U.S. 625, 122 S.Ct. 1781 (2002). The indictment is a notice document, and any challenges to its sufficiency must be made in accordance with S.C. Code Ann. § 17-19-90 (2003). *See also* S.C. Code § 17-19-20 (2003). Subject matter jurisdiction is the power of a court to hear a particular class of cases, and it has nothing to do with the indictment document. *See Gentry, supra*; *Dove v. Gold Kist, Inc.*, 314 S.C. 235, 442 S.E.2d 598 (1994).

In post-conviction relief, an Applicant wishing to raise challenges to the sufficiency of an indictment must do so in the context of ineffective assistance of counsel, essentially alleging that his trial counsel failed to properly move to quash the indictment in accordance with S.C. Code Ann. § 17-19-90 (2003). Applicant's allegation of ineffective assistance of counsel has been addressed above in this return.

An Applicant may still challenge the subject matter jurisdiction of the trial court, and such a claim is one that may be raised at any time. *See Brown v. State*, 343 S.C. 342, 540 S.E.2d 846 (2001), *overruled in part by Gentry, supra*. However, “[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.” *Gentry, supra*, 610 S.E.2d at 499; *See also* S.C. Const. Art. V, § 7. Thus, Applicant must present evidence that his case is of some class over which the circuit court does not have the authority to preside. Applicant's conviction involved a criminal charge in General Sessions Court. Therefore, the circuit court had subject matter jurisdiction.

VII. Involuntary Guilty Plea

Applicant alleges that he did not plead guilty freely and voluntarily. Respondent submits this allegation has no merit. To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. *Boykin v. Alabama*, 395 U.S. 238

(1969); Dover v. State, 304 S.C. 433, 405 S.E.2d 391 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing. Harris v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984).

Respondent submits the transcript reflects that the pleas were knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Boykin, *supra*; Dover, *supra*. Further, because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, a criminal inmate's right to contest the validity of such a plea is usually, but not invariably, foreclosed. Blackledge v. Allison, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977). Therefore, statements made during a guilty plea should be considered conclusive unless a criminal inmate presents valid reasons why he should be allowed to depart from the truth of his statements. Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976). The Respondent submits the Applicant should not be allowed to depart from the truth of the statements he made during his guilty plea hearing.

A defendant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty, but would have insisted on going to trial. Roscoe v. State, 345 S.C.16, 546 S.E.2d 417 (2001); Richardson v. State, 310 S.C. 360, 426 S.E.2d 795 (1993). Given the Applicant's burden of proof and the analysis to be applied to this claim, Respondent submits that the Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it should therefore, be treated as such. Accordingly, this allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Respondent requests an evidentiary hearing to fully resolve this issue. See

Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

VIII. Failure to Investigate

Counsel has a duty to undertake reasonable investigations or to make a decision that renders a particular investigation unnecessary. Strickland v. Washington, 466 U.S. 668, 691, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Thus, “[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State.” McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). Moreover, counsel's decision not to investigate should be assessed for reasonableness under all the circumstances with heavy deference to counsel's judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). “[A]t a minimum, counsel has the duty to interview potential witnesses and to make an independent **634 investigation of the facts and circumstances of the case.” Ard v. Catoe, 372 S.C. 318, 331–32, 642 S.E.2d 590, 597 (2007) (internal quotation marks omitted) (emphasis omitted). “[C]ounsel's conversations with the defendant may be critical to a proper assessment of counsel's investigation decisions....” Strickland, 466 U.S. at 691, 104 S.Ct. 2052. “[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the facts of the particular case, viewed as of the time of counsel's conduct.” Id. at 690, 104 S.Ct. 2052. Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633–34 (Ct. App. 2014). Respondent submits that Applicant cannot meet his burden in regards to any claims that counsel was ineffective for failure to investigate.

IX. Invalid Sentence

Applicant alleges counsel was ineffective for failing to challenge his kidnapping sentence. Applicant was sentenced to thirty years for kidnapping in addition to his other sentences, including

a term of life imprisonment for murder. S.C. Code Ann. § 16-3-910 (2015) ("Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away any other person by any means whatsoever without authority of law . . . is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years *unless sentenced for murder . . .*" (emphasis added)). The appropriate avenue for Scott to obtain relief on this issue is an action for PCR. *See* S.C. Code Ann. § 17-27-20(A) (2014) ("Any person who has been convicted of, or sentenced for, a crime and who claims . . . [t]hat the conviction or the sentence was in violation of the . . . laws of this State . . . may institute . . . a proceeding under this chapter to secure relief."). Respondent requests an evidentiary hearing to fully resolve this issue. *See Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

X. Motion for More Definite Statement

Respondent also hereby moves for a more definite statement. Applicant has failed to set forth any facts to "support each ground" or to explain with any specificity whatsoever the facts upon which his claims are based. The Uniform Post-Conviction Procedure Act requires the Applicant to "*specifically set forth the grounds upon which the application is based.*" S.C. Code Ann. § 17-27-50 (1985) (emphasis added). Respondent respectfully submits that it is incumbent upon Applicant, through counsel, to amend his application to set forth specific facts upon which his allegations are based so that Respondent may adequately prepare for an evidentiary hearing. Therefore, Respondent requests that Applicant be required to amend his application to set forth specifically the grounds on which his claims are based.

XI. Any Future Amendments

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. Any claims not specifically laid out in this PCR application or in amendments will be opposed by the

State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCF. All claims should be made well in advance of the evidentiary hearing. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRCF. Pro se filings will not be considered at the PCR hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCF.

XII. Response to Any and All Other Allegations

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

XIII. Request for an Evidentiary Hearing

WHEREFORE, Respondent requests that an evidentiary hearing be held on the claims of ineffective assistance of trial counsel.

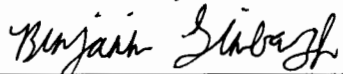
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BENJAMIN LIMBAUGH
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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

February 12, 2020

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

J'Quan Marquel Scott, #365229

Applicant,

v.

State of South Carolina

Respondent,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2019-CP-10-5340

Certificate of Service by Mail

BY

JULIE J. ARMSTRONG
CLERK OF COURT

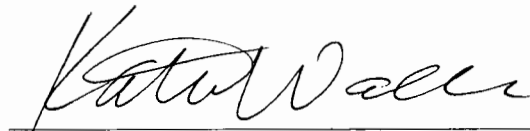
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FILED

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:

James K. Falk, Esquire
Falk Law Firm, LLC
Post Office Box 1058
Charleston, SC 29402

DATED this 12th day of February, 2020.



Katie Wade, Legal Assistant
For Respondent

State of South Carolina	)	In the Court of Common Pleas
	)	Ninth Judicial Circuit
County of Charleston	)	Case No. 2019-CP-10-05340
	)	
J'Quan M. Scott,	)	
	)	
Applicant,	)	
	)	
-vs-	)	Transcript of Record
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

February 6, 2023
Charleston, South Carolina

B E F O R E:

The Honorable George M. McFaddin, Jr., Judge

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

James K. Falk, Esquire
Attorney for the Applicant

T. Cruise Mitchell, Esquire
Attorney for the Respondent State

Proceedings taken down electronically

Transcribed by:
Krystal J. Smith
Official Circuit Court Reporter III

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E X H I B I T S

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COURT REPORTER LEGEND

dashes	--	intentional or purposeful interruption or change in thought
ellipses	. . .	trailing off
[ph]		phonetically written
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1 FEBRUARY 6, 2023

2 (WHEREUPON, the proceedings began at 9:57 a.m.)

3 THE COURT: Yes, sir.

4 MR. MITCHELL: May it please the Court. This is the
5 post-conviction relief matter of J'Quan Scott v. State, Case
6 Number 2019-CP-10-5340 out of Charleston County. Cruise
7 Mitchell on behalf of the State of South Carolina. Applicant
8 is present and represented by counsel Jim Falk.

9 Applicant was indicted at the December 2013 term of the
10 Charleston County Grand Jury for murder, Case Number 2013-GS-
11 10-07416; armed robbery, Case Number 2013-GS-10-07418;
12 kidnapping, Case Number 2013-GS-10-07419; and possession of a
13 weapon during the commission of a violent crime, Case Number
14 2013-GS-10-07421. Applicant was represented by James Brown,
15 Esquire. Ninth Circuit Solicitor Scarlett Wilson prosecuted
16 the case.

17 On May 27th, 2015, applicant pleaded guilty as indicted
18 before the Honorable Kristi Harrington. Judge Harrington
19 sentenced applicant to life imprisonment for murder, 30 years
20 imprisonment for armed robbery, 30 years for kidnapping, and
21 five years for possession of a weapon during the commission of
22 a violent crime. These sentences were ordered to run
23 concurrently.

24 Applicant filed a timely notice of appeal. Robert Pachak
25 of the Office of Appellate Defense perfected the appeal.

J'QUAN SCOTT - DIRECT BY MR. FALK

1 Appellate counsel filed an *Anders* brief of appellant on
2 February 16th, 2017. The Court of Appeals directed appellate
3 counsel to brief further issues on December 15th, 2017. The
4 Remittitur was returned to the Circuit Court on November 5th,
5 2018. Applicant timely filed this PCR action on October 17th,
6 2019, and with that I'll hand over the case to Mr. Falk.

7 THE COURT: Mr. Falk?

8 MR. FALK: Your Honor, I'd like to call my client to the
9 stand.

10 THE COURT: Yes, sir.

11 MR. FALK: Mr. Scott?

12 THE CLERK: Do you swear or affirm the testimony that you
13 will give is the truth, the whole truth, and nothing but the
14 truth, so help you God?

15 THE APPLICANT: Yeah.

16 THE CLERK: You may have a seat. Please state your name
17 for the record and spell your last name.

18 THE APPLICANT: J'Quan Scott, S-c-o-t-t.

19 J'QUAN SCOTT, being first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FALK:

23 Q: Mr. Scott, can you hear me?

24 A: Yeah.

25 MR. FALK: Can the court reporter hear and everybody?

J'QUAN SCOTT - DIRECT BY MR. FALK

1 BY MR. FALK:

2 Q: Mr. Scott, so tell me how did -- how did Mr. Brown come
3 to represent you in this case? Did your family retain him?

4 A: Yeah.

5 Q: Okay. And sort of walk me through. What were your
6 discussions with him as far as what was the plan? Were you
7 all planning to go to trial or were you always trying to -- or
8 was this always going to be a case where he was just going to
9 get you the best deal?

10 A: As far as I was concerned, first we was focused on going
11 to trial. That was the main thing, going to trial. And so
12 they had a recess during the -- I guess it was, like, a trial
13 prep we went to. And during that recess, he was trying to get
14 me to plead guilty. He got my grandma, the pastor, and my mom
15 and them to come and try to convince me to plead guilty,
16 saying I'd get less time. So that's how we went from there.

17 Q: Okay. But so it's your -- your thought that you were
18 planning on going to trial?

19 A: Yeah.

20 Q: And -- well, tell me, what did -- did he go over the
21 evidence against you in this case?

22 A: How do you mean evidence, like?

23 Q: What the State's evidence was going to be.

24 A: The only thing really was a phone. We didn't really have
25 no strategy.

J'QUAN SCOTT - DIRECT BY MR. FALK

1 Q: All right.

2 A: Like, he never give me no strategy.

3 THE COURT: Hold on. So can you move closer to that
4 microphone, please?

5 THE APPLICANT: Yeah.

6 MR. FALK: And maybe, Mr. Scott, if you could just pull
7 down the mask? It still might be making it sound a little
8 mumbly.

9 BY MR. FALK:

10 Q: So it was your plan that this was -- you were going to
11 try this, that you were going to go to trial; is that correct?

12 A: Yeah.

13 Q: Well, had the State been making any offers to settle this
14 case?

15 A: No, I never got an offer.

16 Q: Okay. And so did Mr. Brown go over you with [sic] some
17 of the evidence that the State had against you?

18 A: The only thing he was talking about was the phone, phone
19 records. That was it.

20 Q: But didn't you make a statement in this case?

21 A: Yeah.

22 Q: Well, tell me about that statement. How did that occur?
23 Were you in the back of -- were you in the back of the police
24 car?

25 A: No, I was in custody. I mean, they had me at the

J'QUAN SCOTT - DIRECT BY MR. FALK

1 sheriff's -- whatever they call it, an interrogation room.

2 Q: Had you ever been mirandized? Had you been read your
3 Miranda rights?

4 A: No. I mean, when I first got there, they told me to
5 write a statement. I wrote a statement. After that, they
6 took my phone. Sitting there for hours. They put me in
7 another room, start asking more questions and got threats
8 coming out. All type of stuff, like serious threats, racial
9 threats, and all.

10 Q: But, I mean, you know what the Miranda rule is; right?

11 A: I mean, I just found out about it, but from hearing from
12 it, I never was read that at all, period.

13 Q: Okay.

14 A: They got everybody else's signed in my Rule 5 except
15 mine. I never got that.

16 Q: Well, did you discuss that with him?

17 A: I mean, I told him, but it's like that wasn't too much
18 relevant.

19 Q: Okay. And you read the warrants -- the arrest warrants
20 in this case; right?

21 A: Yeah.

22 Q: And the police officer said that you were mirandized; is
23 that right?

24 A: Yeah. My statement was voluntarily made, which was a
25 lie.

J'QUAN SCOTT - DIRECT BY MR. FALK

1 Q: Okay. All right. So did he tell you that they were
2 going to use the statement against you in court?

3 A: He said he was trying to push to get them suppressed, but
4 -- I too much know, like I said, we ain't too much have no
5 strategies. So --

6 Q: So did you realize when you pled that day that you could
7 get a life sentence?

8 A: No, that wasn't on my mind.

9 Q: Okay. And you were never served with any kind of notice
10 that the State was seeking a life sentence; is that correct?

11 A: None.

12 Q: And -- all right. So just -- I'm still trying to figure
13 out then. Sort of walk me through how you went to go ahead
14 and stand before the judge with no guarantees and plead
15 guilty?

16 A: Shoot. I'm just going off his word, and I guess I
17 thought my people knew -- my family knew something that I
18 didn't. So when he brought them'in to try to get me to plead
19 guilty, I'm with that. I was thinking I would have got way
20 less time than going to trial. That's the only reason I went
21 with it. I didn't know I was going to give up my right. I
22 didn't get -- he didn't tell me no consequences behind it, no
23 none of that.

24 Q: Well, did he tell you what he thought that you would get,
25 what kind of sentencing range you would get?

J'QUAN SCOTT - DIRECT BY MR. FALK

1 A: Ranging from 30, less than 30. Like, I remember him
2 saying 30, but I wasn't getting no more than that.

3 Q: And was part of your decision to plead based on what Mr.
4 Brown was telling you about what the -- what kind of sentence
5 you would get?

6 A: Yeah. He said it would make it a lot easier.

7 Q: Because then you wouldn't get any kind of -- because you
8 were hoping then you wouldn't get a life sentence?

9 A: Yeah.

10 Q: All right. So what other concerns did you have about Mr.
11 Brown's sort of representation up to when you decided to plead
12 as far as his investigation in this case?

13 A: From what I went over and saw from the law library, like,
14 his representation I wouldn't too much say was too good
15 because, like I said, there was no strategy. All the stuff
16 that he should have investigated, he didn't.

17 Q: What was that?

18 A: Being mirandized, going to the affidavits where the
19 detective lied, sufficiency of my indictments. Like, it's a
20 good bit of stuff.

21 Q: What was your concern about the indictment?

22 A: Lacking the elements, like, say, my murder indictment.
23 You got -- what is it? 17-19-30, the allegations sufficient
24 for a murder indictment is you gots to have a lot -- you got
25 to have certain elements into it. And with my murder

J'QUAN SCOTT - DIRECT BY MR. FALK

1 indictment, you're missing two key elements, which is
2 feloniously and willfully. In my kidnapping indictment,
3 you're missing two elements with the intent and by force. And
4 with the -- I'm going to say the armed robbery, pointing out
5 the weapon, a weapons charge.

6 Q: And did you -- and so did you realize that when you were
7 pleading guilty, you were really kind of waiving any questions
8 that you had about any -- any objections you had to the
9 indictment?

10 A: I didn't know that at the time.

11 Q: Okay. And you said he spoke with your family?

12 A: Yeah.

13 Q: And what kind of conversations had he had with your
14 family, do you think?

15 A: I guess telling them to convince me to plea.

16 Q: And so what was -- so you had family members telling you
17 that you needed to plead?

18 A: Yeah.

19 Q: And which family members were those?

20 A: My mom was there, my sister, and it was the pastor of the
21 school I went to.

22 MR. FALK: One moment.

23 BY MR. FALK:

24 Q: In your PCR application, you talked about a problem with
25 failing to quash the kidnapping indictment. What was your

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1 concern there?

2 A: Well, the same as the murder. Like, lacking the
3 necessary elements and with it being, like, you can't too much
4 charge somebody with kidnapping and murder.

5 Q: And did you have concerns with the statement made by the
6 solicitor before your sentencing?

7 A: What you mean?

8 Q: Well, you had said something that counsel was ineffective
9 for failing to object to prosecutor's closing argument that
10 you showed no remorse.

11 A: I just saw, like, cases, like, speaking on that. I mean,
12 she did say I ain't showed no remorse, but I disagree with
13 that.

14 Q: And why did -- what is your argument that this was an
15 invalid sentence?

16 A: Due to poor misrepresentation.

17 Q: Oh, I see, I see.

18 MR. FALK: That's all the questions I have for Mr. Scott
19 at this time.

20 Please answer any questions the solicitor has.

21 THE COURT: Sir?

22 CROSS-EXAMINATION

23 BY MR. MITCHELL:

24 Q: Good morning, Mr. Scott.

25 A: Good morning.

J'QUAN SCOTT - CROSS BY MR. MITCHELL

1 Q: Before you pled, how many times did you meet with your
2 attorney?

3 A: Before I pled?

4 Q: Yes.

5 A: I mean, he used to come see me in the county.

6 Q: So when he came and saw you in county, did he ever go
7 over any videos with you?

8 A: Yeah, the interrogation videos.

9 Q: So he did go over more than just the phone records?

10 A: Yeah. Yeah.

11 Q: Do you recall at the plea hearing telling the judge you
12 understand that murder carries 30 to life and that you could
13 be sentenced to life in prison?

14 A: Yes.

15 Q: Do you recall telling the judge you understand that the
16 State was recommending a life sentence?

17 A: I'm not sure.

18 Q: Would it help if I refresh your memory with the
19 transcript?

20 MR. MITCHELL: May I approach the witness, Your Honor?

21 THE COURT: Yes, sir.

22 BY MR. MITCHELL:

23 Q: The Court says -- and what she just indicated to me was
24 when we come back from the pretrial, the sentencing portion
25 after the investigation, that the State will be asking for the

J'QUAN SCOTT - CROSS BY MR. MITCHELL

1 maximum penalty. Do you understand? And you responded?

2 A: [Inaudible.]

3 Q: You've got to speak up.

4 A: Yes, ma'am.

5 Q: Do you recall telling the judge that you were satisfied
6 with the services of Mr. Brown?

7 A: Yeah.

8 Q: Do you recall the judge going over with you all the
9 rights you were going to be waiving by pleading guilty?

10 A: She spoke on it, but me, as far as paying attention, I'm
11 just guessing I'm going with the flow of just answering their
12 questions to get through it.

13 MR. MITCHELL: I beg the Court's indulgence, Your Honor.

14 THE COURT: Yes, sir.

15 BY MR. MITCHELL:

16 Q: Do you recall telling the judge that she could sentence
17 you to consecutive sentences and you're facing a sentence of
18 life plus 65 years?

19 A: Like I said, she asked me a lot of stuff. Main thing I
20 was just saying was "yes, ma'am" from the very first question
21 she asked me. You could see in there I said "ma'am" because I
22 didn't agree with it, and she gave me that stern look. So I
23 just said "yes, ma'am" to everything else.

24 Q: Do you recall her asking you that -- after she explained
25 the maximum sentence, she asked do you still wish to go

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1 forward with your plea?

2 A: I told you, I said "yes, ma'am" to everything else after
3 the first question.

4 Q: And before that, she asked you if you understood that
5 you're giving up any defenses you have on the indictments. Do
6 you remember how you responded?

7 A: "Yes, ma'am" to every question.

8 MR. MITCHELL: No further questions, Your Honor.

9 THE COURT: Mr. Falk?

10 MR. FALK: If I could, just briefly redirect?

11 THE COURT: Yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. FALK:

14 Q: So I know that what you're asserting is that your plea
15 was involuntary because of the representation you got from
16 your counsel, but let's just -- but you did plead that day; is
17 that correct?

18 A: Yeah.

19 Q: And so there -- the State didn't have to try the case.
20 You went up there and pled?

21 A: Right.

22 Q: So what did you get? What benefit did you get from
23 pleading?

24 A: Nothing.

25 Q: Absolutely nothing?

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1 A: Nothing at all.

2 MR. FALK: No further questions.

3 THE COURT: Mr. Mitchell?

4 MR. MITCHELL: No further questions, Your Honor.

5 THE COURT: You may step down, sir. Thank you.

6 Anybody else, Mr. Falk?

7 MR. FALK: I'm going to call Mr. Brown. I'd like to call

8 Mr. Brown.

9 THE COURT: Yes, sir.

10 THE CLERK: Do you swear or affirm the testimony that you

11 will give is the truth, the whole truth, and nothing but the

12 truth, so help you God?

13 THE WITNESS: I do.

14 THE CLERK: You may have a seat.

15 THE WITNESS: Thank you.

16 THE CLERK: Please state your name for the record and

17 spell your last name.

18 THE WITNESS: Sure. James Arthur Brown, Jr. B-r-o-w-n.

19 MR. FALK: Excuse me, Mr. Brown.

20 JAMES ARTHUR BROWN, JR., being

21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. FALK:

24 Q: Mr. Brown, so tell me, what was the plan? Were you

25 planning to try this case?

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1 A: At some point in time. Obviously, we start out the case
2 just like I do every case, see what their evidence is so I can
3 find out whether it looks like we have an avenue that might be
4 a shortfall on the State's side. In this case, they produced
5 a fair amount of video tracing the deceased's steps, at least
6 up until he got into a truck on a video, I believe, at
7 Hardee's near the MUSC.

8 As we got closer to trial, one of the things that we
9 noticed is that aside from the idea that there would be a
10 cooperating co-defendant, there wasn't a lot of evidence
11 regarding the identity of the shooter and, in fact, it's my
12 recollection, because I've got the file here, but I have not
13 gone through the evidence that we were provided in discovery,
14 that it was not even clear whether the shot was fired from the
15 back seat of the truck or from the driver's seat, although
16 there were some indications, obviously, that it would have
17 been harder for the driver to fire a shot while driving the
18 truck and strike the deceased where he was eventually found to
19 have been hit.

20 And I don't know how long you won't want me to stop, but
21 it was set as a trial right on up until the end. And that was
22 our defense, is that this was a murder that Mr. Scott didn't
23 know was going to happen, and that there was going to be some
24 activity with the deceased, whether it was purchasing his
25 truck or not, but he didn't realize that there would be a

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1 shooting and that Mr. Williams then suddenly shot and killed
2 Mr. Apps. And there's some more information that -- that I
3 was given, but I'm going to stop and let you kind of --
4 Q: Well, let me just say so --
5 A: Yeah. Sure.
6 Q: -- that day was -- were you on a plea docket that day or
7 had you already picked a jury?
8 A: Oh, the day of -- the day of the plea?
9 Q: Yeah.
10 A: That was a roster for trial.
11 Q: Okay.
12 A: But we had talked about pleading before that. That was
13 not something that was done in the hallway or in the back room
14 that day only. And if you'd like to know where the position
15 changed, I don't mind going ahead, but --
16 Q: I just want to sort of set the table a little bit more.
17 A: Sure.
18 Q: Had y'all picked a jury?
19 A: We had not picked a jury. It was a roster meeting.
20 Q: Oh, roster meeting. Oh, I'm sorry.
21 A: That's correct.
22 Q: Okay.
23 A: It was a roster meeting for trial I believe that
24 following Monday.
25 Q: All right. All right. So you were on the eve?

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1 A: We were on the eve.

2 Q: Okay.

3 A: And in fact, there should be some emails back and forth
4 about who was going to be the judge, because that makes some
5 difference. I will tell you, we had talked plea before
6 because we actually had an in-chambers very informal
7 discussion with a judge, and I believe it's Judge Nicholson at
8 the time. There's -- and I will set this straight. There was
9 never a plea offer from the State ever.

10 Q: Okay.

11 A: So we did -- but we did have a plea discussion with the
12 judge just what might happen if we pled, and so it's not like
13 the first time a plea came up was during the roster meeting,
14 but it was a trial and we had -- we were prepping to try it
15 and actually had met at the Sheriff's Department. I met with
16 Solicitor Wilson herself, and we went through the evidence
17 there, she and I. But I will tell you, there was a -- there
18 were cell phone records provided from the co-defendant's cell
19 phone and a text exchange with Mr. Scott that I think changed
20 the dynamic of whether we could be successful on the identity
21 of the shooter.

22 Q: Well, let's talk a little bit --

23 A: Sure.

24 Q: -- about the statement that he made.

25 A: Sure.

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1 Q: So was there ever a -- I mean, because Mr. Scott alluded
2 to maybe a discussion that you had that possibly you could
3 seek to suppress that statement?

4 A: I think it would have been suppressed. It was a horrible
5 interrogation.

6 Q: Okay.

7 A: There were multiple reasons. It took -- I'm going to
8 ballpark 10 or 12 hours that they interrogated him, and some
9 of the other things I recall is they gave him the classic
10 Christian burial speech, and then at some point in time, they
11 referenced hanging. And so I think all of those things were
12 terrible and would render it involuntary, potentially just the
13 10 to 12 hours. That was a part of our strategy about going
14 to trial because I don't know whether it's come out here or
15 not, but the statement was what I'm going to say pretty
16 inculcating. It actually -- in fact, it led to the location
17 of the body.

18 Q: I'm --

19 A: Sure.

20 Q: So you said the classic Inca Varos [ph] speech. What was
21 that?

22 A: No, it's a classic burial -- Christian burial speech.

23 Q: Oh, the Christian burial speech.

24 A: Yeah.

25 Q: Okay.

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1 A: That please give this family the chance to bury their
2 body, etc. I think *Brewer* is the case that discusses that as
3 not being preferred, but I filed a motion that had that as the
4 first ground. I filed an omnibus evidence motion.

5 Q: Okay.

6 A: Seeking -- by the way, only which would have been
7 relevant if we went to trial.

8 Q: Right.

9 A: And that was filed before the roster meeting, and that
10 was -- that was number one. That was challenge number one in
11 that.

12 Q: All right. So you had then from the day of the roster
13 meeting?

14 A: Well, we pled that morning.

15 Q: Okay. Well, were you planning -- did you prepare any
16 kind of mitigation?

17 A: Yes.

18 Q: Okay.

19 A: Yes.

20 Q: So tell me a little bit about that.

21 A: Well, there was a --

22 Q: What was your plan there?

23 A: There was a three-month gap after the plea. Is that what
24 you're asking? After the plea?

25 Q: Yes.

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1 A: After the plea, there was about a three-month gap. I
2 recall the sentencing being in August. And in fact, when I
3 did pull the first page of documents, it looks like the
4 sentencing memorandum and PowerPoint presentation that I
5 prepared were provided to Solicitor Wilson and to Judge
6 Harrington's law clerk the Monday before that plea, which I
7 believe was on a Thursday.

8 But I've got -- I've got an email thread because after we
9 dropped it off, we actually then -- I had my paralegal -- and
10 I've got the emails -- email back and say, hey, just to
11 confirm, we dropped off copies of the sentencing memorandum
12 and PowerPoint.

13 The PowerPoint presentation was too large to email, so we
14 dropped it off. I actually personally drove it here and
15 dropped it off with Solicitor Wilson's office, and then I
16 dropped it off with Judge Harrington's law clerk outside by
17 the water fountain at the hallway of the judge's chambers when
18 she met me. And it is important because later on in a
19 discussion in the hallway, she indicated that --

20 Q: Well, let me --

21 A: Sure.

22 Q: We're not there yet.

23 A: Sure.

24 Q: Just to make it so that the record is clear --

25 A: You got it.

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1 Q: -- why was there a gap in time?

2 A: Well, there was a pre-sentence investigative report that
3 was done too.

4 Q: Okay.

5 A: And quite frankly, I don't think that the State was
6 prepared for sentencing and not in a bad way. I don't think
7 they knew we were going to plea.

8 Q: I see.

9 A: And so I don't think they were prepared for sentencing.

10 Q: You don't think they were?

11 A: That's -- that's correct.

12 Q: Okay.

13 A: And there was a pre-sentence report that was ordered,
14 which was not exactly the way they are at federal court. I
15 think I've done those two or three times in state court. It's
16 more of a background informational thing. And then I've got a
17 copy of that, but I don't think that came in until maybe end
18 of July.

19 Q: Was there a forensic psychiatrist involved or
20 psychologist? Was it some kind of --

21 A: No. And I didn't see a serious mental health concern.

22 Q: I mean, just as far as, like, a mitigation -- mitigation,
23 you know.

24 A: Well, again, I didn't see a serious mental health
25 concern.

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1 Q: I don't mean -- I don't mean for mental health. I mean,
2 oftentimes when you're pleading, somebody will get an expert
3 to testify that he's not a violent person or violent
4 tendencies or something like that, but that was not part of
5 it?

6 A: I did not do that.

7 Q: No. And that was not part of the pre-sentencing report.
8 So no state expert did it?

9 A: No, no. There was no state evaluation or private
10 evaluation.

11 Q: Okay. Okay.

12 A: And if I missed something, then I missed it on that.

13 Q: No. I'm not --

14 A: Okay.

15 Q: -- suggesting that. I'm just trying to get --

16 A: Sure.

17 Q: -- an idea of what -- who conducted the pre-sentencing
18 report.

19 A: Kescia Holmes.

20 Q: Okay.

21 A: Who I believe was in charge of probation here maybe.

22 Q: Okay.

23 A: And I just remember her name because I got to know her
24 over the course of this case.

25 Q: And they're a lot different than a federal pre-sentencing

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1 report?

2 A: They look similar, but they are watered down and they
3 don't give -- well, the sentencing guidelines create this kind
4 of --

5 Q: Right.

6 A: Well, I'd be incorrect if I said presumptive sentence,
7 but they create this guideline range type.

8 Q: Right.

9 A: You know, what the judge should look at. And there's
10 none of that in this evaluation.

11 Q: So --

12 A: Or this pre-sentence.

13 Q: So you had adequate time to prepare --

14 A: That's correct.

15 Q: -- a mitigation report? I mean --

16 A: Yeah. Yes, sir. And I did actually, like I said,
17 prepare a PowerPoint, that I know I have a copy of, but it
18 should be in the record, and a sentencing memorandum, a paper
19 memorandum as well.

20 Q: And what was -- what was the -- what were the highlights
21 of it?

22 A: Sure. Well, without reading the memorandum, I can tell
23 you what I thought we did have going for us.

24 Q: Okay.

25 A: He had a lack of prior record. He had a good Christian

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1 family, and I tell you that because I met them very early on.
2 The first time I ever met with Mr. Scott, I met with the
3 pastor and his mother. He had gone to college. He played
4 college sports. He was actually a quarterback at a Division 3
5 college, if I recall correctly. And he actually was
6 cooperative with law enforcement. He led them to the body,
7 and he was accepting responsibility.

8 And I remember, you know, growing up, I think, you know,
9 judges at some point in time used to consider that to be
10 significant. That's one thing I know that Judge Frank Epps
11 used to always say is that it took a big man to belly up to
12 the bar to admit what he did wrong, and that's something that
13 was a benefit from pleading if he didn't have a chance of
14 success at trial.

15 Q: Okay.

16 A: I mean, the trial penalty is real. Whatever anybody
17 wants to say, the statistics back it up.

18 Q: The trial tax or whatever?

19 A: Yes. It's real. I mean, that's -- it's absolutely real.
20 And on the other hand, admitting guilt relieves the family,
21 and the Supreme Court I think -- and I think that's in my
22 memorandum. The United States Supreme Court has said that
23 there's a true value to the justice system in pleading to both
24 sides.

25 And so we thought that given that dynamic, the lack of

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1 prior record, his youth -- and in fact, that's one of the
2 things that I brought out, and I believe I used the statistics
3 from Michigan. There are similar statistics across the
4 country, but I believe a life sentence to a 17-year-old, it's
5 less likely that they would be alive after -- I believe the
6 age is 49 --

7 Q: Right.

8 A: -- than it is likely they would be alive. Essentially, a
9 17-year-old who gets a 32-year sentence is more likely to die
10 in prison than one who gets a sentence of less than 32 years.
11 So we knew that we had that to kind of tell the judge that,
12 look, when you start pushing above, you know, 32, 30, as he
13 was 19 instead of 17, I mean, he'd be 51 on a 32-year sentence
14 for murder, which is day for day, and that's one of the things
15 we brought out too.

16 And it hadn't been asked, but the number 40 years got
17 lightly batted around in chambers, but the judge was very
18 clear that he was just speaking off the top of his head
19 because he knew none of the details. This was a conversation
20 casual, without files or anybody in there.

21 Q: So this is the conversation that you referred to earlier
22 with Judge Nicholson?

23 A: That's correct, and there should be notes. And for what
24 it's worth, I did give both of y'all all of my notes and I
25 have them here, and I've scanned them for every visit I have

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1 with my client. And for the record, I gave it to the other
2 side only after I got permission from you all --

3 Q: Yes.

4 A: -- from the petitioner to give them, but they should
5 indicate that when I came back and discussed that chambers
6 conversation, but it was not a guaranteed 40 and, again, 40
7 would have put him at 59, which is on the downside of that
8 life expectancy for a murder sentence.

9 Q: Well, tell me, was there a similar kind of in-chambers
10 discussion with the actual judge who did the sentence?

11 A: There was not, but there was an out-of-court conversation
12 moments before sentencing, and if you'd like me to go into
13 detail, I don't mind doing it.

14 Q: Tell us about that.

15 A: There was -- at the roster meeting, we entered a plea.
16 We then had sentencing three months later. When we showed up
17 for the sentencing, which was days after I'd given the
18 PowerPoint and everything, we were in a tiny courtroom and I
19 don't know which number it is, but it was a courtroom that
20 also had no video capabilities.

21 And so through some, I guess, request from the Court and
22 assistance from my law clerk, we located a courtroom that had
23 lights on, but nobody was in it because they mentioned the
24 larger courtrooms had the AV. We moved. It took some time to
25 move, not us. In fact, the irony is that after fumbling with

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1 a projector up in the other courtroom, when we plugged in to
2 the new courtroom, everything came up instantly. We were
3 talking about a number of seconds, but I think the time spent
4 moving was to move the TV cameras to the jury box.

5 But before that sentencing, the judge called us back into
6 the hallway right behind, like ten feet behind where I'm
7 sitting right now, and I don't know if it was this same
8 courtroom, but back in the chamber or back in the hallway was
9 Judge Harrington, her law clerk, myself, Adam Mlynarczyk,
10 Solicitor Wilson, and the deceased's mother.

11 Q: Was that who was representing the co-defendant?

12 A: He did.

13 Q: Okay.

14 A: And there was no -- no court reporter, and my client
15 wasn't back there. And the only phrase that I recall, because
16 it was not a long conversation, was it's all your fault, Mr.
17 Brown. And to this day, I'm not sure what was all my fault,
18 but I will say after the sentence, it makes me believe it was
19 all my fault that my client got life.

20 MR. MITCHELL: Your Honor, I object. That's speculation.

21 THE WITNESS: It is.

22 MR. MITCHELL: Speculation about --

23 THE COURT: Sustained. Yes. Sustained.

24 BY MR. FALK:

25 A: She said it was all my fault, and I have no idea what

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1 she's talking about because Judge Harrington and I have never
2 had words ever, outside of the court record, except for that
3 conversation there, ever. So since everything else is on the
4 record and I've read it, there's nothing that appears to be
5 fault worthy for me.

6 Q: Well, did they play the --

7 A: After that.

8 Q: Did the PowerPoint get to be --

9 A: Yes, sir. It did. And my recollection is she never
10 looked up once. Not at all. And she did make the comment
11 that they could have accommodated the courtroom better if I'd
12 have told them there was a PowerPoint, which I dropped off
13 with her law clerk days earlier. So I don't know where the
14 fault may lie there, but again, I have emails confirming that
15 I dropped it off with them.

16 I did later find out some other things that caused me
17 some concern about the logistics, which might have made me
18 move to recuse the judge. It also appears that the deceased's
19 girlfriend worked for the Charleston County Clerk of Court. I
20 did not know that at the time, but the clerk was the reason we
21 were told that we got put in that courtroom, which that means
22 nothing to me, I mean, except now that there's actually some
23 bias that appears on the --

24 MR. MITCHELL: Your Honor, once again, he's speculating
25 as to what courtroom he's in --

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1 THE COURT: Sustained.

2 MR. MITCHELL: -- based on --

3 THE COURT: Sustained.

4 MR. FALK: Your Honor, I can tell you I had the same
5 conversation with Judge Goodstein about the relationship
6 between the clerks. Yeah.

7 THE WITNESS: Yeah. I don't -- I think it's factually
8 undisputed that the deceased's girlfriend was the daughter of
9 the Beaufort County Clerk of Court.

10 THE COURT: That's not what --

11 MR. FALK: Actually --

12 THE COURT: That's not -- that's not what I sustained
13 though. I mean, I understand that, but his going beyond that
14 as to what he felt, that's sustained.

15 MR. FALK: But the record will reflect that this case was
16 continued because Judge Goodstein recused herself from hearing
17 this the last time --

18 THE COURT: I understand.

19 MR. FALK: -- because of this.

20 THE COURT: That's okay, but let's go on.

21 THE WITNESS: I just didn't know that -- that she worked
22 for the Clerk's Office until after the plea.

23 THE COURT: That's okay.

24 THE WITNESS: True, factually I did not know that.

25 BY MR. FALK:

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1 Q: So really, from -- I guess from your testimony, the only
2 benefit he got was -- I mean, you said that there is a trial
3 tax or trial whatever, whatever your expression was.

4 A: Yes, sir.

5 Q: But he didn't get any benefit?

6 A: He got the benefit of being able to say that he accepted
7 responsibility.

8 Q: Right.

9 A: Now, it never converted to anything that actually was a
10 benefit to him, and that's absolutely true. And I will tell
11 you it has tempered my advice to clients after then. I had
12 the suggestion from a judge to enter a plea in a murder case
13 in Lexington County, and I specifically referenced this case
14 as that I would never do that again.

15 Q: Well, I do think you can answer this question. You've
16 obviously heard somebody jokingly say, hey, it's all your
17 fault now?

18 A: Right. Yeah.

19 Q: Yeah. Did it sound like she was joking?

20 A: Not at all.

21 Q: Did she sound stern?

22 A: Yes. And in fact, that's why I never said anything back
23 to her. In hindsight, I should have moved to recuse her.

24 Q: Right. But it didn't come to you at the time?

25 A: Well, I guess the hubris in me thought that we could

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1 still end up with something better than life, if not better
2 than 40, I mean, and I don't know if you call that strategy.
3 Q: Well, so this was kind of talked about, having his family
4 members come in and talk to him. I mean, did you --
5 A: Yes, we did. We talked at length, and I told them to
6 talk to him at length about the idea that being remorseful,
7 which accepting responsibility is remorseful, absolutely, and
8 so I thought all of that. The General Assembly somewhere
9 thought that somebody who was convicted of malice aforethought
10 murder deserved a 30-year sentence.

11 Mr. Scott was young. Mr. Scott had no prior record. Mr.
12 Scott cooperated with law enforcement. Never once didn't
13 cooperate with law enforcement, not one time. Answered every
14 question they asked of him and then accepted responsibility.
15 Those are things that I believe would -- would mitigate in
16 favor of a sentence on the lower end.

17 And so, you know, we thought that that was -- I thought
18 that that would be an avenue to a better sentence than a
19 conviction. And I haven't mentioned it, but the -- the text
20 messages from the co-defendant's cell phone went directly to
21 the question of the identity of the shooter, because if I
22 recall, the messages were actually started by Mr. Scott in the
23 parking lot at the Hardee's, where he writes Mr. Williams, the
24 cooperating co-defendant, and says do you want to bust or
25 drive, and Mr. Williams writes back that he would drive. And

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1 then that leaves the inference that Mr. Scott would be -- I
2 took the phrase bust to bust a cap.

3 Q: Right.

4 A: And so the video actually shows Mr. Scott get in the back
5 seat of the car leaving the Hardee's, which is consistent with
6 that text thread. Now, there was concern about what would
7 have come out of Mr. Scott's phone and getting that suppressed
8 through suppression of the statement. But when I get it from
9 the other side, from the other telephone, I don't know of a
10 way to suppress statements from Mr. Williams' phone.

11 Q: So was -- his co-defendant -- had he made a proffer?

12 A: Yes, he had.

13 Q: Okay.

14 A: And he had implicated Mr. Scott as the shooter, and we
15 knew that. But it was -- and it's one thing to be able to
16 challenge that, but it's a second thing when there's
17 corroborative evidence. And honestly that -- that was the, I
18 believe, fact beyond change that would have made the chance
19 for an acquittal of murder unlikely. That was the nail in the
20 coffin on the guilt phase, in my opinion. I mean, I can say I
21 can do a good job, but I don't think I can do that good of a
22 job.

23 Q: I was --

24 A: Sure.

25 Q: That fact is not going to be reflected in any record?

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1 A: Sure.

2 Q: So y'all were set up in another courtroom?

3 A: Yes, sir.

4 Q: And who was in the courtroom at that time? Victims?

5 A: You know, I can't remember, but it was a courtroom that
6 was so small, they told me I could have two people there.
7 That's what I was told by the staff and not -- not by the
8 judge. It's not on the record. I don't remember. He told me
9 you only get two people, which I had two law clerks, I mean,
10 much less my client's grandmother, grandfather was a police
11 officer, his mother, all the church family, his siblings. I
12 mean, we certainly wanted to present that, and we did. And we
13 did present that as support here and the people who did speak.

14 Q: So how much time elapsed between --

15 A: I'm going to guess two hours.

16 Q: So -- okay. So --

17 A: But that's from the time we were, like, in the courtroom
18 one until the time we were talking in the courtroom -- the
19 second courtroom.

20 Q: So was there a conversation with Judge Harrington while
21 she was on the bench saying that you needed a different
22 courtroom?

23 A: I want to -- I want to say there's something on the
24 record where she told me just don't worry about the
25 PowerPoint, because I referenced to her that I went through

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1 great lengths to assemble the materials, put together the
2 PowerPoint, pay Rose in litigation across the street to --
3 and I don't -- I don't know the lack of a better word, but to
4 crack open all those videos so we could get --

5 Q: Right.

6 A: -- chunks put into a format that would play in a
7 PowerPoint. Because if I recall, the police department video
8 was some format that made it very hard to edit.

9 Q: Right. So you requested -- so how did it happen? You
10 requested that?

11 A: Yes, sir. And actually, I think Ashley Pennington
12 brought me a projector. And I say that. Somebody brought a
13 PowerPoint projector, but it wouldn't work and -- and I have
14 to laugh because I have a four-year-old laptop, but they told
15 me my computer was too new for their projector, which might be
16 true, and --

17 Q: Ashley Pennington? He's the chief public defender?

18 A: That's correct.

19 Q: Okay.

20 A: And we tried to get it to play, and Rose in litigation
21 even came over and helped, because I actually sent one of my
22 two law clerks across the street and, I mean, very helpful.
23 They -- they actually came over and tried to get it set up,
24 which is the irony, because when we plugged it into, like, the
25 monitor plug over here, it popped right up, worked no problem.

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1 Q: So --

2 A: We didn't use a projector. We used the TV.

3 Q: So you had this -- there was this conversation -- brief
4 conversation and, in fact, talked?

5 A: Yes, sir.

6 Q: Just let's try to set up a timeline here.

7 A: Sure. That was right before -- literally, we came out
8 for the sentencing. That was literally right -- right before
9 they banged the gavel. We came back in and then she came in
10 and we started the sentencing hearing.

11 Q: A conversation and y'all came back in?

12 A: That's correct. I'd say within ten minutes of the
13 presentation at sentencing.

14 Q: Well, did she call the parties back or --

15 A: She did.

16 Q: -- did she just happen to be in the hall?

17 A: No, no. In fact, the only -- the only times I've been in
18 the hallway here was when I was the mock trial coach a couple
19 of times years ago and when I spoke to Judge Nicholson and
20 this time and maybe one other time is the only time I've ever
21 been in chambers here.

22 Q: What was -- did she come out and say, y'all ready to go
23 or what? You know, I just --

24 A: We were told to come back, and I want to say it's from
25 the law clerk, but I don't know who it was that told me that

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1 the judge wanted to see us in the back, which is not terribly
2 unusual.

3 Q: What else did she say other than that you're at fault?

4 A: Almost nothing. Almost nothing. In fact, it was right
5 there. Right -- I mean, right outside the door, and we were
6 standing. We had stood up. We weren't even in her chambers.
7 And you know, I guess I should have objected to my client not
8 being present if the deceased's mother was going to be there.
9 I mean, there's no legitimate -- well, I don't want to
10 speculate.

11 Q: You might want to speculate.

12 A: Oh, well, I don't mind saying that. I don't know why the
13 deceased's mother was there if my client's not there.

14 Q: No, but --

15 A: I don't know what interests she would have that would be
16 over my client's interest.

17 Q: Was she called back?

18 A: Yeah, she was back there. She -- she was a witness to
19 the whole thing. I got admonished in front of her. But
20 logistically, the only thing that I think took some time was
21 all the TV cameras filling up the box.

22 Q: How long have you been practicing?

23 A: This is my 27th year.

24 Q: You're almost ready for the 60-30 practically.

25 A: Except my retirement is a little different than -- than

JAMES ARTHUR BROWN, JR. - DIRECT BY MR. FALK

1 -- than that 60-plus-30 retirement.

2 Q: I'm talking about the CLEs.

3 A: Oh, I gotcha. Yes.

4 Q: I'm on the 60-30.

5 A: Well, I'll tell you what Mike McCloskey said. The irony
6 is that after you get 30 years is really when you need the
7 CLEs.

8 Q: Okay.

9 A: So -- but -- but yes, sir, I've done criminal defense
10 work. I was a law clerk in the Richland County Public
11 Defender Office in law school, and I was a public defender in
12 Columbia and then Beaufort, and I opened my own practice in
13 2001. So it's been --

14 Q: That kind of interaction ever --

15 A: -- 22.

16 Q: -- ever happened to you before?

17 A: Not that kind of interaction. I've had -- I've had A to
18 Z, I mean, and don't get me wrong. I remember Judge Smoak
19 after I tried a case in front of him the first time I'd ever
20 met him in Beaufort, and he called me back and asked a bunch
21 of questions about who I was and all this stuff, and it was
22 kind of a strange courtroom demeanor. You have a strong
23 courtroom presence, I think was what he said, which he was
24 very nice about it.

25 MR. MITCHELL: Your Honor, what's the relevance of this?

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1 THE COURT: Sustained. Sustained.

2 THE WITNESS: In Columbia, we used to go to chambers all
3 the time. We had the code. Times have changed.

4 MR. FALK: One moment, Your Honor.

5 THE COURT: Yes, sir.

6 BY MR. FALK:

7 Q: Was there a thought to try to have a *Franks* hearing on
8 the affidavit because of this discrepancy about whether or not
9 he was mirandized or not?

10 A: No, I've never thought about that, I've got to be honest
11 with you, but I will tell you there's some other parts of it
12 arrest wise that I think play into it. They met with Mr.
13 Scott when there was an investigation into the use of a credit
14 card in Beaufort County, which is a good segue because that
15 was the first part of the investigation, if I recall, that --
16 that at least kind of came out publicly.

17 And that's how I got a phone call about the case, because
18 there was this Beaufort County financial transaction card
19 fraud warrant, I believe, related to the use of Mr. Apps' or
20 the deceased's credit card in -- at an outlet, I believe in
21 Beaufort, and it -- that's how I got involved in the case.

22 The Beaufort investigator from the Sheriff's Department
23 actually met with Mr. Scott days before his arrest and
24 actually inspected the truck and took a DNA sample out of the
25 truck where the deceased had been killed. It ended up that

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1 that DNA sample -- and now I'm going to be speculating
2 definitely, but I believe it was tested and was Mr. Apps', the
3 sample that they took. The seat belt had been cut out of that
4 truck, but they let him go.

5 And what I find interesting is that there was a
6 discussion about not having enough evidence to arrest him, but
7 the truck, if I recall, was owned by the deceased's mother.
8 So she would actually be able to decide whether or not
9 somebody was in possession of that truck and -- and I tell you
10 that because one dynamic that comes up is whether there cause
11 -- there is cause to arrest at all if you challenge an arrest
12 based on one document that might be faulty.

13 I do think there was some criminal liability out there.
14 It was -- it was somewhat unusual. I think that under those
15 circumstances, Mr. Scott was not taken into custody, although
16 it was a Beaufort County officer meeting with him in
17 Charleston County about the Beaufort County financial
18 transaction card charge.

19 Q: Did you file a motion to reconsider the sentence?

20 A: I did, and I brought out the conversation from chambers
21 that was made and asked her to -- to challenge it. And -- and
22 I will tell you what I noted from -- from that is that nobody
23 denied the statement was made in the -- in the hallway. And
24 if I recall, the judge even asked for a response in
25 opposition, and that nobody said it didn't happen.

JAMES ARTHUR BROWN, JR. - CROSS BY MR. MITCHELL

1 MR. FALK: Your Honor, I have no further questions.

2 THE COURT: All right.

3 CROSS EXAMINATION

4 BY MR. MITCHELL:

5 Q: Mr. Brown, you met with the -- how many times did you
6 meet with the applicant?

7 A: I don't have my notes in front of me. I can count
8 through them, but you've got a note from every single meeting
9 I had.

10 Q: So several?

11 A: Yeah. Oh, yes, a whole bunch and an appropriate amount.
12 And -- and it reflects I did -- I thought I did a pretty good
13 job of noting what we went over and noting items that were of
14 interest, either to me or him or both, like page number or
15 time on the video, because -- and I know it's more than you
16 asked, but we even had to make special arrangements to go to a
17 room to play the video where I could plug my laptop in to make
18 it last long enough, and I know we had to go to a different
19 room at the jail, etc., to have those, because otherwise the
20 visits are through glass, which are not conducive to video
21 evidence review. But we went over every piece of evidence
22 that I was given. That's my recollection. It should be in
23 the notes.

24 Q: And the State's evidence in this case was pretty strong?

25 A: It was. It was strong, and I'm going to qualify it. It

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1 was very strong in the sense that they pinpoint the truck and
2 Mr. Apps and the two defendants leaving the Hardee's, and they
3 had a witness to it, the deceased's mother and, again, the
4 video.

5 And then they show shortly thereafter, I'm going to say
6 an hour or two, back at the Chevy dealership, if I recall, the
7 truck driving up and Mr. Williams, the co-defendant, getting
8 out of that truck, and Mr. Apps was never seen from again. So
9 that provided this kind of bookend of time and what was in --
10 in play, I guess. The -- the facts that were not beyond
11 change is what happened in between that time period.

12 Q: And there were text messages between the defendant and
13 his co-defendant?

14 A: That's correct. And that -- those I got late. I don't
15 want to mean -- I don't want to say too late. I will say, I
16 think got them within a week or so of the cooperating
17 co-defendant striking a real deal. We always knew there was a
18 chance there would be cooperation. Anytime there's two folks
19 charged, one is considered to be the less culpable. You
20 always have to watch out for that.

21 But those came in kind of near the end because I was
22 waiting on getting, you know, an in-depth cell phone analysis
23 of my client's phone, but instead, I got Mr. Williams' phone
24 records. So, yes. And those were important in my evaluation.

25 Q: So it would have been difficult for you to suppress the

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1 co-defendant's phone records?

2 A: I don't know what I would file to do that. It would have
3 to be some type of policy argument that, you know, I guess --
4 and I don't know of one that I could make factually, but I
5 don't know that -- I don't know what avenue to make a
6 challenge to the co-defendant's phone, except for some gross
7 misconduct.

8 Q: So in your mind, the defense really fell apart when the
9 text messages were --

10 A: That --

11 Q: -- revealed?

12 A: The one issue in play was the identity of the shooter,
13 which we had to be careful about because it couldn't be that
14 he was, you know, a hand of one/hand of all in the shooting
15 and just not the trigger man. That wouldn't get us an
16 acquittal. It had to be this spontaneous shooting where he
17 wasn't aware of it, and that -- that -- I won't say it ended
18 it because it's still Mr. Williams saying that he wanted to
19 drive, but it was going to fit Mr. Williams's testimony. So
20 it corroborated it with information that would -- that was
21 there before, that was in existence prior to law enforcement
22 being involved in the case, which I think strengthened the
23 corroborate -- corroborative nature of it.

24 Q: So that's when y'all started to talk about a plea?

25 A: We had talked a little earlier than that because it was a

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1 case that would be hard to try, given that what I'm going to
2 say almost *res ipsa loquitur*. You know, they're the last
3 people within, and then they're driving the bloody truck
4 around later.

5 Q: And the State never offered any plea offer --

6 A: Never at all.

7 Q: -- in this case ever?

8 A: Never at all, and they were very clear with Judge
9 Nicholson that they were going to oppose any other sentence,
10 and he was very clear that he was just opining that maybe 40
11 years. He was clear it was not a locked 40 anyway.

12 Q: And the State was recommending a life sentence?

13 A: That's correct.

14 Q: Did you go over the consequences of the plea with Mr.
15 Scott?

16 A: We did. We talked about the fact that they could seek
17 life at the end of the case if we tried it and lost, and that
18 they could ask -- they were going to ask for life at the plea,
19 but I thought the difference being that we could tell the
20 judge all of those other things, like that we didn't put the
21 State through the -- the process of having to try it or the
22 deceased's family, and that his admission of guilt is a sign
23 of remorse. I mean, an unremorseful person doesn't admit
24 wrongdoing.

25 Q: So you went over all that in your mitigation?

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1 A: Yes.

2 Q: And you were able to play the PowerPoint?

3 A: Yes.

4 Q: So you weren't prevented from doing any of the mitigation
5 you planned on doing?

6 A: Not at all.

7 Q: The defendant gave a statement in this case?

8 A: He did.

9 MR. MITCHELL: And, Your Honor, may I approach the
10 witness?

11 THE COURT: Yes, sir.

12 BY MR. MITCHELL:

13 Q: Do you recognize --

14 A: I do.

15 Q: -- that motion?

16 A: I do, and this is a motion I filed just so I could get
17 the ideas out there, and it shows the things that I intended
18 to challenge.

19 Q: And what was the first -- first thing on here you were
20 going to challenge?

21 A: To challenge the statements, and I put in here he was
22 questioned for ten hours, that it were multiple agents. They
23 would take breaks. So one after the other, and there was a
24 Christian burial speech, and I believe that -- and I still do
25 to this day that that would have been suppressed, which would

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1 have probably led to the suppression of some other evidence,
2 potentially, like his cell phone records and maybe the body.
3 I don't know that Mr. Williams was ever questioned about the
4 location of the body enough that they would have gotten --
5 found the body without Mr. Scott's statement.

6 MR. MITCHELL: Your Honor, the State moves to admit this
7 as State's Exhibit 1.

8 THE COURT: Mr. Falk?

9 MR. FALK: I'm sorry.

10 MR. MITCHELL: This is the motion.

11 MR. FALK: Yeah. No. I'm sorry. It's fine.

12 THE COURT: Yes, sir.

13 (WHEREUPON, State's Exhibit Number 1, motion, was
14 admitted into evidence.)

15 BY MR. MITCHELL:

16 So. So suppressing the statement was always going to be part
17 of your strategy --

18 A: That's correct.

19 Q: -- at trial?

20 A: Yes, sir.

21 Q: So when you were in the hallway, Judge Harrington said
22 it's all your fault?

23 A: That's correct.

24 Q: And that's it?

25 A: Pretty much. I mean, the rest of it would have been

JAMES ARTHUR BROWN, JR. - CROSS BY MR. MITCHELL

1 small talk.

2 Q: Do you remember after -- directly after the applicant was
3 sentencing that you brought this -- this issue all up in front
4 of Judge Harrington on the record?

5 A: I don't recall that, but if the record says so, then I
6 did.

7 Q: Do you recall on the record --

8 MR. MITCHELL: This is on page 108 of the record on
9 appeal, Your Honor, for your reference.

10 I beg the Court's indulgence, Your Honor.

11 BY MR. MITCHELL:

12 Q: Do you recall Judge Harrington saying I hope you are not
13 thinking that your client received life because you did not
14 bring the proper equipment?

15 A: Oh, if she said that, she did.

16 Q: So all your mitigation was presented?

17 A: It was.

18 Q: The State recommended a life sentence?

19 A: They always ask for a life sentence, and I believe that
20 was even their response when Judge Harrington asked them to
21 respond to my motion to reconsider. I think their response
22 was along the lines that they believed the sentence was
23 appropriate.

24 Q: And the applicant was informed that he could receive a
25 life sentence?

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1 A: He was.

2 Q: And you told him a possible consequence of the plea could
3 be a life sentence?

4 A: I did, although that's not -- not the whole statement I
5 made, but that's correct.

6 Q: Was there a strategic reason why you didn't ask for the
7 motion for recusal?

8 A: I don't know if it was strategic, I've got to be honest
9 with you, and -- and you and I did speak about this on Friday.
10 You know, if you move to recuse, it's kind of like the
11 proverbial taking a shot at the king and missing. They're not
12 well received. I've actually never moved for a judge to
13 recuse themselves ever, but I don't know that in that short
14 time frame that there was a deliberate process about that. So
15 I don't -- I don't know that I actually reflected on it like
16 -- like the question asked whether I reflected on it, recusing
17 her, because it was just a moment -- a matter of moments
18 beforehand.

19 But I will say this. The idea that I didn't bring the
20 right equipment is exactly, I think, saying -- the same
21 attitude I'd faced because the equipment was here absolutely
22 no problem because I drove it up here and we -- we actually
23 tried to get all this worked out so there would be a chance to
24 present a PowerPoint. I mean, it's not my first PowerPoint
25 presentation and, of course, I know that we asked that --

JAMES ARTHUR BROWN, JR. - CROSS BY MR. MITCHELL

1 Q: But once again --

2 A: Sure.

3 Q: Once again, you presented the PowerPoint?

4 A: Oh, I did, I did. That's -- yeah.

5 MR. MITCHELL: I beg the Court's indulgence, Your Honor.

6 THE COURT: Yes, sir.

7 MR. MITCHELL: No further questions, Your Honor.

8 THE COURT: Mr. Falk?

9 REDIRECT EXAMINATION

10 BY MR. FALK:

11 Q: My client was testifying that he thought there was some
12 defects in the indictments. Did you -- how did that play into
13 your strategy?

14 A: Well, I hadn't seen them and, if there are, there may be.
15 I will tell you this. I practiced back when defects in the
16 indictment were fatal and, of course, I'm familiar with *Gentry*
17 and my professor, Delgado, I think having a case that would
18 have been a hundred percent reversible error, except they
19 changed the rule on what that did.

20 And I generally find myself making indictment challenges
21 either way early if there's, like, duplicity or multiplicity
22 or if I do later on, it's more of a, gosh, tactic to kind of
23 trip up the proceedings at the last minute. I will tell you
24 this. I recently had a case where I challenged three
25 indictments, and when my client's case got called in November,

JAMES ARTHUR BROWN, JR. - REDIRECT BY MR. FALK

1 there were 27 indictments.

2 MR. MITCHELL: Your Honor, relevance.

3 THE COURT: Sustained.

4 BY MR. FALK:

5 A: I just found that indictment challenges are not permanent
6 relief.

7 Q: Thank you. Oh --

8 A: Sure.

9 Q: You talked a little briefly about mental health issues?

10 A: Sure.

11 Q: Was he taking any kind of, you know, ADD medicine or was
12 that ever discussed with you when you talked to his family
13 members?

14 A: You know, maybe. There -- there were drug use, but not
15 drug use that I think would be severe mental illness. I mean,
16 there was a lot of marijuana use that was discussed, but not
17 such that would be mitigating, in my opinion. Beyond that,
18 no, but -- but if there is, I missed it.

19 But I didn't see a competency issue or responsibility
20 issue, and it's been my experience when we go through all the
21 times he might have used drugs or had some kind of other
22 thoughts, those become negative factors, but I don't know that
23 they were there. I'm just not aware of anything that would
24 have been mitigating.

25 Q: Well, did you think he was really paying attention when

JAMES ARTHUR BROWN, JR. - REDIRECT BY MR. FALK

1 Judge Harrington was asking him all the standard colloquy
2 questions?

3 A: Well, I do, but I've got to be honest with you that most
4 defendants, I think, are indoctrinated into --

5 MR. MITCHELL: Your Honor, he's speculating as to how the
6 applicant would have --

7 MR. FALK: I asked if he appeared to be paying attention.
8 I think that's something he can observe.

9 THE WITNESS: I think he -- I think he was paying
10 attention, but I think the concepts are --

11 THE COURT: Wait, wait.

12 THE WITNESS: I'm sorry.

13 THE COURT: Let me rule on that, please.

14 THE WITNESS: I'm sorry, Judge.

15 THE COURT: Overruled, sir. Now you can respond.

16 THE WITNESS: Thank you, Your Honor. Yes, sir. Thank
17 you, Your Honor.

18 BY MR. FALK:

19 A: I do think that some of the concepts, like waiving a
20 grand jury presentation, is above what most defendants would
21 be able to conceptualize without some bigger educational
22 process. That's not what we had here, but some of those
23 ideas, like, he's not going to have a trial, I think he
24 already knew. And for what it's worth, the advisements took
25 place. My understanding of the advisements for the *Boykin*

JAMES ARTHUR BROWN, JR. - RECROSS BY MR. MITCHELL

1 rights took place in May, not in August. So --

2 MR. FALK: Thank you.

3 THE WITNESS: Yes, sir.

4 THE COURT: Sir?

5 RECROSS-EXAMINATION

6 BY MR. MITCHELL:

7 Q: From your recollection, you don't remember ever there
8 being any issue with the indictment?

9 A: No, sir, I don't. To this day I don't know that there is
10 one.

11 Q: And from your interactions with the applicant --

12 A: Yes, sir.

13 Q: -- did you think he was competent?

14 A: Yes, I did.

15 Q: Any indication he did not understand the plea
16 proceedings?

17 A: No. And I will tell you this. As we walked through the
18 case, there was this kind of shading of the events to shift
19 culpability. And in my opinion, based upon my discussions
20 over 20-some years as a criminal defense lawyer, those
21 actually show competency. When you can try to deflect
22 liability not based on fact but on something that's not
23 factual, that's -- that's indicative of competency to try to
24 avoid liability when it's there. So to the contrary.

25 MR. MITCHELL: I beg the Court's indulgence.

SCARLETT WILSON - DIRECT BY MR. MITCHELL

1 THE COURT: Yes, sir.

2 MR. MITCHELL: No further questions.

3 MR. FALK: No redirect.

4 THE COURT: Thank you, sir. Thank you.

5 THE WITNESS: Thank you, Your Honor.

6 THE COURT: Anything else, Mr. Falk?

7 MR. FALK: We have no further witnesses.

8 THE COURT: Okay, sir.

9 Anything from the State, sir?

10 MR. MITCHELL: Yes, Your Honor. The State calls

11 Solicitor Scarlett Wilson.

12 THE COURT: Okay.

13 THE CLERK: Do you swear or affirm the testimony that you

14 will give is the truth, the whole truth, and nothing but the

15 truth, so help you God?

16 THE WITNESS: I do.

17 THE CLERK: You may have a seat. Please state your name

18 for the record and spell your last name.

19 THE WITNESS: Scarlett Wilson, W-i-l-s-o-n.

20 SCARLETT WILSON, being first

21 duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. MITCHELL:

24 Q: Good morning, Solicitor Wilson.

25 A: Good morning.

SCARLETT WILSON - DIRECT BY MR. MITCHELL

1 Q: Were you employed at the Ninth Circuit Solicitor's Office
2 during this case?

3 A: Yes.

4 Q: And were you the prosecutor on this case?

5 A: I was.

6 Q: And do you mind briefly going over the facts and the
7 evidence in this case?

8 A: I can't go over the evidence in detail, but the general
9 facts of the case, Your Honor, were that the victim in this
10 case was a guy named Alex Apps, a young guy who wanted to sell
11 his truck, and he and his mother were going to meet these
12 other guys, who turned out to be the defendant and the co-
13 defendant. They were going to meet at a Hardee's so that the
14 potential buyers could take the truck for a ride. So mom is
15 there, sees her son drive off in the truck with the two
16 defendants, and he never returns.

17 And this mother, who was just a pleasure to work with,
18 had lost her husband to murder in Beaufort a few years back.
19 Then her son goes off, you know, in her truck while she's
20 there and never returns and is lost to murder. So she was
21 extremely sympathetic.

22 The case unfolded. The truck was found. There's all
23 sorts of blood evidence in it. And it was -- it really wasn't
24 a question of whether or not these two defendants were
25 responsible. It was a hand-of-one case. For a long time, we

SCARLETT WILSON - DIRECT BY MR. MITCHELL

1 didn't know whether we'd be able to prove exactly who was
2 driving, but it wasn't a matter of, did these guys do it or
3 not or did they plan to carjack/arm rob? I mean, that was
4 just very clear from the outset.

5 So there was -- again, there was some credit card use
6 from the victim. There were some odd things about it that
7 almost looked like this defendant were assuming the victim's
8 identity, which was kind of strange, but we had a very strong
9 case, with or without this defendant's statement. Eventually,
10 as we led up to trial, the co-defendant agreed to cooperate
11 with us and told us the whole story. So our case got even
12 stronger.

13 Q: So you were confident if -- when -- if you went to trial?

14 A: I was very confident. I was very confident, and I was
15 very concerned about this defendant. I believe in the concept
16 of acceptance of responsibility and getting credit for
17 pleading guilty, and I think our -- our state would do well to
18 allow judges to openly consider that, but my concern in this
19 case was the brazenness of this crime, the defendant's
20 behavior after this, using the credit cards, buying clothes
21 and things that were similar to the victim's, and just his
22 whole attitude afterwards was, again, brazen and sociopathic.

23 Q: And was there ever a plea offer in this case?

24 A: No.

25 Q: Were you all ever considering offering a plea deal?

SCARLETT WILSON - DIRECT BY MR. MITCHELL

1 A: I'm sure when I first got the case, I looked to see what
2 I want to do with it and see how the evidence unfolds. So
3 consideration maybe, but --

4 Q: But at the time of the plea, the State was recommending a
5 life sentence?

6 A: Yeah, and I made that very clear. Again, I think
7 acceptance of responsibility is important. What is -- and I
8 disagree that acceptance of responsibility by way of plea
9 automatically means remorse. I think those two things are
10 very, very different, and I also think pleading at the -- on
11 the eve of trial, after we had done all our work, after we had
12 put in the time, after we had put the victim's family through
13 much heartache in reviewing evidence and going over testimony
14 -- because remember, the mother's going to have to testify
15 about what she saw and what she knew, and it was quite
16 traumatic for her. We'd already done all of that. And so
17 while, yes, the family and the State didn't have to go through
18 a trial, we had to go through everything but.

19 And again, even more than that, my concern was this
20 defendant. I think he's a dangerous, dangerous person, and it
21 wasn't that he needed to be punished for not accepting
22 responsibility via a plea sooner. It was that if this guy
23 gets out, he's going to be a problem and he's going to do
24 something like this again because he is very, very brazen.

25 Q: And was there anything you witnessed that would indicate

SCARLETT WILSON - DIRECT BY MR. MITCHELL

1 Judge Harrington was biased in this case?

2 A: No. The talk about it's your fault was clearly about the
3 delay that was going on with whether or not the equipment
4 would work. And while Judge Harrington seemed to be
5 irritated, lots of judges get irritated all the time with me
6 or with the other side, and not for a minute would I have ever
7 thought or did I think then that Judge Harrington was letting
8 that influence the sentence in this matter. I certainly
9 wouldn't encourage something like that.

10 As I recall, when the plea was taking place and -- or
11 when the sentencing was going to take place, we were in a
12 courtroom with other cases, other things going on that day.
13 And so our not being able to go forward in that courtroom --
14 as I recall, it wasn't just us in that courtroom that day for
15 the whole book of business, for lack of a better term. There
16 were lots of other things happening, and we were holding it up
17 and everybody was stressed about it. I was stressed about it.
18 Mr. Brown was stressed about it. The judge was stressed about
19 it.

20 But, you know, once we finally settled down and got into
21 court, things -- I don't recall her rushing anybody or trying
22 to move anybody along. It was just that stress of the moment
23 of the equipment is not working or, you know, something wasn't
24 compatible, and those kinds of things just happen and it's
25 happened a number of times to me.

SCARLETT WILSON - DIRECT BY MR. MITCHELL

1 And like I said, while Judge Harrington was irritated,
2 I've never seen her let something like that influence her.
3 She is -- has always been kind of a -- a stereotypical
4 librarian-type judge that wants things, you know, all squared
5 away in a neat little package, and sometimes that doesn't
6 happen and that was this case.

7 MR. MITCHELL: No further questions, Your Honor.

8 THE COURT: Mr. Falk?

9 CROSS-EXAMINATION

10 BY MR. FALK:

11 Q: One thing, you never sent an LWOP notice to counsel in
12 this case; is that correct?

13 A: He didn't qualify for LWOP under the statute, I don't
14 believe. He didn't have a qualifying conviction that I
15 recall.

16 Q: Thank you. And so -- but it was clear to you that Judge
17 Harrington was -- was irritated?

18 A: Oh, yeah. Everybody was irritated. Mr. Brown was
19 irritated. I was irritated. I'm sure the cases behind us
20 were irritated because we did spend a lot of time trying to
21 make it work in the courtroom we were in.

22 Q: Uh-huh.

23 A: And then when it just wouldn't, we got another courtroom.

24 Q: Do you recall any more of the conversation other than
25 that -- her saying it's your fault?

SCARLETT WILSON - CROSS BY MR. FALK

1 A: I really don't recall that. I accept what Mr. Brown said
2 because she was irritated about having to move and all of
3 that. But I think she may have offered some condolences to
4 the victim's mother, but I don't remember anything specific
5 beyond that. I remember the tone, I remember the feel, but
6 the actual verbiage and words that were used back there, I
7 don't recall. But I don't -- I don't challenge what Mr. Brown
8 is saying about that.

9 Q: Have you been in a situation where the judge would be
10 talking to counsel and the victim and not the defendant? I
11 mean, Mr. Brown -- you heard him testify he thought it was
12 unusual that, you know --

13 A: Yeah.

14 Q: -- that this is going on in front of the deceased's
15 mother?

16 A: I think I've had that happen once or twice before, but I
17 hadn't really thought about it. You know, it seems like when
18 I've had that happen, it may have been after a trial and the
19 judge wanted to address the victim, you know, privately.

20 Q: But this was clearly before the judge had reached a
21 decision in this case or hadn't sentenced?

22 A: In sentencing, but the -- the guilt or innocence was
23 resolved.

24 Q: Right.

25 A: Yeah.

SCARLETT WILSON - CROSS BY MR. FALK

1 Q: But the only issue that day was his sentence?

2 A: Yeah. That's right.

3 MR. FALK: No further questions.

4 THE COURT: From the State?

5 MR. MITCHELL: Nothing further from the State, Your
6 Honor.

7 THE COURT: Thank you, ma'am.

8 THE WITNESS: Thank you.

9 MR. MITCHELL: At this time, the State rests.

10 THE COURT: All right, sir.

11 Gentlemen, I will take this under advisement.

12 And, Mr. Scott, I'll issue to the lawyers a ruling just
13 as soon as I can get to it, sir. Thank you for your time.

14 Thank you all.

15 MR. MITCHELL: Thank you, Your Honor.

16 MR. FALK: Thank you, Judge.

17 (WHEREUPON, the proceedings ended at 11:13 a.m.)

18

19 --- END REQUESTED TRANSCRIPT ---

20

21

22

23

24

25

State of South Carolina)
) Certificate
County of Florence)

I, the undersigned, Krystal J. Smith, Notary Public and Official Court Reporter III for the Twelfth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing pages, numbered 1 through 61, constitute a true, accurate, and complete Transcript of Record of all the proceedings had and evidence introduced in the hearing of the above captioned case, relative to appeal, in the Court of Common Pleas for Charleston County, South Carolina, on the 6th day of February, 2023, to the best of my ability based upon the audio and notes provided.

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

s/Krystal J. Smith

Court Reporter

Florence, South Carolina

March 29, 2024

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

STATE OF SOUTH CAROLINA)

VS.)

JQUAN MARQUEL SCOTT)
_____)**FILED**

IN THE COURT OF GENERAL SESSIONS

2015 MAY 27 AM 9:12

Indictment Nos: 2013GS1007416, 418, 419, & 421

JULIE S. ARMSTRONG
CLERK OF COURT**OMNIBUS MOTION TO
EXCLUDE EVIDENCE**

THE DEFENDANT BRINGS BEFORE THIS COURT an Omnibus Motion to Exclude Evidence. The categories of evidence will be discussed separately below. Undersigned counsel proposes to submit a memorandum of law and present factual support during a motion hearing, both as directed by the Court.

DEFENDANT'S STATEMENT AND DERIVATIVE EVIDENCE

Because statements provided to law enforcement by the Defendant were involuntary produced, the Court should suppress these statements and all derivative evidence obtained therefrom.

On October 7, 2013, the Defendant was questioned by law enforcement. This interrogation produced several statements. As a result of this interrogation, the Defendant led the police to the location of the deceased's body.

Following the discovery of the body, law enforcement used the fact that the Defendant revealed the body's location to procure search warrants to search various places including the house of the Defendant as well as his cell phone.

However, these statements were involuntarily produced through coercive police tactics.

To begin, Mr. Scott was questioned for nearly 10 hours. This questioning was performed

State (copy)
Exhibit
1 2/4/23

by multiple agents who would tag team the questioning such that the detectives could take breaks but that the Defendant remained in the interrogation room. The detectives also employed the "Christian Burial Speech."

The fact the interrogation resulted in the discovery of the body indicates that this statement was the product of the coercive "Christian Burial Speech" technique.

Thus, the statements of the Defendant and all derivative evidence should be suppressed because of the involuntary nature of the Defendant's statements.

OPINION REGARDING LOCATION OF SHOOTER

Because there is no expert opinion regarding the location of the shooter within the vehicle, any testimony providing such an opinion is inadmissible.

Generally, the rules provide two mechanisms for the admission of opinion evidence. One is through lay witness opinion and the other involves expert testimony. The State does not have a basis to offer testimony in either of these forms.

To be proper, a lay witness's opinion testimony must be limited to those rationally based upon the perception of the witness and which do not rely upon special knowledge, skill, experience or training. See SCRE Rule 701. On the other hand, an expert may testify as to opinions based upon scientific, technical, or other specialized knowledge. See SCRE Rule 702. Upon information and belief, the crime scene investigative unit for the Charleston County Sheriff's Department indicates the blood evidence does not support an expert opinion regarding the location of the shooter within the vehicle.

Thus, the Court should exclude any testimony asserting an opinion regarding the location of the shooter.

OPINION EVIDENCE REGARDING TYPE OF HOLSTER

A holster was taken into evidence during the execution of a search warrant. Nothing about this holster expressly indicates that this holster was manufactured to carry a revolver. Because opinion testimony is limited as referenced above, any testimony asserting the type holster found during the search should be excluded.

OPINION EVIDENCE REGARDING CALIBER OF PROJECTILE

Partial projectile fragments were collected during an autopsy. The fragments were not suitable for a ballistics examination. However, again, based upon the limitations restricting use of opinion testimony, such opinions regarding the caliber of the original projectile should be excluded.

HEARSAY STATEMENTS OF OTHER WITNESSES

The Court should exclude any out of court statements of any co-defendant without a showing that the statements fit a hearsay except and that Defendant's confrontation clause rights are honored. Undersigned counsel's review of the State's questioning of several witnesses suggests the possibility that out of court statements of the Defendant's associates may be offered by the State. The Court should exclude all such statements unless the State complies with both the hearsay rules and confrontation clause demands.

EVIDENCE OF OTHER CRIMES OR ACTS

The Court should exclude evidence of other crimes acts or wrongs as improper character evidence. Specifically, allegations of drug use or drug dealing should be excluded as improper character evidence. Further, any intention to offer such evidence must fall under an exception which must be proven by clear and convincing evidence.

CELL PHONE TRIANGULATION TESTIMONY

The Court should exclude expert opinion testimony concerning cell phone triangulation because this testimony does not meet the requirements discussed in State v Council, 515 SE2d 508 (SC 1999). Succinctly, Council requires inquiry into four factors to determine the admissibility of scientific expert testimony. These factors are : (1) the publications and peer review of the technique; (2) prior application of the method to the type of evidence involved in the case; (3) the quality control procedures used to ensure reliability; and (4) the consistency of the method with recognized scientific laws and procedures.

In this case, the State must offer evidence concerning the reliability and consistency of the methods producing the expert opinion.

Failing to do so, the Court should exclude opinion testimony in this regard.

PHOTOS WHICH PUBLICATION OF WILL PRODUCE UNDUE PREJUDICE

The Court should exclude any photos offered by the State which are unduly prejudicial. As a matter of caution, undersigned counsel suggests that any photos of the body of the deceased be subject to prior ruling of the Court following argument. Otherwise, the Court should exclude the admission of any photos of the body.

STREET LINGO INTERPRETATION

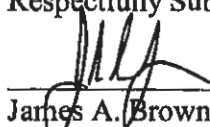
The Court should exclude any opinion testimony offering to interpret street lingo or text message short-hand. Such opinion testimony has been subject to scrutiny by the United States Court of Appeals for the Fourth Circuit. See US v Garcia, 752 F3d 382 (4th Cir. 2014) and US v Johnson, 587 F3d 625 (4th Cir. 2009).

CONCLUSION

Therefore, the Defendant requests that the Court exclude all of the evidence referenced above or, alternatively, require that the State offer justification and receive a ruling in its favor

before any of this contested evidence be offered before the jury.

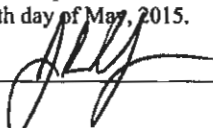
Respectfully Submitted,


James A. Brown, Jr.
Attorney for the Defendant

5/26, 2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document
was served upon all counsel of record in this proceeding
this 27th day of May, 2015.



FILED
2015 MAY 27 AM 9:12
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

Law Offices of Jim Brown, P.A.

1600 Burnside St., Suite 100 • P.O. Box 592

Beaufort, SC 29901-0592

Phone: (843) 470-0003 Fax: (843) 470-0004

jimbrownlaw@hargray.comwww.attorneyjimbrown.comJULIE J. ARMSTRONG
CLERK OF COURT

BY _____

May 27, 2015

VIA HAND DELIVERY

Clerk

Charleston County General Sessions

100 Broad Street, Suite 106

Charleston, SC 29401

Re: State v. Jquan Scott; 2013A1010205478-81

Clerk:

Please find enclosed the original Omnibus Motion to Exclude Evidence in regards to the above referenced matter for filing in your office. Thank you for your attention to this matter. Please contact our office with any questions or concerns.

Sincerely,

Jessica Roper

Jessica Roper,

Paralegal to Jim Brown

w/ enclosure

cc: Scarlett Wilson, Solicitor for the Ninth Judicial Circuit, hand delivered

AK
GS
SOL
AGSTATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

J'Quan Marquel Scott, #365229

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2019-CP-10-05340

**ORDER VACATING KIDNAPPING
SENTENCE AND DISMISSING
REMAINING PCR APPLICATION****I. INTRODUCTION**

The matter before this Court is an action for post-conviction relief (PCR) commenced by J'Quan Marquel Scott ("Applicant") on October 17, 2019. On February 6, 2023, a hearing into the matter was convened before the Honorable George M. McFaddin, Jr. at the Charleston County Courthouse. Applicant was present and represented by James K. Falk, Esquire. Assistant Attorney General T. Cruise Mitchell represented the State. During the evidentiary hearing, testimony was taken from Applicant; James Arthur Brown, Jr., Esquire; and Ninth Circuit Solicitor Scarlett Anne Wilson.

After hearing the testimony at the PCR hearing and upon full review of the record, this Court finds Applicant has met his burden of proof as to the claim related to the kidnapping sentence. This Court further finds Applicant did not meet his burden of proof for all other PCR claims. For the reasons discussed below, this Court grants relief in-part to vacate Applicant's sentence for kidnapping, denies relief on all other claims, and dismisses this action with prejudice.



Page 1 of 17

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2024 MAR 25 PM 1:38
JULIE J. ARMSSTRONG
CLERK OF COURT
BY: *DA*

2019-CP-10-05340

II. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections. In December 2012, the Charleston County Grand Jury indicted Applicant for murder (2013-GS-10-07416), armed robbery (2013-GS-10-07418), kidnapping (2013-GS-10-07419), and possession of firearm during the commission of a violent crime (2013-GS-10-07421). James Arthur Brown, Jr., esquire represented Applicant at his plea. 9th Circuit Solicitor Scarlett Wilson prosecuted the case.

On August 26, 2015, Applicant appeared before the Honorable Kristi L. Harrington and pleaded guilty as indicted. Judge Harrington sentenced Applicant to life imprisonment for murder, thirty years for armed robbery, thirty years for kidnapping, and five years for possession of a weapon during the commission of a violent crime.

Applicant filed a timely notice of appeal. Laura Caudy, Esquire, of the Office of Appellate Defense perfected the appeal. Appellate counsel filed an Ander's Brief of Appellant on February 16, 2017. The Court of Appeals directed appellate counsel to brief further issues on December 15, 2017. The remittitur was returned to the Circuit Court on November 5, 2018.

III. STATEMENT OF FACTS

Sometime before the murder, Alex Apps ("victim") decided to sell his truck on Craigslist as the vehicle was becoming cumbersome to operate in downtown Charleston, where victim was a college student. (R. p. 34, 1. 24-p. 35, 1. 2). Victim met with Applicant once to discuss the sale of the vehicle, and agreed to meet again on October 3, 2013. (R. p. 35, 11. 4-6).

On October 3, 2013, at 7:00 AM, victim and his mother, who drove from Beaufort carrying the title to the vehicle, met with Applicant and Isaac Williams ("Co-Defendant") at Hardee's on Spring Street. (R. p. 35, 11. 7-15). Victim, Applicant, and co-defendant got in the truck to take a short "test drive," while victim's mother stayed at Hardee's with the title to the



truck as a security measure. (R. p. 35, 11. 13-18). Rather than victim returning, victim's mother received text messages indicating the sale fell through and suggesting she return to Beaufort, which she did. (R. p. 35, 1. 18-p. 36, 1. 5). The texts conveyed a promise that the victim would contact her later. (R. p. 36, 11. 1-5). However, that would not occur. During the short drive, Applicant shot and killed victim in the truck. (R. p. 40, 11. 3-4). Applicant then discarded victim's body just over the Arthur Ravenel Bridge in Mt. Pleasant. (R. p. 38, 11. 7-9).

In the days following the murder, Applicant used victim's credit card to go shopping and also showed off the truck to friends while partying in Beaufort. (R. p. 36, 1. 18-p. 37, 1. 6). Eventually, after four days of investigation by victim's mother, Beaufort County police, and Charleston County police, applicant led detectives to victim's body. (R. p. 36, 1. 23-p. 38, 1. 10). Further investigation indicated that this crime was premeditated and that Applicant and co-defendant intended the purchase of the truck to be a ruse all along. (R. p. 38, 11. 15-22).

IV. CURRENT APPLICATION

Applicant timely commenced this PCR application on October 17, 2019. In his *pro se* application Applicant alleged he was entitled to relief based on the following grounds:

1. Counsel was ineffective for...
 - a. "failing to go over possible defenses with petitioner."
 - b. "failing to adequately investigate and present mitigating evidence to petitioners mental illness."
 - c. "advising petitioner that he would get less time if he pled guilty."
 - d. "failing to advise petitioners prior to entry of plea that the incriminating statements made which were induced by the officers threats and promise may have been made involuntarily and if so would be inadmissible at trial."
 - e. "failing to properly move to quash the kidnapping indictment in accordance with S.C. Code Ann. 17-19-90 (2003) violating my due process and equal protection rights."
 - f. "failing to object to prosecutors closing argument on guilt that the petitioner showed no remorse."
 - g. "failing to object to sentence."
 - h. Involuntary guilty plea
 - i. Invalid sentence



During the evidentiary hearing, Applicant raised the following additional application:

- j. Counsel was ineffective for failing to object to Judge Harrington presiding over the guilty plea and failing to request her recusal from the case due to an antagonistic interaction between Counsel and Judge Harrington prior to the plea.

At the evidentiary hearing, Applicant proceeded on all claims.

V. INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

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

The reviewing court applies the two-part test outlined in *Strickland v. Washington* to determine whether counsel's conduct "was so ineffective as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Id.* at 687–88; *accord. Cherry v. State*, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).



The applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. *Hughes v. State*, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); Rule 71.1(e), SCRPC. To prove deficient performance, the applicant must establish that, in light of all the circumstances, the acts or omissions complained of “were outside the wide range of competence” demanded of attorneys in criminal cases. *Strickland*, 466 U.S. at 688. To prove prejudice, the applicant must establish “a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. A reasonable probability is a probability “sufficient to undermine confidence in the outcome.” *Id.* Significantly, “the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged.” *Id.* at 696.

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, *Hill v. Lockhart*, 474 U.S. 52 (1985), extended the two-part *Strickland* test to challenge guilty pleas based on ineffective assistance of counsel. See *Padilla v. Kentucky*, 559 U.S. 356, 373 (2010) (recognizing that the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). The analysis of counsel’s performance under the first prong of *Strickland* remains unchanged—the applicant must show that counsel’s representation fell below an objective standard of reasonableness demanded of attorneys in criminal cases. *Hill*, 474 U.S. at 58–59; accord *Thompson v. State*, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his guilty plea was induced by ineffective assistance of counsel must prove counsel’s advice to plead guilty was not “within the competence demanded of attorneys in criminal cases.” *Hill*, 474 U.S. at 56.

The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” *Id.* Specifically, when an applicant



claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." *Id.* at 59. The applicant must further convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372.

This inquiry "focuses on a defendant's decisionmaking" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. *Lee v. United States*, 582 U.S. 357, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. *Padilla*, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. *Turner v. State*, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

VI. FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. After hearing the testimony presented and considering the legal arguments by counsel, as well as the record in this action incorporated by way of the State's return, this Court grants relief on Applicant's claims his kidnapping sentence was illegal; therefore, Applicant's kidnapping sentence is hereby vacated. This Court finds the remaining claims to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.



Counsel Informed Applicant He Would Get Less Time if He Plead Guilty¹

Applicant contends Counsel was ineffective for erroneously advising him he would get less time if he pleaded guilty. This Court disagrees and finds Counsel properly advised Applicant of the consequences of his guilty plea.

1. PCR Testimony

Applicant testified he did not realize he could receive a life sentence if he pleaded guilty. (PCR Tr. p. 9). Applicant testified that once Counsel got his family involved to convince him to plead guilty, he believed he would get less time than he actually received. (PCR Tr. p. 9). Applicant testified Counsel informed him he would get no more than 30 years. (PCR Tr. p. 9–10). Applicant testified he only pleaded guilty based on Counsel’s assurances he would receive less than life. (PCR Tr. p. 10). On cross-examination, Applicant testified he recalled informing the plea court that he understood he could be sentenced to life imprisonment, but he answered “yes ma’am” to every question whether he agreed with or not. (PCR Tr. p. 14).

Counsel testified there was never a plea offer from the State. (PCR Tr. p. 19). Counsel testified the State was recommending a life sentence. (PCR Tr. p. 45). Counsel testified he informed Applicant the State would be asking for a life sentence at the plea hearing. (PCR Tr. p. 45). Counsel testified Applicant was aware he could be sentenced to life as a possible consequence of the guilty plea. (PCR Tr. pp. 48 – 49).

2. Guilty Plea Testimony

At the guilty plea hearing, the court engaged in the following colloquy with Applicant:

The Court: I can sentence you on murder for 30 years up to life. Do you understand that’s the possible punishment?

The Defendant: Yes, ma’am.

¹ Allegation 1(c) will be addressed in this section.

(Plea Tr. p. 31).

3. Discussion

This Court finds Counsel was not ineffective in advising Applicant of the consequences of his guilty plea. Specifically, Counsel properly advised Applicant he could be sentenced to life imprisonment if he pleaded guilty. Counsel's credible testimony demonstrates Counsel never informed Applicant he would be sentenced to 30 years or less if he pleaded guilty. This Court finds Counsel properly advised Applicant he was facing a potential life sentence by pleading guilty. Thus, Counsel was not deficient in advising Applicant of the consequences of his guilty plea.

Even supposing Counsel affirmatively misadvised Applicant regarding the potential sentence, any misadvice on the part of Counsel was cured by information conveyed at the guilty plea hearing. "Defendant's knowing and voluntary waiver of statutory or constitutional right must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both". *State v. Ray*, 310 S.C. 431, 427 S.E.2d 171 (1993). Any possible misconceptions regarding sentencing on a defendant's part can be "cured by the colloquy during the actual guilty plea hearing." *Wolfe v. State*, 326 S.C. 158, 164, 485 S.E.2d 367, 370 (1997). "In considering an allegation on post-conviction relief (PCR) that a guilty plea was based on inaccurate advice of counsel, the transcript of the guilty plea hearing will be considered to determine whether any possible error by counsel was cured by the information conveyed at the plea hearing." *Stalk v. State*, 375 S.C. 289, 652 S.E.2d 402 (Ct. App. 2007), *aff'd as modified*, 383 S.C. 559, 681 S.E.2d 592 (2009) (citing *Wolfe*, 326 S.C. at 165). The Court informed Applicant, and Applicant affirmed he understood, that he could be sentenced to life imprisonment at the guilty plea hearing. Thus, Applicant has failed to prove prejudice as

to this allegation. Accordingly, this Court finds this allegation is **DENIED**.

***Failure to Review Possible Defenses Including That His Statements Could Be
Inadmissible at Trial²***

Applicant next contends Counsel failed to go over possible defenses with him. Specifically, Counsel failed to advise Applicant, prior to the entry of the plea, that the incriminating statements which were induced by the officer's threats and promise may have been made involuntarily and if so would be inadmissible at trial. This Court disagrees and finds Counsel was not ineffective in this regard.

1. PCR Testimony

Applicant testified Counsel never reviewed a trial strategy with him. (PCR Tr. p. 7). Applicant testified he made a statement to law enforcement while in custody. (PCR Tr. p. 7). Applicant testified he was not read his miranda rights. (PCR Tr. p. 8). Applicant explained he was sitting in the interrogation room for hours and was threatened by law enforcement during the interrogation. (PCR Tr. p. 8). Applicant testified law enforcement lied in the arrest warrant when they stated he was mirandized. (PCR Tr. p. 8). Applicant testified that Counsel informed him he would attempt to get the statements suppressed. (PCR Tr. p. 9).

Counsel testified that, due to the State's lack of evidence regarding the identity of the shooter, their defense was that Applicant did not know the murder was going to happen. (PCR Tr. p. 17). Counsel testified he believed Applicant's statement would have been suppressed. (PCR Tr. p. 20). Counsel explained suppressing the statement was a part of the trial strategy. (PCR Tr. p. 20). Counsel believed there were several problems with the interrogation including the length of the interrogation and the "Christian Burial Speech" given by law enforcement during the interrogation. (PCR Tr. p. 20). Counsel testified he filed an omnibus motion to

² Allegations 1(a) and 1(d) are addressed in this section.

exclude evidence which incorporated those arguments. (PCR Tr. p. 21). Counsel noted this motion would only have been relevant if Applicant went to trial. (PCR Tr. p. 21). Counsel reiterated suppressing the statement was always going to be a part of the trial strategy. (PCR Tr. p. 47). Counsel testified that even had he been able to suppress Applicant's statement, he had no way of suppressing the text message statements from the co-defendant's phone which implicated Applicant as the shooter. (PCR Tr. p. 34).

2. Discussion

This Court finds Counsel went over the possible defenses with Applicant. Counsel informed Applicant he was prepared to challenge the admissibility of the statements if they proceeded to trial. Counsel's credible testimony demonstrates suppression of the statements was an integral part of his trial strategy. Counsel's filed omnibus motion to exclude evidence, which includes a motion to suppress the statement, corroborates Counsel's testimony on this point. Applicant's own testimony evinces that he was informed of Counsel's strategy to move for the suppression of the statement. Therefore, this Court finds Counsel advised Applicant that, due to several potential problems with law enforcement's interrogation of Applicant, he would be moving to suppress the statements. This Court further finds Counsel was prepared to argue this issue at a Jackson v. Denno hearing had Applicant proceeded to trial. This Court finds Counsel was not deficient in this regard. Additionally, Applicant waived his right to present any defenses on the indictments during his guilty plea hearing. (Gp. Tr. p. 31). Thus, Applicant has failed to prove he was prejudiced by an alleged deficiency.

Accordingly, this allegation is **DENIED**.



Failure to Object to Judge Harrington Presiding Over Guilty Plea³

Applicant further contends Counsel was ineffective for failing to object to Judge Harrington presiding over the guilty plea and failing to request her recusal from the case due to an antagonistic interaction between Counsel and Judge Harrington prior to the plea. This Court disagrees and finds there was no meritorious reason to require Judge Harrington to recuse herself.

1. PCR Testimony

Counsel testified there was an approximate three-month gap between guilty plea and sentencing. (PCR Tr. p. 21). Counsel explained he prepared a PowerPoint mitigation presentation prior to the sentencing hearing. (PCR Tr. p. 21). Additionally, a pre-sentencing investigative report was ordered to be prepared. (PCR Tr. p. 23). Counsel indicated three months was an adequate amount of time to prepare for his mitigation presentation. (PCR Tr. p. 25). Counsel testified he personally dropped off the PowerPoint presentation and sentencing memorandum to Judge Harrington's law clerk the Monday before the guilty plea. (PCR Tr. p. 22). Counsel testified that on the day of sentencing they were originally assigned a small courtroom with no video capabilities in which to present Applicant's PowerPoint mitigation presentation. (PCR Tr. p. 28). Due to the inability to present mitigation, Counsel explained they had to move to a larger courtroom with AV capabilities; the move took some time. (PCR Tr. p. 28). Because of this, Counsel testified Judge Harrington called all the parties back into the hallway behind the courtroom where she told Counsel, it's all your fault. (PCR Tr. p. 29). Counsel indicated he did not know what Judge Harrington was referring to when she made this statement. (PCR Tr. p. 30). Following this interaction, Counsel was able to present his PowerPoint mitigation presentation to

³ Allegation 1(j) will be addressed in this section.

the Court. (PCR Tr. p. 30). Counsel testified Applicant did not receive any benefit of the plea. (PCR Tr. p. 32).

Ninth Circuit Solicitor Scarlett Wilson (“Solicitor”) testified that she witnessed nothing to indicate Judge Harrington was biased in this case. (PCR Tr. p. 58). Solicitor was adamant in her testimony that Judge Harrington’s irritation did not influence the sentence in this case. (PCR Tr. p. 58).

2. Discussion

This Court finds there was no meritorious reason to require Judge Harrington to recuse herself. “Pursuant to Canon 3(E)(10(a) of Rule 501, SCAR, a judge should disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned.” *State v. Jackson*, 353 S.C. 625, 578 S.E.2d 744, 745 (Ct. App. 2003). “It is not enough for a party seeking disqualification to simply allege bias; the party must show some evidence of bias or prejudice.” *Id.* (citing *Roche v. Young Bros, Inc., of Florence*, 332 S.C. 75, 504 S.E.2d 311 (1998). “The alleged bias or prejudice must stem from an extra-judicial source and result in a decision based on information other than what the judge learned from his or her participation in the case as a judge.” *Id.* (citing *Payne v. Holiday Towers, Inc.*, 283 S.C. 210, 321 S.E.2d 179 (Ct. App. 1984). Here, Applicant has presented no evidence the life sentence Judge Harrington handed down was based on anything other than information she learned from her participation in this case. A mere allegation that a Plea Judge was irritated regarding technological issues in the courtroom is wholly inadequate to demonstrate bias or warrant recusal. Therefore, Counsel was not deficient for failing to move for Judge Harrington’s recusal in this case. Accordingly, Applicant has failed to meet his burden, and this allegation is **DENIED**.



Failure to Object to the Thirty-Year Sentence for Kidnapping⁴

This Court finds Applicant has shown he is entitled to relief for counsel's failure to object to the court's thirty-year sentence for kidnapping. A person convicted of kidnapping "must be imprisoned for a period not to exceed thirty years *unless* sentenced for murder as provided in Section 16-3-20." S.C. Code Ann. § 16-3-910 (2015) (emphasis added). Where a defendant has been sentenced for murder of a victim, such sentence precludes a sentence for kidnapping of that victim, and any such sentence should be vacated. *State v. Vick*, 384 S.C. 189, 201, 682 S.E.2d 275, 281 (Ct. App. 2009). A challenge to sentencing must be raised at trial to be preserved for appellate review. *Id.* at 202. Here, Counsel failed to object to the court's thirty-year sentence for kidnapping. Accordingly, this Court finds that Applicant has met his burden on this claim, and his concurrent thirty-year *sentence* for kidnapping is hereby vacated pursuant to Section 16-3-910 of the South Carolina Code. Notwithstanding, this Court does not vacate Applicant's *conviction* for kidnapping.

Insufficiency of the Indictment⁵

Applicant further contends Counsel failing to properly move to quash the kidnapping indictment in accordance with S.C. Code Ann. 17-19-90 (2003) violating my due process and equal protection rights. This Court disagrees and finds Counsel was not ineffective in this regard.

1. PCR Testimony

Applicant testified his murder indictment was missing two key elements – feloniously and willfully. Applicant testified his kidnapping indictment was missing the elements of intent and by force. Counsel testified he did not recollect any issues with the indictments. (PCR Tr. p.

⁴ Allegations 1(g) and (i) are addressed in this section.

⁵ Allegation 1(e) is addressed in this section.

50). Counsel noted challenges to indictments do not generally result in permanent relief. (PCR Tr. p. 51).

2. Discussion

Applicant contends Counsel was ineffective for failing to object to the indictments and move to dismiss (squash) the indictments for insufficiency. This Court finds Applicant failed to prove Counsel was ineffective in this regard. An indictment is a notice document. *State v. Gentry*, 363 S.C. 93, 102, 610 S.E.2d 494, 500 (2005); *see* S.C. Code Ann. § 17-19-10 (“No person shall be held to answer in any court for an alleged crime or offense, unless upon indictment by a grand jury...”). An indictment is sufficient if it apprises the defendant of the elements of the offense intended to be charged and apprises the defendant of what he must be prepared to meet. *Granger*, 333 S.C. at 4, 507 S.E.2d at 324. An indictment charging a statutory crime does not need precise language from the requisite statute if the indictment contains equivalent language to the statute. *State v. Crenshaw*, 274 S.C. 475, 477, 266 S.E.2d 61, 62 (1980).

The Charleston County Grand Jury indicted Applicant for kidnapping, murder, armed robbery, and possession of a weapon during the commission of a violent crime. This Court has reviewed the indictments and finds the indictments gave Applicant sufficient notice of all his charges. Thus, Applicant has failed to prove Counsel was deficient in this regard. Furthermore, Applicant waived any defenses he may have on the indictments at the guilty plea hearing. (GP. Tr. p. 31). Therefore, Applicant has failed to prove he was prejudiced by any alleged deficiency as to these indictments. Accordingly, Applicant has failed to meet his burden, and this claim is **DENIED**.



Failure to Adequately Investigate Applicant's Mental Health⁶

Applicant next contends Counsel was ineffective for failing to adequately investigate and present mitigating evidence to petitioner's mental illness. This Court disagrees and finds Counsel was not ineffective in this regard.

1. PCR Testimony

Counsel testified he did not see a competency or responsibility issue. (PCR Tr. p. 51). Counsel explained he was not aware of anything that would have been mitigating regarding Applicant's mental health. (PCR Tr. p. 51). Based on his interactions with Applicant, Counsel noted there was no indication of mental incompetency. (PCR Tr. p. 53).

2. Discussion

This Court finds this allegation is without merit. "When a post-conviction relief applicant raises issues of competency in the context of a plea proceeding, the two-prong *Strickland* analysis still applies; however, because of the nature of the claim, proof of deficiency of counsel is intertwined with prejudice." *Ramierz v. State*, 419 S.C. 14, 795 S.E.2d 841 (2017). "When establishing *Strickland* prejudice in the context of plea counsel's failure to request a mental competency evaluation, the post-conviction relief application need only show a reasonable probability that he was incompetent at the time of the plea." *Id.*

Here, Applicant has presented no evidence he suffered from any mental illness that would have rendered him incompetent or been useful for mitigation purposes. Counsel "reasonably relied on his own perceptions that [Applicant] was not mentally deficient" when investigating this case. *Jeter v. State*, 308 S.C. 230, 417 S.E.2d 594 (1992). This Court finds there were no indications Applicant suffered from any mental illness; thus, Applicant has failed to prove deficiency in this regard. Furthermore, since Applicant has failed to present any evidence of

⁶ Allegation 1(b) will be addressed in this section.

mental deficiency, he has also failed to meet his burden establishing prejudice. Accordingly, this allegation is **DENIED**.

Failure to Object to Prosecutor's Closing Argument⁷

Applicant contends Counsel was ineffective for failing to object to the prosecutor's closing argument. Specifically, Applicant alleges Counsel should have objected when the prosecutor said Applicant did not show any remorse. This Court disagrees and finds Applicant has failed to meet his burden as to this allegation.

Applicant testified he disagreed with the Solicitor's characterization that he did not show any remorse. (PCR Tr. p. 12). Solicitor Scarlett Wilson testified she disagrees that acceptance of responsibility by way of plea automatically means remorse. (PCR Tr. p. 57).

Solicitor made the following comment during her recitation of the facts at Applicant's guilty plea:

Solicitor: They kill Alex, dumped his body in broad daylight in Mount Pleasant just over the bridge, and there doesn't seem to be any reaction from them and certainly no remorse because later that night what are they talking about? They're talking back and forth about the money; whether or not they can use the card.

(GP. Tr. p. 38).

This Court finds these comments were entirely appropriate. Solicitor was properly reciting the facts of the case and the evidence the State was going to present at trial. Thus, there was no meritorious reason for Counsel to object to these comments. Instead, Counsel properly argued in his mitigation that Applicant was accepting responsibility for this crime and the court should consider that during sentencing. (GP. Tr. p. 49). Therefore, Counsel was not deficient. Accordingly, Applicant has failed to meet his burden, and this allegation is **DENIED**.

⁷ Allegation 1(f) will be addressed in this section.

VII. CONCLUSION

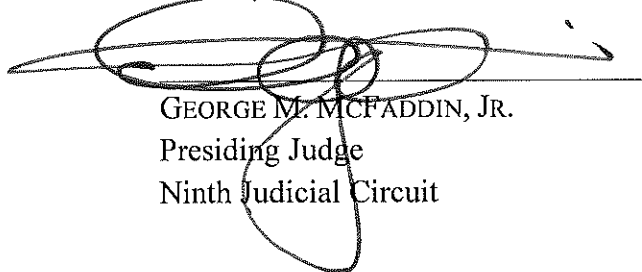
Based on the foregoing, this Court finds and concludes Applicant has met his burden on the claim related to his kidnapping sentence and hereby vacates Applicant's sentence for kidnapping. Notwithstanding, this Court finds Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief as to his remaining claims. This Court finds Applicant freely, knowingly, and voluntarily pleaded guilty. Therefore, this Court dismisses this PCR action with prejudice.

Applicant must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. Applicant's sentence for kidnapping is vacated; and
2. The remaining PCR application claims be denied and dismissed with prejudice; and
3. Applicant is to remain in the custody of the State.

AND IT IS SO ORDERED this 19th day of March, 2024.


 GEORGE M. MCFADDIN, JR.
 Presiding Judge
 Ninth Judicial Circuit

Sumter, South Carolina

