

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to York County

Honorable J. Mark Hayes, Circuit Court Judge

JEFFERSON QUINDE QUISHPI,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000617

APPENDIX

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S.C. SUPREME COURT

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State of South Carolina.,)	In the Court of General
)	Sessions of York
)	
County of York.)	Case No. 2018-GS-46-01924
)	2018-GS-46-01924 (A)

State of South Carolina.,)	
)	
Plaintiff.,)	
)	
-vs-)	
)	Transcript of Record
Jefferson Quinde Quisphi.,)	Murder Plea
)	
Defendant.)	
)	

December 17, 2019
York, South Carolina

B E F O R E:

The Honorable Daniel D. Hall, Judge.

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I-N-D-E-X

E-X-A-M-I-N-A-T-I-O-N

WITNESS

BY:

PAGE NO.:

Doctor Adriana Flores

Mr. Wellborn P.11-24

Solicitor Brackett . P.24-32

James Cain

Mr. Wellborn P.67-71

Court Reporter's Certificate Page P.80

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I-N-D-E-XE-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
Ct.1	4/17/18 DMH Report		
	By Doctor Kelly Gothard		P.
Ct.2	8/12/19 Letter by Doctor		
	Adriana Flores		P.

REPORTER'S NOTE: NO EXHIBITS WERE ENTERED INTO THE RECORD
BUT PLACED IN THE COURT FILE.

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1 (YORK COUNTY GENERAL SESSIONS COURT IN SESSION
2 TUESDAY, DECEMBER 17, 2019 AT 09:41 A.M.)

3 (DEFENDANT JEFFERSON QUINDE QUISHPI, HISPANIC MALE,
4 ENTERS COURTROOM.)

5 THE COURT: All right, everybody ready to proceed?

6 SOLICITOR BRACKETT: We are, your Honor.

7 MR. WELLBORN: Yes, sir, your Honor.

8 THE COURT: The State -- Solicitor, call your case.

9 SOLICITOR BRACKETT: May it please the Court.

10 Your Honor, this is in regards to *State versus*
11 *Jefferson Quinde Quishpi*. Mr. Quishpi is present in the
12 courtroom with his attorney Mr. Christopher Wellborn of the
13 York County Bar. We are in court today on 2018-GS-46-
14 1-9-2-4 this being a True Billed Indictment for murder.
15 2018-GS-46-0-1-9-2-4-(A) possession of a weapon during the
16 commission of a violent crime.

17 Mr. Quinde Quishpi has indicated through counsel that
18 he wishes to enter pleas of guilty but mentally ill to
19 these two charges. This is a straight up plea, your Honor,
20 and as part of the plea negotiations there were pending
21 charges of domestic violence, 2nd degree on 2017-GS-46-5047
22 and domestic violence, 3rd degree on 2017-GS-46-5048.

23 These charges will be dismissed at the successful
24 conclusion of this plea, your Honor.

25 THE COURT: All right, thank you.

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1 Mr. Wellborn, if you and your client would stand
2 please.

3 (ATTORNEY WELLBORN AND DEFENDANT STAND.)

4 SOLICITOR BRACKETT: May it please the Court, your
5 Honor, prior to entering into the plea colloquy I want to
6 call to the Court's attention that the defendant was
7 ordered by the Honorable John Hayes to be sent to the
8 Department of Mental Health for a competency evaluation;
9 that was done.

10 He also has retained his own expert in this regard who
11 has also given an opinion on the defendant's competency and
12 it might be appropriate to have a *Blair* hearing prior to
13 the establishment --

14 THE COURT: All right. We're gonna do that. I want
15 to put some other information on the record first ---

16 SOLICITOR BRACKETT: Yes, sir.

17 THE COURT: --- before we proceed with the *Blair*
18 hearing.

19 Mr. Wellborn, you represent Mr. Quishpi?

20 MR. BURTON: Yes, sir.

21 THE COURT: Help me pronounce his last name.

22 MR. BURTON: Keesh-pee, your Honor.

23 THE COURT: Quishpi.

24 MR. WELLBORN: Yeah.

25 THE COURT: You represent Mr. Quishpi?

1 MR. WELLBORN: Yes, your Honor.

2 THE COURT: And you've heard the Solicitor talk about
3 where we are procedurally with the case. How does your
4 client indicate he wishes to plead to each of these two
5 charges?

6 MR. WELLBORN: Guilty, your Honor.

7 THE COURT: Mr. Wellborn, how does your client plead?

8 MR. WELLBORN: Guilty, your Honor.

9 THE COURT: Your client is here and you met with me in
10 chambers with the Solicitor and there was an issue about
11 mental health; we're gonna deal with that in just a moment.

12 I notice he's here today and appears you have an
13 interpreter with you as well.

14 MR. WELLBORN: That is correct, your Honor.

15 THE COURT: Does he speak any English?

16 MR. WELLBORN: He speaks a very limited amount of
17 English, your Honor. He speaks some but I think there may
18 be points where the language that's being spoken in the
19 courtroom may be beyond his level of comprehension and he
20 wished therefore we have taken the added sort of caution,
21 cautionary step of having an interpreter.

22 THE COURT: All right. Cindy, do you have the oath
23 for an interpreter?

24 All right, if you'll come around, the interpreter, and
25 let me put this on the record as well too.

14 MR. WELLBORN: Your Honor, he has been evaluated on at
15 least two separate occasions, one by Doctor Colbi Sutton at
16 Medical College of South Carolina. Doctor Sutton has found
17 him to be competent; he meets the standards for competency,
18 and so we do not contest that. We had a separate
19 evaluation done by Doctor Adriana Flores because Doctor
20 Flores is fluent in Spanish. Doctor Flores also concurs
21 with Doctor Sutton on that point, but additionally found
22 that my client would meet the standard of guilty but
23 mentally ill finding that at the time of the offense he was
24 suffering and continues to suffer under a mental
25 disability.

1 THE COURT: All right. I think the Court has to do
2 two things: One, the court has to make a finding as to the
3 competency and so we'll have a *Blair* hearing on that.

4 Also, Mr. Wellborn, as we talked back in chambers that
5 your client intended to plead guilty but mentally ill. The
6 Court also has to make a finding upon the record about
7 whether the Defendant proved by a preponderance of the
8 evidence that when he committed the crime he was mentally
9 ill so let's deal with both of those at one time.

10 And I think, Solicitor, you have some reports as well.

11 SOLICITOR BRACKETT: Yes, sir, your Honor. I've had
12 them marked as Court's Exhibits 1 and 2. They are the
13 April 17th, 2018 report from the Department of Mental
14 Health by Doctor Kelly G-o-t-h-a-r-d, Gothard. As well as
15 a August 12th, 2019 letter from Doctor Adriana Flores, I
16 believe the expert retained by counsel for the defense for
17 the defendant who both offer opinions as to the Defendant's
18 competency.

19 I believe, your Honor under *State versus Franklin*
20 could utilize those in forming an opinion as to his
21 competency as well as any questions your Honor may wish to
22 ask of counsel or the Defendant.

23 THE COURT: All right. Thank you.

24 Let's do it this way. Mr. Wellborn had indicated that
25 he did have quite a bit of testimony that he wanted to

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1 offer through Ms. Flores, Doctor Flores, so let's hear that
2 now, Mr. Wellborn. But let me be sure that you received a
3 copy of the Department of Mental Health's evaluation; is
4 that correct?

5 MR. WELLBORN: Yes, sir. And Doctor Flores
6 incorporated that and referred to that as part of her
7 evaluation as well.

8 THE COURT: And you do believe and you agree with the
9 finding of Doctor Sutton on page 12 of Court's Exhibit 1
10 where Doctor Sutton indicated in her opinion, or in our
11 opinion at the time of the alleged offenses Mr. Quishpi did
12 not lack sufficient capacity to conform his conduct to the
13 requirements of law as a result of mental disease or
14 defect, and even though he reported experiencing symptoms
15 of PTSD auditory command hallucinations around the time in
16 question the doctor opined nonetheless given the apparent
17 prearranged nature of the crimes it appeared he had the
18 ability to think of and carry out a plan which suggest he
19 has had the ability to conform his conduct.

20 You don't have any disagreement with that finding?

21 MR. WELLBORN: No, sir.

22 THE COURT: All right. And then it appear -- and we
23 can talk more in detail about that, and then also the three
24 page or actually just two-page opinion from Doctor Flores.
25 Doctor Flores, that would be the expert that you hired on

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1 behalf of Mr. Quishpi, that Doctor Flores found in Court's
2 Exhibit 2 opined that Mr. Quishpi is competent to stand
3 trial; he is criminally responsible. And then there is a
4 discussion about some of the issues that he does have.

5 You don't disagree with Doctor Flores' findings as
6 well?

7 MR. WELLBORN: No. No, I do not. In fact
8 specifically there are three findings your Honor has stated
9 on the record, the first two, and the third one is
10 something that Doctor Flores will expound on in a little
11 bit when she gets in line to take the stand.

12 THE COURT: All right. Well let's call Doctor Flores.

13 MR. WELLBORN: Thank you.

14 THE COURT: I don't know how long this is gonna take,
15 certainly if you all, if anybody wishes to sit, Solicitor,
16 or anybody in Defense during this, feel free to do that.

17 You can remain standing if you want but the Court
18 certainly doesn't object to you all sitting during this
19 testimony.

20 Ma'am, if you'd come around. Ma'am, if you'd come
21 around let's swear you, have you sworn in first.

22 (WHEREUPON, ADRIANA FLORES,
23 BEING FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

24 DIRECT EXAMINATION

25 DOCTOR BY MR. WELLBORN:

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DOCTOR ADRIANA FLORES: DIRECT BY MR. WELLBORN

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1 Q. Good morning. Can you tell us your full name and
2 spell your name for the record?

3 A. Sure. My name is Doctor Adriana Flores, A-d-r-i-a-n-
4 a-; last name F as in Frank, l-o-r-e-s.

5 Q. And where are you currently employed?

6 A. I am currently self employed. I have a forensic in
7 clinical private practice in Atlanta. And then I also do
8 some volunteer professor work for Emory School of Medicine.

9 Q. How long have you been as a professor -- adjunct
10 professor at Emory?

11 A. I was appointed adjunct assistant professor -- sorry
12 -- associate professor in 2012 and I was just promoted to
13 adjunct associate professor two months ago.

14 Q. Can you give us a summary of your educational
15 background specifically in the area of --

16 MADAM COURT REPORTER: I'm sorry, Mr. Wellborn, you've
17 got your hand upon your mouth and I cannot -- I can't get
18 all of your audio. You're doing this ---

19 (REPORTER DEMONSTRATED WITH HAND RAISED/RESTING AT
20 SIDE OF MOUTH.)

21 MADAM COURT REPORTER: --- and I can't hear all of it,
22 I'm sorry.

23 MR. WELLBORN: Thank you.

24 Q. Can you please give us a summary of your educational
25 background concentrating in the area of psychology?

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1 A. Sure. I have a bachelor's in psychology from the
2 University of Wisconsin, Milwaukee. That was obtained in
3 1990. I went on to pursue a Ph.D., in Clinical Psychology
4 from Miami University of Ohio and I have a masters and a
5 doctorate from Miami University of Ohio and that was
6 obtained in 2000. As part of my training for my Ph.D., I
7 had to complete a two thousand hour internship and that was
8 completed at the Emory School of Medicine in 2000. I
9 stayed on at Emory School of Medicine to complete a post-
10 doctoral fellowship in psychology and that was completed in
11 2001.

12 Beyond that I have assumed the post of adjunct now
13 assistant professor at Emory in forensic psychology and my
14 job for that is to train new psychologist, if you will,
15 that are interested in developing skills in becoming
16 forensic psychologist and so one of my responsibilities is
17 to train them.

18 Q. Okay. Are you familiar with Doctor Colbi Sutton?

19 A. I am very familiar with Colbi, yes.

20 Q. How do you know her?

21 A. Colbi Sutton was actually one of my supervisees.
22 She came through the program at the Emory School of
23 Medicine to train in forensic psychology and I was one -- I
24 believe at the time was one of the primary supervisors who
25 trained her.

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DOCTOR ADRIANA FLORES: DIRECT BY MR. WELLBORN

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1 Q. Okay. Beyond just the educational background, what is
2 your clinical experience in the area of psychology and
3 specifically forensic psychology?

4 A. Sure. So, most of my work is actually been done
5 with severely mentally ill individuals that are so ill they
6 require inpatient psychiatric hospitalization. So for ten
7 years I worked at the State Hospital in Atlanta, it's
8 called Georgia Regional Hospital Atlanta. It's a 300
9 patient bed unit. My first six years at the hospital I was
10 forensic psychologist at one of the inpatient units. At
11 the time there were two units that were forensics. I was
12 the only psychologist on the unit that had individuals that
13 had just been found either not guilty by reason of insanity
14 or incompetent to stand trial and were there for
15 restoration.

16 Conducted -- did that work for six years and then I
17 was promoted to be an executive at the hospital and that
18 was my role was to be the director of programming for the
19 entire 300 inpatient hospitals. So, really the bulk of my
20 work has been in forensics and working really with severely
21 mentally ill.

22 Q. Beyond your work at Emory and also working as a
23 forensic psychologist actually working with individuals,
24 have you done any or conducted any trainings or other
25 psychologist or?

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1 A. I do. I have conducted multiple continued education
2 units trainings. Of course I supervise currently and
3 continue to supervise the -- Emory has -- Emory School of
4 Medicine has forensic psychiatry fellows and then forensic
5 psychologist and so I continue to train them. But, yes, if
6 you look at my C.V.A. I tend to do at least one or two
7 presentations --

8 THE COURT: Mr. Wellborn, she doesn't need to be
9 qualified as an expert for the purposes of this hearing and
10 I'm well satisfied, as the Court, that she's an expert and
11 can testify about any mental health issue.

12 BY MR. WELLBORN:

13 Q. Beyond that if -- Can you -- first of all what is your
14 familiarity with the Spanish language?

15 A. I am a -- I was born and raised in Mexico for the
16 first nine years and then grew up speaking Spanish at home.

17 Q. Why is it important if it's not self-evident when
18 you're examining somebody who is a native Spanish speaker
19 that you speak in Spanish and be able to communicate with
20 them in Spanish versus go through an interpreter?

21 A. I think it's actually critical when you have somebody
22 that signs and speaks the language. There are nuances in
23 language that can easily be missed with a translator and
24 especially when you are dealing with somebody that is
25 severely mentally ill that is having difficulty

DOCTOR ADRIANA FLORES: DIRECT BY MR. WELLBORN

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1 communicating their thoughts; or maybe hallucinating, it
2 really makes it much more complex to go in front of an
3 interpreter because there's so much that can be missed.

4 Q. What is Mr. Quinde Quishpi's background? Where is
5 he from?

6 A. He is from Ecuador.

7 Q. And so is he from -- would you describe from Ecuador
8 from a major metropolitan area of a smaller area? Where
9 was he from there?

10 A. No, he is from a rural area that tends to be more
11 indigenous in the language and so he does speak Spanish but
12 he also speaks a different dialect of it.

13 Q. And were you able to -- were you able to -- you feel
14 - communicate with him in a way that he understood you and
15 you understood him?

16 A. Very much so, yes.

17 Q. Okay. What I'd like to do now is move into the
18 various things that you looked at for purposes of forming
19 your opinions about him.

20 A. Okay.

21 Q. Did you have a chance -- you obviously had a chance to
22 examine Doctor Sutton's report?

23 A. I did. I received about a thousand -- a big box and
24 about a thousand pages of documents from you, Mr. Wellborn.
25 Those documents included the indictment, investigation

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1 Reports, medical records from the jail facility that he has
2 been in since his detention and also some medical records
3 from previous mental health treatment that he had here in
4 the U.S. prior to his arrest. Some crime scene photos and
5 officer's camera footages as well as Doctor Colbi Sutton's
6 two reports, one competency, one criminal responsibility.

7 Q. Did you have a chance to get into his background in
8 terms of his life before coming to the United States and
9 subsequent after arriving basically his family history?

10 A. I did.

11 Q. Can you tell us, and before we get to there, was that
12 family history and his background starting at childhood an
13 important part of your ultimate diagnoses and evaluation?

14 A. It is. I think it helps explain how it was that he
15 developed his mental illness; why it was that he became
16 mentally ill.

17 Q. And did that also support your opinion that in fact
18 he is or was mentally ill at the time of the offense?

19 A. That is correct.

20 Q. Okay. Can you tell us about that, about some things
21 in his family background?

22 A. Sure. So at the age of five his father came to
23 America. I believe he moved to New York with a plan for
24 the family to subsequently join him in New York. So from
25 the age of five on until about thirteen or so he was raised

DOCTOR ADRIANA FLORES: DIRECT BY MR. WELLBORN

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1 primarily by his mother and his grandmother. There were
2 also extended family members, uncles and aunts around that
3 also had a lot of contact with him. He experienced severe
4 -- very severe physical abuse from his mother as well as
5 other relatives; mostly paternal relatives and this was
6 because according to Mr. Quinde he resembled his father and
7 his mother's family was upset at the dad and so they would
8 take out the anger on him.

9 And so, one of the issues that developed throughout
10 the years because of this -- and Doctor Sutton also found
11 the same thing -- is that he does have post traumatic
12 stress disorder associated with severe abuse -- from the
13 abuse.

14 He would incur whelps, he would bleed, and he does
15 have some symptoms consistent with continuing to experience
16 the abuse even in the present through nightmares and
17 through intrusive thoughts, so the PTSD is a direct result
18 of that history. So at the age of ten his mother I guess
19 you could say took up with a man from Chicago and she left
20 him. At the age of thirteen she basically left him in the
21 care of his extended family in Equador.

22 That is when his depression really began, once he was
23 basically abandoned by both parents. That is when it seems
24 that his depression symptoms began. By the age of fifteen
25 his depression had really exasterbated to the point that he

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1 was having some pretty active suicidal thoughts. And
2 primarily these thoughts he would throw himself in front of
3 a vehicle so he could be run over and it's pretty clear
4 depression.

5 At the age of eighteen he came to America and he
6 joined his father in New York and that seemed to go well
7 for a period of time and then he -- his depression returned
8 as sometimes happens with depression. You can get better
9 and he got better for a period of time and then it
10 returned; and when it returned it was pretty severe. He
11 was engaging in what we call self injurious behavior
12 beginning from the age of twenty-one all the way even
13 through his incarceration. And by that I mean he was self
14 cutting, he was cutting himself; his arms and other parts
15 of his body.

16 And that is -- he also was struggling with lots of
17 thoughts of suicide and rage; these sort of feelings of
18 rage and anger, a lot of mood instability, and that's
19 consistent with another diagnoses that I gave you which is
20 border-line personality disorder. And we tend to see
21 individuals that develop that kind of personality disorder.
22 They tend to come from the backgrounds that we can confirm
23 from abuse and neglect for backgrounds so that's pretty
24 consistent.

25 After that for a period of time, I believe maybe a

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DOCTOR ADRIANA FLORES: DIRECT BY MR. WELLBORN

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1 year or maybe a little bit longer, he started hearing
2 voices. And at first the voices were telling him to harm
3 himself and those voices we would describe as psychotic
4 symptoms that are consistent with the level of depression
5 that he was experiencing. But the voices progressed to
6 also tell him to hurt others. And so my third diagnosis
7 was persistent depressive disorder; severe at the time of
8 the offense; severe for a period of time prior to the
9 offense such that in May of 2017 about four months prior to
10 being -- to the offense he actually was hospitalized in an
11 inpatient psychiatric facility because he had taken his --
12 I believe it was his girlfriend's pills. He attempted an
13 over dose and so he was hospitalized for about a week.

14 He was placed on medication; he discontinued the
15 medication because he didn't really like the side effects.
16 In September about two or three days prior to the offense
17 he actually contacted an non-patient mental health center
18 -- I don't recall the name of it.

19 Q. Could it be Catawba?

20 A. Catawba. Yes, Catawba. Thank you, Mr. Wellborn.

21 He contacted them to set up an appointment and they
22 said you can come in on Monday and just come in as a walk
23 in and unfortunately by Monday he was arrested.

24 Q. Subsequent to his arrest -- well, subsequent to his
25 arrest has he continued to have hallucinations or hear

ORIGINAL

1 these voices?

2 A. Correct, yes. So he was -- on the day that he
3 committed the offense he also injured himself pretty
4 severely on the abdomen with a knife in an attempt to
5 suicide. And so he was subsequently at the hospital and
6 then upon arrival at the jail here he was placed on suicide
7 precautions. But he has been treated -- at least until I
8 saw him in July he had been treated consistently with anti-
9 depressant medication but also anti-psychotic medication
10 because it was a clear indication that he was also
11 experiencing hallucinations.

12 Q. Did you have a chance to review any of the jail
13 records related to his condition, his mental condition?

14 A. I did.

15 Q. And did any of or did any or all of those jail
16 records reflect that he was continuing to hear voices and
17 have hallucinations?

18 A. That is correct. The records reflect that and the
19 records also reflect different attempts by jail medical
20 staff treating his mental illness with different anti-
21 psychotic medications because he wasn't really responding
22 to some of them so you can see in the records that they
23 were attempting to treat his severe mental illness with
24 different medications.

25 Q. At the time that the police responded to the incident,

1 can you tell us in how they found Mr. Quindi? As I
2 understand it he was on his knees in the middle of the
3 floor stabbing himself?

4 A. Correct. Bleeding profusely, stabbing himself.
5 Again, he required hospitalization because he had -- I
6 forgot the word that they used -- but almost like he had
7 almost like -- almost attempted to rip his intestines out.

8 Q. Were there other things in terms of records or family
9 history or information that you gathered that you felt went
10 towards your diagnoses of him?

11 A. Yes. So as I mentioned before I also viewed Doctor
12 Colbi Sutton's reports and she concurred with the post
13 traumatic stress disorder. She also concurred he had --
14 now she and I differentiate a little bit in terms of what
15 the specific diagnoses is. We both agreed that he was
16 suffering from a psychotic disorder. She thought that it
17 was perhaps an unspecified schizophrenia spectrum disorder.
18 I said that I really believe the symptoms were more
19 consistent -- persistent -- very severe depression to the
20 point that he has psychosis.

21 Q. Other than the referral to the hospital in May of 2017
22 when he attempted to -- attempted suicide by over dose on
23 medicine, had he received any medical or mental health
24 treatment up until the time of the offense that we're here
25 today about?

1 A. He had been referred to outpatient mental health
2 center and it appears that he attempted to go but then
3 there was a period of time where he didn't go, so there
4 were some attempts at outpatient mental health center but
5 they had been discontinued. And then he once again tried
6 to re-engage; like I said, about three days before the
7 offense with the intention of starting treatment again.

8 Q. But he didn't receive any mental health treatment in
9 Ecuador?

10 A. In Ecuador when he was young, yes. I apologize. Yes,
11 when he was young there is some indication from family that
12 he received some mental health treatment. I believe he
13 would have been fourteen or fifteen which is consistent
14 with when I said his depression was already pretty severe.
15 He was already having these thoughts to throw himself in
16 front of vehicles so he could be run over.

17 Q. Okay. All right. So there was some information that
18 even back then he -- people recognized that he needed
19 mental health treatment and were trying to do something for
20 him?

21 A. Correct. And that information was consistent with
22 my interview of Mr. Quinde and when he reported his
23 symptoms exasperated to what we would refer to as severe
24 depression.

25 Q. Other than his relationship with his father and

1 some immediate family, did he have any other significant
2 relationships in his life prior to the offense, or the
3 murder in this case?

4 A. He did not. Besides his family he did not. His
5 victim was his first girlfriend.

6 Q. And how old was he when this took place?

7 A. He was twenty -- go back and look -- I believe twenty-
8 three or twenty-five.

9 Q. But she was --

10 A. She was young. And she was his very first girlfriend.

11 Q. So looking at subparagraph 3 of your report on page
12 2, can you tell us what you found?

13 A. Sure. My opinion is that at the time of the offenses
14 he was suffering from severe mental illness consistent with
15 concurrent depression and psychosis. And that these
16 symptoms had occurred a number of years prior to the
17 offenses but had actually exasperated in the months
18 leading up to the offenses. And that he when I continued,
19 when I saw him in July of this year he was continuing to
20 suffer from these symptoms, medication really was not
21 alleviating the symptoms I believe enough.

22 I also noted on here that he had been hospitalized in
23 May about four months prior to the offenses. And that in
24 September, on September 15th of 2017, he had contacted
25 Catawba Mental Health Center because he said he was having

DOCTOR ADRIANA FLORES: DIRECT BY MR. WELLBORN
CROSS BY SOLICITOR BRACKETT

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1 some thoughts of hurting himself and others.

2 Then he was told to go to the Mental Health Center as
3 a walk in on that Monday, three days later, and that was
4 one day after the offense.

5 Q. Are these the reasons that you feel that he would
6 meet the standard of guilty but mentally ill?

7 A. That is correct.

8 Q. And that's to a reasonable degree of psychiatric or
9 psychological certainty?

10 A. That is correct.

11 MR. WELLBORN: Please answer any questions that either
12 the Solicitor or His Honor may have for you.

13 A. Sure.

14 SOLICITOR BRACKETT: Beg the Court's indulgence one
15 moment.

16 THE COURT: All right, Solicitor.

17 SOLICITOR BRACKETT: I'm clarifying something.

18 (PAUSE.)

19 CROSS-EXAMINATION

20 DOCTOR ADRIANA FLORES BY SOLICITOR BRACKETT:

21 Q. Doctor Flores, how are you?

22 A. Good morning, doing well, thank you.

23 Q. Good morning. I'm Kevin Brackett the Solicitor for
24 this Circuit. The PA I think is what they call it in
25 Georgia.

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DOCTOR ADRIANA FLORES: CROSS BY SOLICITOR BRACKETT:

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1 A. Good to meet you, Mr. Brackett.

2 Q. Yes, ma'am, and welcome to York. Just a couple of
3 questions. Your evaluations I believe led you to conclude
4 that the Defendant is not insane; is that correct?

5 A. That is correct.

6 Q. He understands right from wrong?

7 A. He understood it at the time of the offense; that is
8 correct.

9 Q. Okay. So at the time that the murder was committed
10 he recognized the wrongfulness of his conduct and
11 recognized that it was illegal?

12 A. Right. My impression, my opinion is that he had the
13 ability to differentiate right from wrong. He was not
14 suffering from any delusions.

15 Q. Okay. And you also likewise have no question about
16 his competency?

17 A. That is correct. I fully assessed him for competency
18 and I found him to be competent to stand trial.

19 Q. Okay. And did you talk to him at all today?

20 A. No, I have not.

21 Q. Okay. But at no point in any of the times that
22 you've dealt with him have you had any concerns about his
23 competency, his ability to understand the charges against
24 him, rationally relate the facts and evidence in the case
25 to his defense and communicated effectively with his

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1 counsel?

2 A. That is correct. In spite of the fact that he does
3 suffer from a mental -- a severe mental illness, my opinion
4 is that none the less he is competent.

5 Q. Okay. And you said earlier that you had when you
6 saw him in July did you mean July of this year?

7 A. That is correct, I saw him in July of this year.

8 Q. Okay. And that you still had concerns about him?

9 A. About his mental illness?

10 Q. Correct.

11 A. That is correct. He was on anti-depressant and anti-
12 psychotic medication so he still continues to struggle with
13 severe mental illness.

14 Q. I see. And this is while he's' in the detention
15 center?

16 A. That is correct.

17 Q. Okay. Are you aware, in your review of the records,
18 were you aware that he had a prior charge for domestic
19 violence against the same victim from June of 2017?

20 A. I am. I am aware. I did read both --

21 Q. And you saw that he was out on bond for those
22 offenses?

23 A. I did.

24 Q. And so when you said that he attempted to seek help
25 at Catawba Mental Health that he called them to schedule an

DOCTOR ADRIANA FLORES: CROSS BY SOLICITOR BRACKETT:

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1 appointment, that would have been in between the time he
2 was arrested in June of 2017 but prior to the murder in
3 this case?

4 A. Correct.

5 Q. So, September I believe you said?

6 A. September 15 is when he contacted them to resume
7 treatment.

8 Q. And are you aware that at that time he was actually
9 being -- his case was being prosecuted and he was dealing
10 with that?

11 A. With the domestic violence, yes.

12 Q. Yes, for the domestic violence from June?

13 A. Yes.

14 Q. And that he in the course of that he had been -- he
15 had submitted to an evaluation for consideration for a
16 program for domestic violence. Did you know that?

17 A. I don't recall reading that.

18 Q. Okay. Were you --

19 A. I don't recall.

20 Q. Or were you aware that they directed him as part of
21 that evaluation to contact Catawba Mental Health in early
22 September and that that's why he contacted CMH; not on
23 his own initiative?

24 A. No, that's not -- that's not what I remember reading.

25 Let me say this, when he told me about September 15

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1 he actually said that it was his girlfriend that had ask
2 him to contact because he needed help.

3 Q. And can you elaborate a little bit on what is
4 borderline personality disorder?

5 A. Sure. It is a disorder that's not treatable and
6 since it's not clearly amenable to medication the way that
7 I describe it is ---

8 (LOUD COUGH OBSTRUCTING COURTROOM AUDIO.)

9 A. --- borderline personality characteristics I am highly
10 extraverted and friendly and that's not something you can
11 really medicate. This is who I am, this is how I was -- my
12 raising sort of led me to be this way. What we see with
13 personality disorders, especially borderline personality
14 disorder, is that those individuals have developed the
15 traits of in unstable self-image, poor self esteem. You
16 see -- he certainly meets the criteria also for severe
17 anger control problems of rage. He ultimately did talk
18 with me about the problems that he had with his rage and
19 his anger sometimes toward his brother and his sister,
20 sometimes toward his girlfriend, and this was consistent
21 with the rage that individuals with borderline personality
22 and anger management problems.

23 Recurrent -- they're recurring suicidal thoughts and
24 self mutilation; those are very consistent with somebody
25 that has those traits and so these are individuals who

DOCTOR ADRIANA FLORES: CROSS BY SOLICITOR BRACKETT:

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1 attempt to struggle interpersonally and in a relationship
2 because they have problems with anger management and they
3 have problems with self esteem. They tend to be very
4 impulsive, and very self destructive. And what we see with
5 those individuals is the literature, and clinically we've
6 been informed, that those individuals tend to come from
7 these backgrounds in which you have neglect, you see abuse
8 and that's very consistent with his history.

9 So, the domestic violence for example and the fights
10 that he was having with his brother and his sister because
11 it wasn't just her that he was insulted to. He would also
12 be sometimes loose it; loose it with family members and it
13 is consistent with these traits that he developed of really
14 being unable to regulate his emotions. They just take
15 over.

16 Q. And as you indicated at the outset of your explanation
17 of borderline personality these characteristics, these
18 personality characteristics, by the time you reach maturity
19 and adulthood eighteen, twenty, certainly his age, their
20 baked into who you are; is that accurate?

21 A. They are. They are baked in. Now what I will -- what
22 I would like to add is that especially for this particular
23 type of personality disorder, borderline personality
24 disorder, we have come to learn that there are ways if you
25 can -- you can't cure it -- but you can certainly treat it

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1 in the sense that there are ways that Mr. Quinda's anger
2 and rage and mood instability can be managed. So for
3 example at jail they had him on some mood stabilizing
4 medication. In my -- from reading the records I don't
5 believe there had been any incidents of him being assaulted
6 to anybody between the guards or any of the inmates and so
7 that's consistent with the fact medication is treating that
8 part of the disorder.

9 Additionally we do have therapeutically -- there is
10 something called dialectical behavior therapy that has been
11 found actually to be very effective and that would be a
12 treatment for borderline personality disorders. So while
13 you can't treat it he can certainly -- there are certainly
14 medications now and treatment that can be administered so
15 that he can function in a more stable manner.

16 Q. And in order for those to be effective the patient
17 has to be compliant?

18 A. That is correct.

19 Q. You are also aware from reviewing the records that
20 immediately prior to the murder of Ms. Brandon the
21 Defendant was arrested again for domestic violence?

22 A. I do believe I did read that, yes.

23 Q. And within a very short period of time following
24 that he appeared to her house?

25 A. That is correct.

DOCTOR ADRIANA FLORES: CROSS BY SOLICITOR BRACKETT:

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1 Q. And he was under a order not to have any contact
2 with her at the time he committed the second domestic
3 violence and also when he went back to her house to kill
4 her for that second charge when he was released on bond
5 again he was also directed not to --

6 A. I am aware that he was under basically a TPO, yes.

7 SOLICITOR BRACKETT: The Court's indulgence one
8 moment.

9 (PAUSE.)

10 SOLICITOR BRACKETT: I have no further questions.

11 Thank you very much, Doctor.

12 THE COURT: Thank you. Doctor Flores, let me be sure
13 the Court's clear too that you have reviewed a copy of
14 Doctor Gothard's report on his Competency and Criminal
15 Responsibility. Do you agree with the findings of that
16 report?

17 DOCTOR FLORES: Your Honor, if I may look at that one?
18 I remember reading Doctor Colbi Sutton's - -

19 THE COURT: I'm gonna show you what's been marked
20 Court's Exhibit 1.

21 (COURT EXHIBIT ONE RECEIVED BY THE WITNESS, DOCTOR
22 FLORES, FOR REVIEW.)

23 DOCTOR FLORES: Right. This is Doctor Colbi Sutton's.
24 Yes I have.

25 THE COURT: All right.

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DOCTOR ADRIANA FLORES: CROSS BY SOLICITOR BRACKETT:

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1 DOCTOR FLORES: I have.

2 THE COURT: And it's your testimony you agree with
3 the findings of the Department of Mental Health?

4 DOCTOR FLORES: I do, I concur.

5 THE COURT: All right. Thank you. You can step down.
6 Anything further for this witness?

7 MR. WELLBORN: No, sir.

8 THE COURT: Yes, ma'am, you can be excused.

9 (WITNESS LEAVES WITNESS STAND.)

10 THE COURT: Mr. Wellborn, anything else?

11 MR. WELLBORN: I have one additional witness in
12 mitigation but --

13 THE COURT: We'll deal with that when we get there.

14 Let me have Mr. Quishpi to stand and let me talk to
15 him just a little bit.

16 MR. WELLBORN: Would you like us to come to the podium
17 or?

18 THE COURT: Wherever is best for Wanda to be able to
19 hear. Wanda, can you hear them better behind that
20 microphone?

21 MADAM COURT REPORTER: No. Put Mr. Wellborn in front
22 of it because he's got a - he trails off slow -- soft.

23 THE COURT: All right. Let me have the Defendant up
24 here.

25 (DEFENDANT AND ATTORNEY WELLBORN APPROACH THE BENCH.)

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1 THE COURT: Mr. Quishpi, what's your name?
2 MR. QUISHPI: Jefferson.
3 THE COURT: Full name, whole name?
4 MR. QUISHPI: Jefferson Quinde -- Jefferson Michael
5 Quinde Quishpi.
6 THE COURT: How old are you?
7 MR. QUISHPI: Twenty-eight.
8 THE COURT: Did you ever go to school?
9 MR. QUISHPI: Yeah.
10 THE COURT: What grade?
11 MR. QUISHPI: Nine.
12 THE COURT: What's the last job you had?
13 MR. QUISHPI: I don't remember.
14 THE COURT: What kind of work have you done?
15 MR. QUISHPI: Construction.
16 THE COURT: What kind of construction?
17 MR. QUISHPI: A carpenter.
18 THE COURT: Where does your family live?
19 MR. QUISHPI: In New York.
20 THE COURT: How long have you been in the United
21 States?
22 MR. QUISHPI: Ten years.
23 THE COURT: Where did you live before the United
24 States?
25 MR. QUISHPI: In Ecuador.

1 THE COURT: Where were you born?
2 MR. QUISHPI: Equador.
3 THE COURT: What's your father's name?
4 MR. QUISHPI: Nelson Quinde.
5 THE COURT: What's your mother's name?
6 MR. QUISHPI: Amanda Quinde. Amanda Quishpi.
7 THE COURT: How many brothers and sisters do you have?
8 MR. QUISHPI: I got three sisters and two brothers.
9 THE COURT: How far did you go in school?
10 MR. QUISHPI: I don't -- I don't --
11 THE COURT: That's all right. Let me ask the next
12 question. Have you ever had a driver's license?
13 MR. QUISHPI: Yeah.
14 THE COURT: Where, what state?
15 MR. QUISHPI: Chicago, Illinois.
16 THE COURT: All right.
17 MR. QUISHPI: And in New York.
18 THE COURT: You've had a driver's license from
19 Illinois?
20 MR. QUISHPI: Uh-huh.
21 THE COURT: And a driver's license from New York?
22 MR. QUISHPI: Uh-huh.
23 THE COURT: Did you have to take a test to get those
24 driver's license?
25 MR. QUISHPI: Yeah.

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1 THE COURT: All right. On the issue of the *Blair*
2 Hearing I find after reviewing the Department of Mental
3 Health's evaluation, reviewing Doctor Flores' evaluation,
4 listening to Doctor Flores' testimony, and then after a
5 short questioning of the Defendant, I find that the Court
6 agrees with the finding of Doctor Flores and the Department
7 of Mental Health and that for purposes of this hearing --
8 plea today -- that he is competent to stand trial and that
9 it appears that he was criminally responsible at the time
10 of these offenses.

11 He certainly, even though he appears to have some
12 language difficulties, he had no difficulties in answering
13 and understanding the basic questions that I ask him today,
14 was able to answer those very clearly and concisely and
15 appeared to be appropriately, so I do find that for
16 purposes of the *Blair* Hearing, again, that he is competent
17 to go forward with the plea and agree with the finding that
18 he was criminally responsible at the time of these
19 offenses.

20 We'll deal with the accepting of his guilty plea but
21 guilty but mentally ill after we go through the rest of his
22 plea colloquy.

23 Mr. Wellborn, again, you represent Mr. Quishpi; is
24 that correct?

25 MR. WELLBORN: I do, yes.

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1 THE COURT: And have you gone over with him what his
2 Constitutional rights are whenever anyone is charged with a
3 crime?

4 MR. WELLBORN: We have. Specifically I have gone over
5 with him his right to a trial, his right to a jury trial;
6 his right to present a defense; his right for me to cross-
7 examine witnesses that might appear against him; the fact
8 that he would have a right to bring in witnesses to testify
9 for him. We have talked at length about what, if anything,
10 he remembers about the incident itself. And quite frankly
11 he's been completely candid with me since the beginning.

12 He truly has no memory whatsoever of the incident. He
13 does have a memory of events before the incident and some
14 afterwards, but we've talked about the facts that would be
15 presented in detail and what those facts mean if he went to
16 trial. We have discussed all of that.

17 THE COURT: All right. And when you had those
18 discussions with him, did you always have an interpreter
19 present?

20 MR. WELLBORN: Not always, no. In some occasions
21 yes, but not always.

22 THE COURT: All right. Mr. Quishpi, I'm going to talk
23 to you about the charges that you have against you.

24 Indictment 2018-GS-46-01924 is an indictment, count 1
25 on that indictment says that here in York County on or

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1 about September the 18th, 2017 you did unlawfully and with
2 malice aforethought, either expressed or implied, kill
3 Marandy Jade Brandon by means of stabbing her and that she
4 died as a result of those stabbings. That occurred at 1017
5 Barrow Court here in Rock Hill, here in York County.

6 That carries the crime or the charge of murder carries
7 a mandatory sentence of at least thirty years in prison and
8 a potential the Court can give you a life without parole
9 sentence. Do you understand that?

10 MR. QUISHPI: Yes, your Honor.

11 THE COURT: We call murder a violent and most serious
12 offense. The consequences of it being called that, or
13 classified that, is that your status in the Department of
14 Corrections is affected by that classification. Your
15 parole eligibility is affected by that classification.

16 And then if you received another most serious offense
17 or two serious offenses in your life time if you were out
18 you could get a mandatory life sentence because of this
19 plea. Do you understand all that?

20 MR. QUISHPI: Yes, your Honor.

21 THE COURT: How do you plead to the charge of murder?

22 MR. QUISHPI: Guilty.

23 THE COURT: I'm sorry.

24 THE INTERPRETER: Guilty, your Honor.

25 THE COURT: Are you pleading guilty because you in

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1 fact are guilty of murder?

2 MR. QUISHPI: Yes, your Honor.

3 THE COURT: Count 2 of that indictment says that here
4 in York County on or about September the 18th of 2017
5 while committing the violent crime of murder you did use a
6 knife. That took place here in York County. That carries
7 five years in prison. Do you understand that?

8 MR. QUISHPI: Yes, your Honor.

9 THE COURT: How do you plead to possession of a weapon
10 during the commission of a violent crime?

11 MR. QUISHPI: Yes, your Honor, guilty.

12 THE INTERPRETER: Guilty, your Honor.

13 THE COURT: All right. Has your lawyer explained to
14 you that you have a right to a jury trial?

15 MR. QUISHPI: Yes, your Honor.

16 THE COURT: Let me talk to you about that a little
17 bit. Anytime you're charged with a crime you can say that
18 you're not guilty, or you can simply ask for a trial.

19 You never have to prove your innocence.

20 If you had a jury trial -- you said you wanted a jury
21 trial the State, the prosecutor would have to bring
22 witnesses here in the courtroom. You would be present with
23 your lawyer, you could see and hear every witness that the
24 state has. Your lawyer could cross-examine every state
25 witness, ask them questions. That's a Constitutional right

1 that you have.

2 If you had a jury trial you would have a right to
3 remain silent. You would not have to say anything about
4 the case. If you were to remain silent, the judge would
5 tell the jury not to hold that against you. That's your
6 Constitutional right to remain silent and that the State
7 has the burden of proving their case to a jury beyond a
8 reasonable doubt with their evidence. Twelve jurors from
9 here in York County would have to listen to the evidence,
10 would have to all agree, all twelve of them would have to
11 agree that the State had proven you guilty with their
12 evidence beyond a reasonable doubt.

13 Do you understand those basic jury trial rights?

14 THE INTERPRETER: Yes, your Honor.

15 THE COURT: Has your lawyer explained those rights to
16 you?

17 MR. QUISHPI: Yes, your Honor.

18 THE COURT: Do you want to plead guilty today or do
19 you want me to set your case for trial?

20 THE INTERPRETER: No.

21 THE COURT: No what?

22 THE INTERPRETER: No I do not want a jury trial.

23 THE COURT: I'm gonna talk to you about your lawyer's
24 representation. Have you had plenty of time to talk to Mr.
25 Wellborn?

1 MR. QUISHPI: Yes, your Honor.

2 THE INTERPRETER: Yes, your Honor.

3 THE COURT: Has he explained to you the law and the
4 evidence that the State says they have?

5 MR. QUISHPI: Yes, your Honor.

6 THE COURT: Do you need any more time with your
7 lawyer Mr. Wellborn?

8 THE INTERPRETER: No, sir.

9 THE COURT: Do you have any complaints about the way
10 he has represented you?

11 THE INTERPRETER: No, sir.

12 THE COURT: Are you pleading to these two charges
13 today of your own free will?

14 MR. QUISHPI: Yes, your Honor.

15 THE COURT: Again, are you in fact guilty of both of
16 these charges?

17 MR. QUISHPI: Yes, your Honor.

18 THE COURT: Has anything been promised you or you been
19 threatened in any way in order to get you to plead guilty?

20 THE INTERPRETER: No, sir.

21 THE COURT: I find that the decision of this defendant
22 to enter his plea to these charges to be freely voluntarily
23 intelligently made with the advice of a competent attorney
24 with whom he is satisfied. I will also again accept his
25 plea of guilty but mentally ill; and I find that the

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1 Defendant has proved by a preponderance of the evidence
2 primarily through the testimony of Doctor Flores, the
3 Department of Mental Health records in an opinion that when
4 he committed the crime he was mentally ill, so I'll accept
5 the plea as knowingly intelligently voluntarily made plead
6 guilty but mentally ill to the crime of murder and
7 possession of a weapon during the commission of a violent
8 crime.

9 Mr. Quishpi, if I make a mistake, or you disagree with
10 the sentence, you have a right to an appeal, but you have
11 to let your lawyer know that within ten days from today.

12 Do you understand that's a right you have?

13 Let me explain that to you just a little bit more.

14 An appeal means that you can ask a higher court to
15 review what this court did. That's simply what an appeal
16 is. To do that you would have to ask for that within ten
17 days from today. Do you understand what I just told you?

18 MR. QUISHPI: Yes, your Honor.

19 THE INTERPRETER: Yes, your Honor.

20 THE COURT: All right. Thank you.

21 All right, then I believe we're at this point Mr.
22 Brackett, if you would give me a factual -- well let me do
23 this. Let's take just about a ten minute break and then
24 when we come back, here's what we're gonna do when we come
25 back. The Solicitor is going to tell me what they believe

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1 happened in the case, and any other relevant issues, and
2 they're gonna probably talk about what they believe is an
3 appropriate sentence. When we finish that then I'm gonna
4 hear from your lawyer and anyone else that he has to speak
5 on your behalf. When we finish that then the Court will
6 sentence you. All right, we're gonna take a ten minute
7 break.

8 (COURT AT EASE AT 10:40 A.M.)

9 (COURT BACK IN SESSION AT 10:53 A.M.)

10 THE COURT: Mr. Bailiff, let's don't allow anybody
11 else in or out of the courtroom until we finish this plea,
12 so if there's anybody in here that needs to leave, we don't
13 know how long this next process is gonna take but now is
14 your opportunity to leave because once you leave I don't
15 want anybody coming in or out for the remainder of this
16 plea.

17 All right, Solicitor.

18 SOLICITOR BRACKETT: May it please the Court, your
19 Honor. The factual presentation from the State will be
20 given by Ms. Jenny Desch and Mr. Willy Thompson. And then
21 at the conclusion of that there are two members of the
22 victim's family that wish to address the Court and I'll
23 have some concluding remarks.

24 THE COURT: All right, thank you.

25 Then Mr. Thompson or Ms. Desch, I'll be glad to hear

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1 from you.

2 SOLICITOR DESCH: Thank you, your Honor. May it
3 please the Court.

4 Your Honor, law enforcement was introduced to Marandy
5 Jade Brandon first in June of 2017. There was a 911 call
6 to law enforcement from her brother saying that a man hit a
7 woman, it wasn't the first time and that they needed help.
8 York County responded to an address here in York County,
9 they met with Jade Brandon and she described to them that
10 she had been hit by her live-in boyfriend this defendant.

11 They had argued over friends that she had. She tried
12 to leave to deescalate the situation; he was reluctant to
13 let her go. She went in to get some things to take for the
14 night, she had three children with her, she sent her nine-
15 year-old back into the house; when that nine-year-old
16 returned the Defendant had followed him.

17 He unlocked the car, the defendant got in, punched her
18 in the face attempted to choke her; strangle her, and it
19 was then that her grandmother came into the driveway and at
20 that point the Defendant stopped. He backed away. When
21 law enforcement got there they heard from the parties. He
22 was arrested. He did not give a statement.

23 That charge was a domestic violence in the 2nd degree
24 from the base level perceived by the minors. At that point
25 he had no record and we began to prosecute the case as we

1 do in any other case evaluating it. He hired an attorney
2 that attorney came in. There was a bond in place and there
3 was a no-contact order for the victim Jade Brandon.

4 We got a call from her on the 12th of June and she had
5 ask very hurriedly to drop the charges. When one of our
6 advocates tried to get more information especially about
7 the children Jade hurriedly said the kids were inside and
8 abruptly hung up. Again, that's not unusual in a DV case.

9 We met on the first appearance in July. The attorney
10 and I began negotiating the case and at that point we
11 suggested we evaluate him for one of our programs.

12 The appointment was made, the defendant missed it, he
13 was given another chance and finally on September 1st he
14 did go in. And what he started telling in his evaluation,
15 that is a purposeful evaluation to determine risk in
16 domestic violence cases, he made comments like I just
17 wanted to keep this off of the record, I don't want this on
18 my record, the charge makes me look bad, I just want to
19 rent a house.

20 At that point there was concerns that he wasn't really
21 concerned about the pending charges and we continued to the
22 next court date.

23 On September 11th, 2017 at approximately 2:23 a.m.,
24 Rock Hill police officers, obviously a different agency,
25 now responded to an address on Barrow Court. When they

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1 arrived the officers talked to a witness, a Hector Ramiro,
2 that witness was holding this defendant from behind, he had
3 detained him. The officers separated the parties and
4 interviewed everybody on scene.

5 The witness told officers that he and Jade had met
6 prior to her going to her house, her own house. Hector and
7 Jade had met; he was going to the house with her, but
8 trying not to be seen, he stayed a short distance away.
9 When Jade went to the house to pick up her children she had
10 the two younger kids then six and four were in the house
11 with the Defendant at Barrow Court, she had her nine-year-
12 old with her.

13 She was scared enough that she tried to call law
14 enforcement or -- I'm sorry, call him to have him just send
15 the children outside all while leaving her cell phone open
16 with a call to Hector in case anything happened.

17 Your Honor, I wanted to read her words that night
18 after the investigation.

19 "So I had my oldest son LM with me, I sent him to
20 the home to get my other two kids. LM never came back
21 instead Jefferson came out. He said open door I won't do
22 anything. I had called Hector and had Hector on the phone
23 in case Jefferson tried anything. I told Jefferson to give
24 me the keys. He said, LM lost them. He went back in,
25 came back out, again told me to open the door so that he

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1 could give me the keys." It was at that point she
2 indicated that Jefferson saw the light of the phone and he
3 assaulted her again. This was in violation of the No
4 Contact Order from the June arrest.

5 On September 13th I got a call from the victim again
6 asking to drop the charges. At that point the State was
7 not aware of the September 11th arrest. Spent some time on
8 the phone with her and she started opening up about the
9 history. She was asking to drop the charges but at this
10 point she mentioned that he had been arrested again Sunday
11 night and let out Monday morning and that was the 11th
12 into the 12th.

13 He went through a bond hearing and was given another
14 No Contact Order. And despite that and the June No Contact
15 Order he showed up at the house at Barrow Court once again
16 crying, showing her that he was cutting himself saying he
17 didn't want to go to jail; telling her he would commit
18 suicide first. And she was calling the State to attempt to
19 alleviate some of that; I'm assuming thinking if the
20 charges were dropped he would not be suicidal.

21 Concerned about this escalation of behavior and
22 multiple no contact order violations, contacted the
23 attorney at the time and ask him to immediately intervene,
24 to get in touch with his client to find out if it was in a
25 crisis situation, to address some what appeared to be

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1 spiraling behavior.

2 For point of reference, your Honor, this was an off
3 court week and we did not have access to any General
4 Session judges. The attorney did bring in the Defendant on
5 September 13th. They discussed the case and the email I
6 got was he's fine, he appears to be fine. They discussed
7 the case, he was not a candidate for the program based on a
8 subsequent arrest and some of the other indications so they
9 were addressing whether or not to proceed with any
10 negotiations. And upon hearing what the attorney describe
11 as someone who was discussing the case, and did not appear
12 to be in any mental health crisis, at that point I
13 indicated that he would then have to come to court to
14 address the No Contact Order violations.

15 I drew up the motion to revoke bond and rule to show
16 cause signed by your Honor and scheduled for Monday morning
17 September 18th. That was sent over to the attorney on
18 September 15th.

19 Your Honor, we've heard now about these Catawba Mental
20 Health records. Just for perspective there are two calls
21 to Catawba Mental Health. In May of '17 he attempted a
22 suicide of an over dose of allergy pills. He was taken to
23 Piedmont what we refer to as the Fourth Floor. He was
24 there for two days and referred to Catawba Mental Health.

25 He did make a call to Catawba Mental Health. He told

1 them of the taking the medication. He had not had any
2 prior involvement with them; they offered to get him in the
3 next day. He declined and said he'd prefer May 16th. To
4 my knowledge he never returned. He did call on September
5 15th on the same day that the motion to revoke bond was
6 served on his attorney to address the No Contact Order.

7 Again, Catawba Mental Health offered him an
8 appointment sixteen minutes after he called to address any
9 potential crisis. He indicated he did not want to come in.
10 Not that he couldn't; he did not want to come in and that
11 he would walk in on Monday morning the 18th.

12 The 18th was a scheduled second appearance date and
13 also the date for which I had scheduled a Rule to Show
14 Cause to address the No Contact Order violations and ask to
15 revoke bond fearing for the safety of Jade Brandon. On
16 that morning the attorney that was handling the matter
17 emailed and ask for more time; he could not find his
18 client. I was not able to request a bench warrant at the
19 time without him here. I emailed the victim and attempted
20 to call. I emailed the victim to say he didn't show to
21 court -- this defendant -- she never responded.

22 On September 18th, 2019 approximately 11:57 p.m., Rock
23 Hill P.D. responded again to 1017 Barrow Road. This time
24 for a report of a stabbing in progress. A 911 call was
25 made by a female outside reporting that kids are running

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1 from the house indicating someone inside was being stabbed.

2 The officers arrived on scene entered the residence
3 announced their presence and the first thing they came in
4 contact with in a bedroom, a locked bedroom door in which
5 they got open, the first officer observed a Hispanic male
6 on his knees stabbing himself. They directed him to put
7 down the knife several times; he did not comply. Two other
8 officers came on scene they continued to command that he
9 drop the weapon; he continued to ignore them.

10 At some point he actually interacted with one of the
11 officers with whom he knew from the September 11th, '17
12 incident, the assault. It took that officer tazing him to
13 get him to finally drop the knife. They secured him and
14 then realized that there was a female lying on her back
15 against an interior wall. One of the officers immediately
16 began CPR but she was unresponsive and pronounced dead at
17 the scene later by EMS.

18 Officers immediately secured the scene, they
19 interviewed witnesses, they interviewed Hector Ramiro. He
20 told them that he and Jade and the three children, her
21 children nine, six, and four at the time, had been out all
22 day. We later learned that there were text messages from
23 the Defendant to the oldest child attempting to locate them
24 asking him where they were. And this was a pattern using
25 the nine-year-old to get information on his mother, a

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1 pattern that included being bribed to give information.

2 When Jade and the three children returned to Barrow
3 Court they looked around and her car, but the one that the
4 Defendant used, was not in the drive way. They thought it
5 was safe to enter the house; they did so. After Ramiro
6 left the kids went inside. Hector Ramiro was outside
7 shortly thereafter when the three children ran out talking
8 about mom getting stabbed, and he approached the house but
9 was unable to get back to the bedroom and had somebody call
10 the police.

11 Your Honor, the significance of that car, it was later
12 found concealed a few driveways away at [REDACTED] Court.
13 There was indications that he had driven it there. There
14 was fingerprints and DNA that placed him in the car. He
15 had driven it there concealed it purposely went into the
16 house and hid awaiting for them to return.

17 On September 21st, 2017 LM [REDACTED], Jade's then
18 nine-year-old son, was interviewed about what he saw. He
19 reported to them that Hector dropped them off at Barrow
20 Court and when that happened his mother Jade and his
21 brother then six-year-old started closing the doors and
22 locking the windows. What a safer place to be than in your
23 own home.

24 LM [REDACTED] went around and even as a nine-year-old knowing
25 the danger went around and checked the house. When he

1 entered his four-year-old sister's bedroom he saw the
2 Defendant hiding, hiding behind the door holding a knife.
3 The Defendant immediately told LM be quiet; threatened
4 to kill him if he wasn't. And the Defendant was then able
5 to grab Jade tried to get the kids to stay close by.

6 LM described to counselor's seeing the swinging of this
7 knife near missing him and stabbing his mother. Jade was
8 taken into her daughter's room; the door was locked, LM
9 was able to get his brother and sister to safety and ran
10 out of the house.

11 Jade was stabbed multiple times. She was stabbed on
12 her back, on her front, on her arms as she tried to defend
13 herself. LM heard as he ran out getting his siblings
14 to safety, heard his mother say that she was dying. They
15 did what they could and ran out to get help from the adults
16 nearby.

17 Your Honor, for the sake of proving the elements of
18 this case the coroner's report did indicate the following:

19 After reviewing the medical and social history,
20 assessment at the scene, autopsy and toxicology reports,
21 the cause of death was listed as -- and I'm gonna mess up
22 this word -- exsanguination which is severe blood loss due
23 specifically to multiple stab wounds. The manner of death
24 is homicide, the knife used was in the Defendant's
25 possession and as you indicated murder is defined as a

1 violent crime under 16-160.

2 Your Honor, during this investigation the Defendant
3 was taken into custody and flown to CMC for treatment for
4 his wounds. The children were taken to their father's
5 house and Jade Brandon was taken for an autopsy by the
6 coroner.

7 THE COURT: All right. Thank you.

8 Mr. Thompson, I'll be glad to hear from you.

9 MR. THOMPSON: Your Honor, those are the facts of the
10 case. I don't know if the Court wishes at this time to
11 address the Defenses, if they are in agreement with the
12 facts? Mine would be more in aggravation - sentencing.

13 THE COURT: All right. Okay, I'll handle this way
14 Mr. Wellborn, if you and your client would stand up.
15 (ATTORNEY WELLBORN AND DEFENDANT QUISHPI STAND.)

16 THE COURT: Mr. Quishpi, you heard what the Solicitor
17 said about what happened?

18 MR. QUISHPI: Yes, your Honor.

19 THE COURT: Do you agree with what she said happened?

20 MR. QUISHPI: Yes, your Honor.

21 THE COURT: All right, thank you.

22 All right, Solicitor.

23 SOLICITOR THOMPSON: May it please the Court, your
24 Honor. I would like to specifically address the autopsy
25 and kind of the horrible nature that happened in this

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1 crime. Jade's family was kind enough to bring a couple of
2 photographs of Jade in life that they've blown up for the
3 Court to see, and it's important for the Court to see that.
4 She was a vibrant young woman who had her life ahead of her
5 and three small children who were nine, six, and three at
6 the time or nine, six, and four at the time this occurred;
7 two little boys and a little girl. And of course they were
8 at the home when this all began and when this happened.

9 I would point out that now unfortunately I have to
10 turn the Court's attention to the horror that she
11 experienced and what she experienced that night. When the
12 autopsy report, your Honor, became clear that she was
13 stabbed twenty times and that these stab wounds on average
14 were two to three inches in depth; that some as much as
15 four to six inches in depth; and, of course, multiple fatal
16 wounds within that.

17 She was stabbed in the chest, the abdomen, right lower
18 extremity, left upper extremity, back and neck. And it was
19 also noted that she had recent cuts on her left third and
20 fourth fingers. And of course some of these, I think,
21 would commonly be referred to for instance for one of her
22 extremities was her elbow on her left arm, and I'll show
23 you a picture of that in just a moment, but that was
24 stabbed, the cuts on her finger of course would be
25 considered defensive wounds trying to stop someone from

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1 stabbing you.

2 I show the Court a number of photographs at this
3 point; State's Exhibits 1 through 12 and then State's
4 Exhibit 13 through 16, and I've shown these to the defense
5 and they were included in the discovery.

6 (STATE'S EXHIBITS RECEIVED UP BY THE COURT/NOT ENTERED
7 INTO EVIDENCE.)

8 SOLICITOR THOMPSON: This was from **NM**'s room. She's
9 the young four-year- old at the time. This is the first
10 set and then the second set. And I'll address the first
11 set, initially 1 through 12 I believe, they are State's
12 Exhibits. That's kind of somewhat what the officer's view
13 as they come to that room because they can't see to the
14 right that Jade is dying lying next to the wall. And from
15 the cameras that the officers have, the body cam, we're
16 able to see that she was lying face up next to the wall.

17 The pictures you have are after they tried some
18 resuscitative efforts so they pulled the shirt up so
19 initially her shirt was down when they came in and blood
20 soaked but she seemed lifeless on the floor. But they did
21 not realize she was there because the first thing that they
22 saw was the defendant in that room and the view that they
23 had. But after they were able to subdue the Defendant they
24 went into the room and saw that she was in dire need then
25 at that point.

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1 And it's important to show the pictures of her there
2 because ultimately they show some of those stab wounds,
3 some of the twenty wounds that she had and you can see
4 where they are. Numerous wounds on her back. And the
5 final pictures are actually from the autopsy after she's
6 been cleaned a bit and you can see more clearly those
7 wounds because she's so bloody at the scene it's hard to
8 actually see all of the wounds. And it shows a crime scene
9 that is one filled with anger and one filled with terror.

10 Clearly I think from the way she was found that she
11 was face up that the initial stabs, the stabbing must have
12 started in the back, in the areas of the back as she would
13 likely have tried to escape the room because of the way
14 she's found ultimately the back and to the sides and then
15 to the chest and stomach areas where she had certainly
16 horrific stab wounds. And as you can see they just gape
17 open. They're disturbing to look at.

18 But I would point that out because that shows that
19 this was an extremely violent scene. She had to fight for
20 her life, and so the last moments of her life were
21 extremely violent; were extremely painful, and were
22 extremely terrifying because not only did she have to come
23 to the recognition that she was gonna die but she had to
24 know what's gonna happen to my kids. And she died not
25 knowing what would happen to her kids because he knew they

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1 were there too, and she didn't know what this man who was
2 being extremely violent with her at that point would do
3 with them.

4 So I'd ask the Court to take that into consideration
5 the sheer violence, the sheer pain, the sheer terror that
6 she experienced and the fact that this happened in front of
7 these small children were at a time that she had to scream
8 that she was dying so that the children would run for help.
9 And I would ask the Court to consider that because it is a
10 very relevant factor in sentencing in this case. That's
11 certainly one of the main reasons we don't come off of a
12 murder charge in this particular situation that makes it
13 malicious because it is so violent and it is so awful.

14 And again, it's in a four-year-old's room in a house
15 where these people live and that's where she's killed and
16 dies. And as Ms. Desch said after a day of being out and
17 him trying to basically stalk by finding out from the
18 children where they are and when they're coming back where
19 they're gonna be. He planned this act and so I would ask
20 the Court to consider that and the horror that she went
21 through that night.

22 THE COURT: Thank you, Mr. Thompson.

23 Mr. Brackett.

24 SOLICITOR BRACKETT: May it please the court.

25 Yes, sir, your Honor, at this time I would ask Jade's

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1 sister Kristen Arlillo to step forward if you would. She
2 indicated to the State she had some comments she wished to
3 address to the court and she'll be followed by Jade's
4 father Mr. Christopher Brandon.

5 THE COURT: Let me ask this, Wanda, are you able to
6 hear with --

7 MADAM COURT REPORTER: Can you get her closer, Judge?

8 THE COURT: Yes. Let's move the podium up a little
9 bit closer so that she's at least in front of this poster.
10 There won't be anything in between Wanda. That will work.

11 Thank you.

12 If you would tell us your name?

13 A. Kristen.

14 THE COURT: I'm sorry, would you spell your last name?

15 A. A-n-g-u-l-o.

16 THE COURT: Yes, ma'am.

17 MS. ANGULO: I just wanted to tell you the effect that
18 my sister's murder had on me and my daughters. She was my
19 baby sister and she was also my best friend. After this
20 happened I had my own house. Jade and the Defendant lived
21 with me for a while. After it happened I didn't go home
22 for two months. I was scared. I was traumatized every
23 time I went into my house. I thought of them. They stayed
24 in my middle daughter's bedroom. She won't sleep in her
25 bedroom even now. Every time I go somewhere, every time I

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1 come home at night after work, I'm terrified that
2 somebody's gonna be behind my door. I miss my sister. The
3 pain that I see my nephews and my niece go through -- when
4 I see my niece I talk to her and all she talks about is her
5 mom. And all of that is heart breaking and it's something
6 that we have to live with every single day.

7 THE COURT: Thank you. I'm sorry you have to be here.

8 MS. ANGULO: Thank you.

9 SOLICITOR BRACKETT: Mr. Christopher Brandon.

10 THE COURT: Yes, Mr. Brandon, if you would tell me
11 your name.

12 A. Christopher Brandon.

13 THE COURT: Yes.

14 MR. BRANDON: I have a written statement I'd like to
15 read.

16 THE COURT: All right.

17 MR. BRANDON: "Your Honor, Jade is missed very much.
18 What Jefferson took from us can never be replaced. What
19 Jefferson put Jade's kids through that night can never be
20 forgotten or undone. Jefferson chose to carry out his
21 actions that night on September 18th, 2017 with the
22 children present. They had been made fun of at school for
23 not having a mother and the children have had to go to
24 therapy because of what they witnessed that night.

25 Jefferson took Jade from us so violently; we can't see

1 her. The children don't have a mother because of
2 Jefferson. Jefferson gets to see his family and talk to
3 his family. Because of Jefferson we'll never get to see or
4 talk to Jade again.

5 I beg of this Court today to show no mercy to
6 Jefferson just as he chose to show no mercy to Jade. I beg
7 this Court to give him the maximum time allowed by law. He
8 had a choice, Jade did not. Jefferson took Jade's life and
9 should pay for it with his life. Thank you for your time
10 and consideration."

11 THE COURT: Thank you, Mr. Brandon.

12 SOLICITOR BRACKETT: Your Honor, there are two reasons
13 why we sentence people particularly. First, in a case like
14 this we need to be concerned about protecting the public.

15 Now, I don't know all of what took place in this man's
16 life prior to these events, and I'm not contesting that. I
17 can't say what did or did not happen; all I can say is
18 this is the person that we have before us today. And when
19 you consider the evidence in this case and what he actually
20 did and you consider the fact that he took this woman's
21 life after two separate incidents of assaulting her and two
22 separate judges, like you, sitting on a bench telling him
23 not to go around her again he still ignored the court and
24 chose to go to her residence and hide inside in the
25 daughter's bedroom laying in wait, standing there with a

1 knife in his hand waiting for this woman to come home.

2 Well what was he thinking while he stood there in the
3 back with that knife? All during that time at any moment
4 he could have decided wait a minute, this isn't right.
5 She's gonna come walking back in here with three little
6 kids and I'm standing here waiting for her with a knife
7 intending to kill her; this isn't right, I need to stop, I
8 need to back away from this, I need to leave, this isn't
9 the right thing to do. He didn't do that. He stood there
10 and he waited and he waited until her eldest child LM
11 came in the room and found him standing there with a knife
12 in his hand and telling him don't say anything or I'll kill
13 you.

14 I don't know about what happened to him in Equador but
15 I do believe Doctor Flores; I believe whatever brought him
16 to that place standing in that room with a knife in his
17 hand cannot be fixed. He is damaged and that damage is
18 baked into his personality. And she may be willing to rely
19 on his ability and willingness to comply with treatment at
20 some further point way down the road, but I do not. I do
21 not have faith in that. I cannot because our job is to
22 protect the public from people like Mr. Quinde Quishpi,
23 because if he chooses to stop taking those pills that she
24 says can moderate his rage, then somebody else will be
25 laying on the floor in front of him in a puddle of blood

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1 like Jade Brandon was on September 18th.

2 So protecting the public is a significant
3 consideration and one of the reasons that we believe that
4 Mr. Quishpi should die in prison.

5 The other reason, your Honor, is simple, and older,
6 but it's to punish people. You punish people for what they
7 did. You hold them accountable. Now your Honor has seen
8 many cases come before you and you've handled many cases as
9 an attorney; you know that many homicides do not result in
10 a request for life sentences. They're negotiated to
11 voluntary manslaughters or some lower offense because there
12 are genuine mitigating circumstances that justify mercy or
13 justify a lower sentence. There is none of that here.

14 He knew what he was doing was wrong and he did it
15 anyway. Worse than that, he did it in the presence of
16 three young children, LM [REDACTED], IM [REDACTED] and NM [REDACTED]; nine, six,
17 and four at the time.

18 And I'm handing up what's been marked as State's
19 Exhibit 17, 18, and 19 and these are screen shots of these
20 children as they were undergoing their forensic interviews.

21 (STATE'S EXHIBITS RECEIVED UP BY THE COURT.)

22 SOLICITOR BRACKETT: Those little people are the one's
23 we're talking about, four years old, six years old, nine
24 years old. Fifty or sixty years from now long after you
25 and I are gone they'll still be here and they'll be living

1 with the consequences of this man's decision for they are
2 scared for life. There can be no question incurred there
3 in theory. How can you ever, ever truly ever completely
4 over come witnessing your own mother's murder, hearing her
5 beg, hearing her scream, hearing her say I'm dying. Those
6 will echo in LM's head and the other kid's head for the
7 rest of their lives.

8 LM said he had some words for the Court.
9 Obviously their too young to be here now. He's only
10 eleven at this time, but I want you to hear what LM has
11 to say about how this has impacted him.

12 He says, "I'm afraid all the time. I would like for
13 him to be in prison for a long time. Better if it was for
14 life." LM says he takes care of his sister because she
15 can't sleep at night. She has night mares that the bad man
16 who killed her mother will come and get her. She's only
17 six-years-old now. The only way for them to feel safe is
18 to know that he is in prison. The only way for the
19 community to be safe is for him to be in prison for life.
20 The only way for these children to feel safe is for him to
21 be in prison for life. I think that's the very least we
22 can do for them and that's what we would ask for.

23 Thank you, your Honor.

24 THE COURT: Thank you, Mr. Brackett. Anything else
25 from the State?

1 SOLICITOR BRACKETT: No, sir.

2 THE COURT: All right. Mr. Wellborn.

3 MR. WELLBORN: Yes, your Honor. Just very briefly
4 I'd like to address some of the things that came up and
5 which I think will also underscore what we're asking for
6 and the basis for it.

7 It's interesting in reading the incident report, or
8 the summary of the incident report, from the detailed
9 incident report from the Rock Hill police; when they first
10 arrived at the scene -- and the call went out at
11 approximately 11:37 p.m., the police were there literally
12 from what I can discern within a minute. When they came
13 into the room, as mentioned by Solicitor Thompson, the
14 first thing they saw was Mr. Quinde, and what they saw
15 him doing was stabbing himself repeatedly in the chest and
16 in the stomach area. The records that I was provided
17 through the Solicitor's office from Carolinas Medical
18 Center indicated that as they delicately put it had
19 eviscerated himself and, in fact, had partially and almost
20 completely disemboweled himself. There's no -- no question
21 he was attempting to kill himself.

22 But this -- but again, this period of time in which
23 Jade Brandon was so -- so horribly and tragically met her
24 end and suffered the amount of stab wounds, and the same
25 period of time that Mr. Quinde was in the process of

1 disemboweling himself and repeatedly stabbed himself in the
2 chest, according to the records from Carolinas Medical
3 Center occurred in approximately a minute time period.
4 This was an absolute frenzied scenario.

5 The horrible death of Ms. Brandon, and the attempted
6 suicide, all occurred within approximately a minute time
7 period based on the police records.

8 Now, why is that important? Because I understand that
9 legally what the basis of a murder charge is, and I
10 understand that predetermination can be just a matter of
11 seconds, but I have a client who since I began to represent
12 him has on multiple occasions been ask by me, by
13 psychologist, by others, to describe what happened at the
14 time of the event and he has no memory of it. It's a
15 complete black out.

16 That doesn't make it any better. That doesn't make it
17 -- it doesn't give him an excuse by any stretch of the
18 imagination but it does suggest that whatever went on
19 there, and it was horrible, it was absolutely horrible;
20 whatever went on there was arguable not a preset plan to
21 go in and necessarily to do what happened. My client has
22 -- I have ask him, you know, how do you feel about this?
23 And one of the things that he has told me on numerous jail
24 visits is I wish I could remember what happened. I know I'm
25 a bad person, I know that I have done something that is

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1 horrible. I know that but I wish I could remember what
2 actually happened because he doesn't have any memory.

3 Now, the word choice has been used and I think that's
4 an interesting word and I think it's an important word
5 because the things that Mr. Quinde had a choice over, even
6 given his limitations, and there are things he did not have
7 a choice over; he certainly had a choice to either honor or
8 not honor a restraining order. He had that choice. Now
9 whether or not somebody given his particular mental
10 condition is able to exercise such a choice the same way
11 that someone who does not have such disorder is -- is a
12 real question.

13 (LOUD COUGH INTERFERING WITH COURTROOM AUDIO.)

14 MR. WELLBORN: And I think all too often in this
15 courtroom and other courtrooms we see the results of mental
16 illness and how that effects people's ability to make
17 choices.

18 But there are certain things he never had a choice
19 about. He never had a choice about the family he was born
20 into. He didn't have a choice about what happened to him
21 in Equador which included severe physical abuse. He didn't
22 have a choice about the fact that at the age of twelve in
23 Equador he was contemplating suicide. He didn't have a
24 choice until he reached adulthood about the kind of medical
25 care, and specifically mental care, might have made a

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1 difference to everyone in this case and most importantly
2 to Jade Brandon and to her children.

3 He never had a choice about that. He's never had a
4 choice about the hallucinations that he had starting at age
5 twelve and going forward even until basically they occurred
6 everyday; they still occur; he never had a choice about
7 that. So I do want to bring that out.

8 Your Honor is aware and has been provided and I think
9 has had time to study what in terms of a life sentence
10 means in the Department of Corrections. We have a twenty
11 year study from the Department of Corrections that has
12 actually been released by the Department of Corrections
13 that suggest that someone of my client's age going in at
14 age twenty-seven and this is for -- this is an average and
15 it's for white males only. It's actually arguably less of
16 a life expectancy for people like Mr. Quinde, but his
17 average life expectancy is 29.1 years. That's if he gets
18 the minimum mandatory day for day sentence that he would
19 get.

20 Now those are cold statistics, they don't really mean
21 a lot other than the fact that they got twenty years of
22 data behind it from the Department of Corrections. But I
23 would like to call one witness to talk about where Mr.
24 Quinde would be and what that would mean, which I think
25 will amplify the fact that whatever sentence you give him

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1 it is a life sentence, and it is extraordinarily likely
2 that he will never come out of the Department of
3 Corrections. Regardless of the sentence that you give him
4 he will die at SCDC. So I would like an opportunity to
5 call one witness to that effect.

6 THE COURT: Go ahead and call your witness.

7 MR. WELLBORN: James Russell Cain.

8 (WHEREUPON, JAMES CAIN, BEING
9 FIRST CALLED AND DULY SWORN, TESTIFIED AS FOLLOWS:)

10 DIRECT EXAMINATION

11 JAMES RUSSELL CAIN BY MR. WELLBORN:

12 Q. Russell, can you give us your full name and spell
13 your last name please, sir?

14 A. James Russell Cain, Junior. My last name is spelled
15 C-a-i-n.

16 Q. And where do you live, sir?

17 A. Florence, South Carolina.

18 Q. How long have you lived in Florence?

19 A. Well I just got out of prison so I only been living
20 back there about six, eight months now, but I grew up
21 there.

22 Q. And are you currently on a parole or a probation
23 situation?

24 A. I'm on parole.

25 Q. Tell us about that. What kind of parole are you on?

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1 A. It's a life-time parole and, you know, of course I
2 have to report in once a year. I have to pay supervision
3 fees and have a job and all of those things.

4 Q. Were you in the South Carolina Department of
5 Corrections?

6 A. Yes, sir.

7 Q. How long?

8 A. Approximately thirty-four years.

9 Q. What were you sentenced for?

10 A. Two counts of homicide.

11 Q. When you say homicide, murder or?

12 A. Murder.

13 Q. Okay. And what year were you sentenced, sir?

14 A. 1986.

15 Q. And which facilities were you placed in?

16 A. I've been in almost every Level III Camp with the
17 exception of McCormick. I've been to Allendale when it was
18 a Level II and Evans when it was a Level II.

19 Q. And when were you released on parole?

20 A. Approximately six to eight months ago.

21 Q. All right. I'd like to talk to you -- and just so
22 we're clear, when someone is given a sentence for murder
23 they go to a Level III facility, correct?

24 A. Yes, sir.

25 Q. Which, to your knowledge, are the Level III facilities

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1 in South Carolina?

2 A. That would be Lee County, Broad River, Kirkland. In
3 this area I guess the nearest one would be Perry, Lieber.

4 Q. Okay. And you've been to all of them you said?

5 A. All of them except McCormick.

6 Q. All right. I want to talk to you from the standpoint
7 of being an inmate in a Level III facility so that we have
8 an understanding of what that's actually like. First of
9 all, in terms of guard supervision as an inmate are there
10 guards there constantly supervising the inmates to make
11 sure that they don't do things to each other?

12 A. No.

13 Q. Can you tell us a little more about that?

14 A. In the housing units there are supposed to be officers
15 in there for both wings and they're supposed to constantly
16 supervise and check on the inmates. That's the way it's
17 supposed to be but that's not the reality of the situation
18 especially now. Sometimes they'll have one officer working
19 the entire unit.

20 THE COURT: Mr. Wellborn, this is a little bit highly
21 unusual when it comes to sentencing. I'll be glad to hear
22 any mitigation that you might need -- intend to offer
23 through this witness or anyone else.

24 MR. WELLBORN: Sure.

25 THE COURT: I'm not gonna allow this to become a

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1 summary of what happens in the Department of Corrections to
2 anybody who is sentenced. I am well aware of this. I've
3 been doing this for thirty some years; I in fact have
4 visited many of the prisons; and so for us to occupy the
5 remainder of our time with a detailed description of what
6 happens in the Department of Corrections the Court does not
7 believe that would be appropriate or even helpful in
8 deciding a sentence in this case.

9 MR. WELLBORN: I'd like to focus on my client.

10 Q. First of all, is there for an inmate coming in to the
11 Department of Corrections to a Level III facility, are
12 there some inmates that are in a better situation coming in
13 in terms of their own self protection than others and can
14 you tell us about that?

15 A. Yes. The situation in a prison especially now is
16 you have a lot of prison gangs, so young guys --

17 THE COURT: Again, -- will lawyers approach?

18 (BENCH CONFERENCE HELD OFF THE RECORD AT 11:42 A.M.)

19 BY MR. WELLBORN:

20 Q. Mr. Cain, is someone who does not have a full command
21 of the English language are they more likely to be
22 assaulted, and or killed, in the Department of Corrections
23 than someone who speaks English fluently based on your
24 personal experience?

25 A. Yeah, so they go there -- I mean their at a

JAMES RUSSELL CAIN: DIRECT BY MR. WELLBORN

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1 disadvantage. You know if you're young if you're coming
2 in or you're weak, you know, prisoner's prey on other
3 prisoners. That's what happens in prison so.

4 Q. I'm gonna give you a hypothetical. Someone who is
5 five foot four inches tall, they don't have complete
6 command of the English language, they are not affiliated
7 with any gang, and they're going into a Level III facility,
8 are they more likely to be killed by --

9 THE COURT: All right. Mr. Wellborn, we don't need to
10 go down this path any longer. You make whatever argument
11 you make going back as far as what you believe is
12 appropriate mitigation, including the way you may see the
13 Department of Corrections; however, to have an ex-inmate
14 who is on parole to be offering testimony on what may or
15 may not happen to any particular defendant in the
16 Department of Corrections is -- I'm not gonna allow any
17 more of that.

18 MR. WELLBORN: Thank you, your Honor. I just would
19 respectfully state for the record I can't think of anybody
20 who would be in a better position to talk about what might
21 happen to my client than somebody who had actually
22 experienced it. But I certainly understand what you're
23 saying.

24 That's all the questions I have.

25 THE COURT: Mr. Cain, you can step down. Thank you.

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1 (WITNESS LEAVES WITNESS STAND.)

2 THE COURT: All right, Mr. Wellborn.

3 MR. WELLBORN: Thank you, your Honor. We are in fact
4 as we started, or as I started this case, I was the second
5 lawyer on the case, I was told that there was a particular
6 offer on the table which my client rejected and that would
7 have been for fifty years.

8 I of course had to investigate the case and that's why
9 we brought in -- we got the records, we brought in Doctor
10 Flores. The concern I've always had is that every time I
11 visited my client, aside from the fact that he had no
12 memory of the incident, he was reporting to me that he was
13 still hearing voices, he was visibly shaking most of the
14 time.

15 I had real concerns about his mental capacity so we
16 have done everything we can to establish and or
17 disestablish his mental capacity to participate in a trial,
18 if there was a trial; participate in the plea process
19 should there be a plea process and, or, to meet the
20 standards to establish again guilt or guilty but mentally
21 ill, so you've heard all of that.

22 But now in terms of sentencing, what is appropriate.
23 There is no sentence that will ever ever be appropriate for
24 Jade Brandon's children because the only appropriate
25 scenario would be for us to go back in time and for this

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1 not to have happened. That as a father I can certainly
2 understand and I take on board and I truly get.

3 But that said, Jefferson Quinde was, not of his own
4 fault, already in a position where he was going to have
5 trouble functioning unless he got severe or, I shouldn't
6 say severe, but certainly expensive medical and mental
7 medical help when he came to the United States. He didn't
8 get it.

9 It doesn't excuse what happened but in many ways it
10 explains what happened. He certainly understood that he
11 needed this. In May, as you've heard, of 2017 he attempted
12 suicide by taking an over dose of pills. Now the timing of
13 that suicide attempt, although one could put whatever path
14 you want, it was a legitimate suicide attempt and he was
15 hospitalized and they pumped his stomach.

16 He reported wanting to commit suicide two days before.
17 Now it's interesting there is something that was stated by
18 the State about how he said, oh, I don't want to come in or
19 refuse to come in. In fact what the records show, and I
20 can read them verbatim from Catawba Mental Health, was that
21 he did not have the ability to get there. They suggested
22 that he walk in. He was living with a friend at the time;
23 didn't want to give the friend's address, but in his mind
24 he didn't have the ability to get there. And so that's why
25 he was planning on going on Monday and they scheduled an

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1 appointment for Monday. That was the day he had a
2 prescheduled appointment to come into Catawba Mental
3 Health.

4 On Sunday, what he told me was that he had worked
5 some; he started hearing voices again, and he went to the
6 Y to work out because he felt that if he worked out the
7 voices would stop talking to him. He did that. After that
8 he had no memory. We know what happened because we have
9 witnesses that can establish what happened. No question
10 what happened and it was horrible. No question that the
11 death and horrific death of Jade Brandon was horrible; no
12 question that the suicide attempt in her apartment was
13 terrible. They were both terrible. Again, all taking
14 place within approximately a minutes time. How much
15 planning was involved no one will ever know. We do know
16 that he was there waiting with a knife.

17 What we do know is that the best records of the
18 Department of Corrections suggest that if he goes in for a
19 thirty-year sentence he will not come out. He simply won't
20 on average and that's if he is a white male not a five-foot
21 four somewhat English speaking Hispanic male with no
22 contacts, nobody in there who's going to protect him or
23 look after him, and on top of that, hear's voices.

24 We do know that there is a paucity of guard to inmate
25 ratio that's been kind of a statewide scandal and certain

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1 correctional institutes have experienced major issues
2 because of that. I do know from talking to former inmates
3 of the Department of Corrections that the problem is bad
4 enough during the day time in Level III facilities but at
5 night it's basically the inmates run the show and that's
6 where he's going to be.

7 So, the chances of him even making it to the twenty-
8 nine years that the average white male going into the
9 Department of Corrections makes at least as of 2016 before
10 the guard issue became as exacerbated as it is now in 2019,
11 are much less for somebody at Mr. Quinde's stature; Mr.
12 Quinde's background; Mr. Quinde's mental disabilities; Mr.
13 Quinde's physical ability. All of this suggest that
14 whatever you give him you are giving him an effective life
15 without parole sentence.

16 We do know that although it is very few and far
17 between there is some possibility of some mental health
18 treatment through the Department of Corrections which he's
19 going to need even if he spends the thirty years in the
20 Department of Corrections just so he can function; just so
21 he can respond to what guards ask him to do, and just so he
22 can do -- you know have the daily day for day life that
23 he's going to have.

24 So for all these reasons taking on board the horrific
25 nature of this crime, which he takes on board; taking on

1 board the lifetime of trauma that he also has suffered,
2 which again does not excuse what he did but in many ways
3 explains how he got there, I would respectfully request
4 that the Court seriously consider a thirty-year sentence
5 because a thirty-year sentence for Jefferson Quinde is life
6 without parole.

7 We'd ask you to consider that also in light of the
8 previous offer of fifty. Clearly the State at the time
9 that offer was made, before I got involved in the case, do
10 not feel that life without parole was the sentence they
11 felt they needed but that's where we are. We are here
12 where we are today and you have heard, I think that you
13 have a very good overview of the case; again I would
14 simply point out as horrific as it is this was an
15 unbelievable frenzy of activity that occurred in
16 approximately a one minute time period which suggests as
17 horrible as it is something that was not planned to be
18 cruel versus something that just completely went out of
19 control.

20 And Jefferson Quinde will suffer that and will be
21 punished for that on the retributive side, as mentioned by
22 Mr. Brackett, but also on the public safety side, if given
23 a thirty-year sentence he will face the consequence of that
24 incarceration for the rest of his natural life. So I'm
25 asking your Honor to seriously consider thirty years as

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1 opposed to fifty years or life without the possibility of
2 parole.

3 THE COURT: All right. Thank you, Mr. Wellborn.

4 (PAUSE.)

5 THE COURT: Well the court has listened to about two
6 and a half hours of presentation from both the State and
7 the Defense. And certainly the Court has had an
8 opportunity to examine the Department of Mental Health
9 Records, Doctor -- or findings -- Doctor Flores findings;
10 listened to everything that's presented today.

11 Let me be sure that the record is also clear that even
12 though in his mental health report he does state, or the
13 Department of Mental Health indicated that in his
14 recitation or review of the facts with the Department of
15 Mental Health, and Doctor Sutton recorded in her interview
16 -- let me find that -- that he indicated to the doctor that
17 he had no recall of what happened at this particular time,
18 but the records are very clear that today that after a
19 recitation of the facts from the State that the Defendant
20 agreed with the facts. In fact also part of the facts that
21 the Mental Health Report points out and is made clear today
22 is that there did appear to be factually that this
23 Defendant did drive a car, parked at some distance from the
24 home, then had to walk from the car to the home; gained
25 entry into the home; that he was able to obtain or either

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1 had a knife with him when he went into the home or obtained
2 a knife when he got in the home; that he waited, that he
3 was waiting behind the door and in fact threatened the
4 nine-year-old son and then he savagely stabbed Jade Brandon
5 to death. That there was certainly under the law a very
6 premeditated factual basis for the charges.

7 The Court after taking all of that into consideration
8 and even the Defense themselves can see that whatever
9 sentence the Court gives, and in fact is a life without
10 parole sentence, that he will likely die within the
11 Department of Corrections the court believes that it also
12 has a third duty. It agrees with the State that we have a
13 duty in sentencing to protect, to punish, third:
14 responsibility of the Court is to -- maybe more than three
15 -- but a third certainly is to restrain our society;
16 sentences ought to have a restraining effect on society.
17 And this court particularly also believe that sentences
18 should also as much as possible provide as much closure as
19 we can in particular cases.

20 The Court finds that in this particular case the only
21 way that this family, the community, under the laws of this
22 state and where we are today to find closure is that the
23 sentence on 2018-GS-46-01924 *State versus Jefferson Quinde*
24 *Quishpi* who has pled guilty to murder, the sentence he be
25 committed to the Department of Corrections for a

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1 determinant term of life.

2 On Indictment 2018-1924(A) possession of a weapon
3 during the commission of a violent crime the sentence is he
4 be committed to the Department of Corrections for five
5 years. Thank you.

6 MR. WELLBORN: Thank you, your Honor.

7 SOLICITOR BRACKETT: May it please the Court, and for
8 the record, your Honor, while you were organizing your
9 papers I went to ask Mr. Wellborn if his client wish to
10 address the Court.

11 THE COURT: I do apologize. I'm sorry.

12 SOLICITOR BRACKETT: He indicated he did not.

13 THE COURT: I did not give him the opportunity and is
14 that correct that he did not wish to address the Court?

15 MR. WELLBORN: That is correct.

16 THE COURT: All right. Thank you. I apologize.
17 Thank you.

18 (TIME IS 12:02 P.M.)

19 (END OF TRANSCRIPT OF RECORD.)

20

21

22

23

24

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CERTIFICATE OF REPORTER

State of South Carolina)
)
County of York)

I, Wanda S. Nelson, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 17th day of December, 2019.

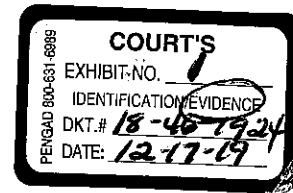
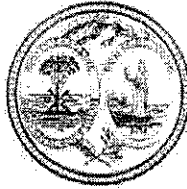
I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Wanda S. Nelson, CVR-M
Certified Verbatim Reporter,
Official Court Reporter,
Notary Public, in and for
The State of South Carolina.

My Commission Expires: 1/21/2021

DATE: _____/_____/_____

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State of South Carolina
Department of Mental Health

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April 17, 2018

Division of Inpatient Services
Forensic Evaluation and Outpatient Services
7901 Farrow Road, Building #6
Columbia, SC 29203
Information: (803) 935-5600

Re: The State of South Carolina vs. Quinde-Quishpi, Jefferson
DMH Case #: 1040-4942
York County, Court of General Sessions

Dear Attorney Cook:

In accordance with the court order issued by the Honorable John C. Hayes, evaluations of criminal responsibility and capacity to conform were conducted by the South Carolina Department of Mental Health (SCDMH) pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

Please see the attached report for the results of this evaluation.

This 13 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 17-24-10 (1976) and § 17-24-20 (1976).

4/17/18
Date

Kelly L. Gothard
Kelly Gothard, Ph.D.
Clinical Director
Forensic Outpatient Services
Department of Mental Health

cc: Willy Thompson, Assistant Solicitor, 1675-1A York Hwy, York, SC 29306

KG/tl

MISSION STATEMENT

To support the recovery of people with mental illnesses.



SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH
FORENSIC EVALUATION SERVICE

Name: Jefferson Michael Quinde-Quishpi

Date of Birth: [REDACTED]

Type of Evaluation: Criminal Responsibility and Capacity to Conform

Date of Interview: January 31, 2018 & April 4, 2018

Date of Report: April 14, 2018

Examiners: Colbi J. Sutton, PsyD (presiding)
Elizabeth Whetstone, LISW-CP

Diagnoses: Posttraumatic Stress Disorder
Unspecified Schizophrenia Spectrum and Other Psychotic Disorder

Opinion: Criminally Responsible; Able to Conform

Identifying and Referral Information:

Mr. Quinde-Quishpi, a 26-year-old, Hispanic man, is charged with Murder and Possession of weapon during a violent crime, allegedly committed September 18, 2017. Related to these charges, the York County Court of General Sessions ordered an evaluation of his criminal responsibility and, if found to be responsible, capacity to conform his conduct at the time of the alleged offense. Pursuant to this order, he was evaluated on an outpatient basis at the Forensic Evaluation Service (FES) of the South Carolina Department of Mental Health (SCDMH). Following this evaluation, he was returned to the York County Detention Center (YCDC).

Mr. Quinde-Quishpi's primary language is Spanish. Therefore, these interviews were conducted utilizing translators.

Notification:

At the outset of this evaluation, Mr. Quinde-Quishpi was notified of this examiner's role, the purpose of this evaluation, and the limits of confidentiality. The evaluation information form was translated for him, and he had the opportunity to ask questions. He then agreed to proceed and signed the form.

Sources of Information

1. Court order for criminal responsibility and capacity to conform conduct evaluations, dated October 30, 2017;
2. Interview of the defendant on January 31, 2018, translated by Gloria Ruiz Olano, from Certified Translation Services, for approximately 2 hours and 40 minutes, and on April 4, 2018, translated by Sandra Aidar-McDermott, MS, for approximately 1 hour and 30 minutes;
3. Social Work Assessment conducted by Ms. Whetstone, with Mr. Quinde-Quishpi's sibling, Jennifer Seminario on February 12, 2018;
4. Court order for competency to stand trial evaluation, dated November 30, 2017;
5. Catawba Mental Health Center notes, dated May 16 and September 15, 2017;
6. York County Detention Center records, dated June 8, 2017, to March 21, 2018;
7. Mecklenburg Central Jail records, in Charlotte, North Carolina, dated October 7, to October 10, 2017;
8. Carolinas Healthcare System records, dated September 18, to November 10, 2017;
9. The defendant's National Crime Information Center criminal history record;
10. Information from Rock Hill Police Department and York County Sheriff's office pertaining to charges not listed on the aforementioned court order (case numbers: 1709110344 & 2017-00020271);
11. Information from York County pertaining to his current charges including:
 - a. Arrest Warrant for Murder (2017A4620301840);
 - b. Arrest Warrant for Possession of a Firearm/Knife during Crime of Violence (2017A4620301842);
 - c. Case reports, case notes, primary and supplemental narratives, evidence logs, and search warrants and accompanying paperwork (case: 1709180636);
 - d. Mecklenburg County Arrest Processing Center, arrest sheet, dated October 7, 2017;
 - e. Charlotte-Mecklenburg Police Department prisoner watch logs, related emails, officer narratives, and writings of the defendant (complaint: 20170919-100201);
 - f. Flash drive containing:
 - i. Crime scene photos;
 - ii. Officers' camera footages, pictures, and related documents (case number 2017-00020271; incident date 6/7/2017);
 - iii. Coroner's report (case number S-17-1372);
 - iv. Detail Calls on September 18, 2017;
 - v. Legal documents noted above;
 - vi. Piedmont Medical Center EMS report (incident number: 170919-0306);
 - vii. Marandy J. Brandon's Piedmont Healthcare System and Community Medicine Foundation records;
 - viii. Audio records of 911 calls;
 - ix. Officers' camera footage of incident on September 11, 2017.

Records from Piedmont Medical Center were requested but had not been received by the time this report was submitted.

Background Information

Social History:

Mr. Quinde-Quishpi's sibling, Jennifer Seminario said Mr. Quinde-Quishpi met his developmental milestones (e.g., sitting up, talking, walking, etc.) as expected. She denied he has a childhood history of aggression, serious rule violations except for taking toys, deceitfulness, theft, or property destruction. Somewhat inconsistent with her report, Mr. Quinde-Quishpi reported his childhood behaviors are significant for purposely lighting fires, animal cruelty, and stealing something directly from someone.

Mr. Quinde-Quishpi reported he was raised in Ecuador, South American. He was initially raised by his maternal grandmother but was sent to live with his paternal grandmother at the age of 12. Consistent with Ms. Seminario's report, Mr. Quinde-Quishpi said he was physically abused as a child. He explained that he moved to America with his brother and sister when he was 17 years old. He lived in New York for approximately three years, Chicago for three years, then returned to New York for two more years. He moved to South Carolina on December 16, 2016.

According to Mr. Quinde-Quishpi, he is single and does not have children. Mr. Quinde-Quishpi said before the alleged offenses (September 2017), he had been living in a home with his girlfriend, also the alleged victim, and her three children, for approximately four months. After the alleged offenses, he received medical treatment at a Carolina Healthcare System Hospital until October 2017. He has been incarcerated since that time.

Education and Employment History:

Mr. Quinde-Quishpi reported that when in school, he did not receive special education services, but made poor grades. He indicated he often got into trouble for fighting peers and dropped out of school during his 9th grade year. He described taking some GED classes but did not take the exit exam. Somewhat contradictory, Ms. Seminario said Mr. Quinde-Quishpi completed the 11th grade and was a good student. She stated he did not have behavioral problems but sometimes left school, suggesting he skipped classes.

In regard to employment, Mr. Quinde-Quishpi reported that at the time of his arrest, he had been working in construction (i.e., wood work and framing houses) for about one month. His longest length of employment was for three years, when he worked with his father framing homes. He said he was fired from one position after getting into an argument with a coworker but denied having difficulties with prior bosses. He denied a history of receiving Social Security Disability benefits.

Medical History:

Mr. Quinde-Quishpi described losing consciousness for a few minutes after being hit in the head by a door. He was unsure how old he was but indicated it occurred during childhood. He said he received medical attention and denied there were long-lasting injuries. He denied a history of seizures, strokes, or other serious medical conditions. He said he continues to have some pain in his abdomen.

Substance Use History:

Mr. Quinde-Quishpi reported he began drinking alcohol around the age of 20; last use was in September 2017. When in the community, he was drinking "very little," approximately once per month, sometimes once per week. He said he would drink approximately six bottles of beer at a time. He said he has been intoxicated on two occasions but denied alcohol related problems. He reported using crack cocaine on two occasions in June 2017. He denied using other drugs.

Psychiatric History:

Records from Catawba Mental Health Center indicate Mr. Quinde-Quishpi was referred for follow-up outpatient treatment by the Piedmont Medical Center on May 8, 2017. This note indicates that he had gone to the hospital due to a suicide attempt; he reportedly overdosed on "allergy pills" and then called his girlfriend. It appears he was prescribed fluoxetine (antidepressant) at the hospital but did not follow up with outpatient treatment.

These records indicate Mr. Quinde-Quishpi contacted the facility via phone on September 15, 2017 (three days prior to the alleged offenses). This note indicates he reported difficulties managing his anger and having thoughts of harming himself and others, but denied plan, intent, or means. He denied being prescribed medication. The note states he told staff he would go to the center as a walk-in appointment the following Monday (i.e., 9/18/2017). This report also notes he reported being homeless, but staying with a friend; however, he refused to provide the address, and explained the friend would not let him give out or use the address in any way, not even for mail.

Mr. Quinde-Quishpi's Carolinas Healthcare System records indicate he was flown to the hospital "after stabbing himself... stabbing himself repeatedly in the chest and abdomen including eviscerating himself." He was hospitalized from September 18, to October 7, 2017. Upon discharge, he was prescribed risperidone (antipsychotic that can be used to treat symptoms of psychosis, mood, and/or irritability; a rationale for this prescription was not provided), trazadone (sedative and antidepressant), and oxycodone (narcotic for pain). Upon discharge he was noted to be alert and oriented but presented with flat affect. He was transported for medical follow-up appointments in October and November 2017.

After Mr. Quinde-Quishpi was released from the hospital, he was transported to Mecklenburg Central Jail in Charlotte, North Carolina, where he was incarcerated from October 7, to October

10, 2017. A brief mental health screening upon admission indicates he endorsed believing that someone could control his mind and/or put thoughts into his head or take thoughts out of his head, and he felt that other people knew his thoughts or could read his mind. A note from two days later indicates he appeared uncoordinated in terms of articulating his thoughts and said he could not remember how he had gotten the bandage on his abdomen. His speech was slowed and slurred, he appeared depressed with flat affect, exhibited poverty of thought, and did not give a clear answer on whether he was suicidal. A note from the following day states he was medication compliant, but appeared withdrawn, was a poor historian, and exhibited slowed and pressured speech, flat affect, and circumstantial thoughts. The note documents, "Client did state that he remembers being home watching television prior to being at the hospital, and then jail, but does not report recalling anything else."

Mr. Quinde-Quishpi was transferred to YCDC on October 11, 2017. It appears that upon admission, he understood questions, appeared anxious or afraid, and did not endorse experiencing hallucinations. Several days later (refer to note dated 10/18/2017), he reported difficulties sleeping and hearing voices telling him to harm himself and others for the past two months. He was referred for a mental health evaluation, which was completed on November 1, 2017. The note from the encounter documents that he reported hearing voices that "tell me to fight people and kill people" adding, "I only hear the voices in the afternoon. That is the only time." Though, the correctional officer said he had not been reacting to or presenting with auditory or visual hallucinations or delusions. He reported he was sad and had difficulties sleeping, although it notes he was sleeping when approached in the cell. He was determined stable and to be "malingering, probable axis II [indicating his symptoms were the result of a personality disorder]."

These records indicate on November 2, 2017, the doctor was contacted and informed that Mr. Quinde-Quishpi reported hearing voices, appeared to be responding to voices, and had sporadic bursts of yelling and screaming. Risperdal was discontinued, and he was prescribed Haldol (antipsychotic). On December 7, 2017, all of his medications were discontinued per his request, and a note dated December 11, 2017, indicates he reported he was no longer hearing voices and was doing "okay."

After Mr. Quinde-Quishpi was initially evaluated by this examiner on January 31, 2018, the detention center was contacted via phone and informed that Mr. Quinde-Quishpi reported thoughts and intent of suicide. However, a YCDC note dated February 2, 2018, indicates he remained stabilized and denied suicidal and homicidal ideation. He was seen again on February 7, 2018, while on suicide watch, and reportedly said he had experienced intermittent depressed mood and auditory hallucinations telling him to harm other people that began when he was 14 years old. He was prescribed Celexa (antidepressant) and removed from suicide watch on February 14, 2018, when he was noted to have had brighter affect, reported feeling better, and denied suicidal and

homicidal ideations. On March 21, 2018, he again reported auditory hallucinations and Risperdal (antipsychotic) was restarted. He denied suicidal and homicidal ideation.

Mr. Quinde-Quishpi reported he does not know if his family history is significant for mental illness. He described seeing a psychologist in Ecuador at the age of 14, for approximately three months. He said he is unsure if he received a mental health diagnosis but was not given medications. He explained that he was taken to treatment, because he had witnessed domestic violence between his parents and was physically abused. Mr. Quinde-Quishpi said he did not receive mental health treatment again until May 2017. At that time, he attempted to commit suicide and was admitted to a psychiatric hospital in Rock Hill, North Carolina, for approximately 7 days. He said he was prescribed medications but decided not to take them. He indicated this was his only suicide attempt until September 2017.

Ms. Seminario said Mr. Quinde-Quishpi moved to South Carolina approximately one year ago. She explained that after he moved, she only communicated with him by phone. She indicated that after his move, he became sad and talked "desperate" (i.e., moving his hands, crying a lot, talking quickly, and sounding anxious). She also reported that after he attempted to overdose on pills in May 2017, he began reporting he was having nightmares, hearing voices telling him to harm his girlfriend and himself and could not distinguish reality. She said after the alleged offense, he has not wanted to sleep because he has nightmares about doing "horrible things to his brother," is nervous and cries, and repeats things.

Mr. Quinde-Quishpi reported he first became significantly depressed and had thoughts of wanting to commit suicide when he was 12 years old. He indicated that since then, he has experienced excessive sadness, increased crying, anger, fluctuations in appetite, emotional numbing, and decreased energy. He also reported feeling anxious and nervous, having nightmares related to his history of abuse, refusing to visit Ecuador, avoiding crowded places, feeling jumpy, being unable to trust others, and fearing that something bad will happen. He denied a history of symptoms indicative of a manic episode. He said he began experiencing auditory hallucinations at the age of 26. He described hearing one voice of an unknown male that tells him to harm himself and others. He said he hears the voice every day, but predominately at night. When asked, he said he did not report the hallucinations, until he was incarcerated for his current charges, because he feared others would think he is crazy. He denied visual hallucinations and beliefs indicative of delusions.

Behavioral Observations and Mental Status

Interview on January 31, 2018:

Mr. Quinde-Quishpi is a 26-year-old, Hispanic man who presented with adequate hygiene. He was cooperative and polite. He made intermittent eye contact, often looking downward. Gloria Ruiz Olano, from Certified Translation Services, stated Mr. Quinde-Quishpi was able to communicate with her clearly and did not appear to have difficulties understanding her or

effectively communicating with her. He correctly identified the date, day of the week, and location. He did not exhibit difficulties on a task of short-term memory (i.e., able to recall three words after a short delay). He also did not exhibit difficulties with attention or concentration.

Mr. Quinde-Quishpi reported his mood as "nervous," and he became tearful at several points. Mr. Quinde-Quishpi said when he was initially incarcerated, he was prescribed medication, but he recently stopped taking it. He reported difficulties sleeping, decreased appetite, and constant depressed and anxious mood. He explained that the voice is "trying" to come back. He denied experiencing visual hallucinations. He did not appear distracted or to be responding to internal stimuli and did not voice delusional thoughts. He reported having suicidal thoughts and intent but indicated he did not have means to complete the act at the detention center. He denied homicidal thoughts.

Interview on April 4, 2018:

Mr. Quinde-Quishpi again presented with adequate hygiene. He was cooperative and polite but made intermittent eye contact. Consistent with prior observations of Ms. Olano, Sandra Aidar-McDermott, MS, stated Mr. Quinde-Quishpi was able to communicate with her clearly and did not appear to have difficulties understanding her. He did not exhibit difficulties with short-term memory, attention, or concentration. Mr. Quinde-Quishpi exhibited blunted affect but was less tearful during the interview.

Mr. Quinde-Quishpi said he is prescribed and compliant with taking two medications to alleviate depression and auditory hallucinations. He denied that the medications have been helpful. When asked why the medication was previously helpful in alleviating some of his symptoms, he said that none of the medications he has been given have been helpful. He reported he continues to have difficulties sleeping and is not eating consistently. He said he has felt depressed and has little energy. He described hearing a voice telling him to harm himself and others, approximately every other day, and inconsistent with the last interview, he said he sees words written on the walls such as "kill" and "die" and "a shadow." He denied feeling that others are out to get him, but said he is afraid he will do something to harm himself or someone else. Though, he then denied thoughts of wanting to harm himself or others. At no time during the interview did Mr. Quinde-Quishpi appear distracted, appear to respond to internal stimuli, or voice delusional thoughts.

Diagnostic Impressions

Based on current information, it appears Mr. Quinde-Quishpi's symptoms are best explained by Posttraumatic Stress Disorder (PTSD) and Unspecified Schizophrenia Spectrum and Other Psychotic Disorder.

PTSD is the development of characteristic symptoms following exposure to one or more traumatic events. Symptoms can include intrusive symptoms (e.g., distressing thoughts, dreams, etc.),

avoidance of stimuli related to the trauma, alterations in cognitions and mood, and changes in arousal and reactivity. Consistent with Ms. Seminario's report, Mr. Quinde-Quishpi described a history of childhood physical abuse. Additionally, he reported that since that time, he has experienced nightmares, avoidance of thoughts and reminders, negative beliefs about himself and others, feeling detached, irritability with angry outburst, hypervigilance, and sleep disturbance.

Mr. Quinde-Quishpi's symptoms of depression appear better accounted for by a diagnosis of PTSD. Thus, a secondary diagnosis of a depressive or anxiety condition do not appear warranted.

Unspecified Schizophrenia Spectrum and Other Psychotic Disorder applies to presentations in which symptoms characteristic of a psychotic disorder are present but either do not meet the full criteria for a more specific disorder or when there is insufficient information to make a more specific diagnosis. Ms. Seminario said Mr. Quinde-Quishpi began to report he was hearing voices after he was hospitalized in May 2017, and YCDC records suggest he has intermittently reported having auditory hallucinations since October 18, 2017. Additionally, YCDC records suggest that on one occasion (11/2/2017), staff reported he appeared to be responding to voices and had sporadic bursts of yelling and screaming.

However, there is conflicting evidence on the validity of these symptoms. First, Mr. Quinde-Quishpi's first report of auditory hallucinations in available records was on October 18, 2017, after the alleged offenses. Second, the YCDC treatment provider initially suspected he was malingering symptoms (refer to note dated 11/1/2017). Third, his reports of these symptoms have been inconsistent; YCDC records suggest he initially reported it began around August 2017, but later stated he has heard voices since he was 14 years old (refer to notes dated 10/18/17 & 2/2/18). Fourth, his reported frequency of these symptoms has been inconsistent between the two interviews with this examiner and between his report to YCDC staff and this examiner. For example, during the initial interview, he suggested these symptoms had improved with medications, but during the latter interview, he denied that his symptoms have ever responded to medications. Additionally, he reported to this examiner that he experiences these symptoms daily, while YCDC records suggest long periods when he has appeared stabilized and has denied auditory hallucinations, even when he was not taking psychiatric medications. Fifth, he has inconsistently reported other symptoms of psychosis; only once has he endorsed believing that someone can control his mind and/or insert or extract his thoughts (refer to note dated 10/7/2017) and although he has consistently denied experiencing visual hallucinations to YCDC staff and denied it during the initial interview with this examiner, during the latter interview he reported seeing words on the walls and a "shadow."

Regardless of the validity of Mr. Quinde-Quishpi's auditory and visual hallucinations, he is currently compliant with taking psychiatric medications and if present, these symptoms do not appear to be hindering his abilities to attend to, learn, recall, or understand information. Thus, the

diagnosis of Unspecified Schizophrenia Spectrum and Other Psychotic Disorder is offered at this time.

Information Relevant to Criminal Responsibility and Capacity to Conform Conduct

Police Accounts of Prior Offenses Involving the Defendant and Alleged Victim:

Officer's responded to the residence of Mr. Quinde-Quishpi and Marandy Jade Brandon on June 7, 2017, in reference to domestic violence. Ms. Brandon reported that she attempted to leave Mr. Quinde-Quishpi when he punched her in the face. Officer's footage from the incident, shows Ms. Brandon stating, "I was trying to leave...because we argue and when we argue, he does it." She told the officer that she and Mr. Quinde-Quishpi began to argue over "Facebook," and when she got into her car to leave, he got into the car, hit her in the face, and then choked her. Additionally, present family members of Ms. Brandon's stated that he had physically assaulted her on several prior occasions.

Officer's responded to the location again on September 11, 2017. The case report indicates that Hector Sanchez Romero reported to officers that he was waiting down the street for Ms. Brandon, while she retrieved her children from the location. He explained that he was assisting her, because Mr. Quinde-Quishpi had recently been violent towards her. He reportedly stated that he heard them become "disorderly" via phone, went to the location, and saw Mr. Quinde-Quishpi "aggressively grab" her by the arm and not let her exit her vehicle. He continued saying that when he stepped in-between them, Mr. Quinde-Quishpi bit him on the left forearm. Mr. Brandon told officers that she and Mr. Quinde-Quishpi had recently "split up after being in a relationship and living together" for approximately one year. Mr. Quinde-Quishpi was arrested and charged with Domestic Violence in the 3rd Degree and Assault and Battery in the 3rd degree. He was to have no contact with the victims as a condition of his release.

A video of the incident on September 11, 2017, demonstrates Mr. Quinde-Quishpi effectively communicating with the officers in English. During his interactions, he did not demonstrate behaviors indicative of psychosis, and his explanation was self-protective (i.e., he denied harming Ms. Brandon, stated Mr. Romero was abusing Ms. Brandon, and the two of them were trying to get him into trouble).

Police Account of the Alleged Offense:

The case report indicates on September 18, 2017, at 11:37 PM, officers responded to 1017 Borrow Court in reference to a stabbing in progress. Once inside the home, an officer observed Mr. Quinde-Quishpi on his knees, stabbing himself in the chest with a silver butchers knife and Ms. Brandon lying on her back with stab wounds to her chest, unresponsive, with her eyes open. Mr. Quinde-Quishpi did not respond to the officer's commands to drop the knife. Once other officers were on scene, a Taser was deployed, handcuffs were placed on him, and he was transported to the Charlotte Medical Center. Ms. Brandon was pronounced dead at the scene.

A summary narrative indicates that Detective Smith met with Mr. Romero on September 19, 2017, who stated he was Ms. Brandon's boyfriend. The report documents,

Romero stated the suspect and the victim were formal boyfriend and girlfriend, but she had recently ended the relationship. Romero stated he brought the victim and her 3 children home after spending the day with them. Romero stated the victim has a car which the suspect drives often. The car was missing from the driveway so the victim didn't think the suspect would be at the home. Officers later located the vehicle parked in the driveway next to an empty home at 1029 Barlow Ct. The keys to the vehicle along with the key to the home were located on a key ring in the right rear bedroom of the home. Romero said he dropped the victim and her children off and was leaving the area when some neighbors... flagged him down and asked if he could jumpstart their vehicle. Romero said he was talking with [the neighbors] when the victim's children exited the front door of the home yelling that "he" was going to kill their mother and he was stabbing her.

The report indicates on September 21, 2017, Ms. Brandon's minor son [L.M.] participated in a forensic interview conducted at Safe Passage by Tiffany Byrd. The minor reportedly stated that when Mr. Romero dropped them off, his mother and brother began to close and lock the windows. When he opened his sister's bedroom door, Mr. Quinde-Quishpi was hiding behind the door holding a knife and told him to stay quiet because if he said anything, he would kill him. The minor then stated that Mr. Quinde-Quishpi grabbed his mother and told the children not to go anywhere. Mr. Quinde-Quishpi then took Ms. Brandon into her daughter's room and locked the door. The minor said he could hear his mother state she was dying, so he informed his siblings to begin running.

Defendant's Account of the Alleged Offense:

Mr. Quinde-Quishpi reported that at the time of the alleged offenses, he had been living in Rock Hill, South Carolina, with Ms. Brandon for approximately five months, adding that her three children lived between their home and their father's home. He said they had dated for three years but had only lived in the same state since December 2016. He described Ms. Brandon as having significant mood swings, stating she purposely cut herself, said she wanted to kill herself, and was depressed. He said they would argue about things such as her not liking his family members. He added that she would instruct him to say negative things to his family and he would comply. He continued saying that Ms. Brandon was unfaithful in the relationship, and when asked how he knew, he stated, "She told me." He explained that she would leave for a week or more and he would not know where she went. He said he stayed in the relationship, "because I loved her."

Mr. Quinde-Quishpi admitted to hitting Ms. Brandon on one occasion (i.e., the incident described above when the police responded to domestic violence in June 2017), but insisted it was the only time he physically assaulted her. He explained that Ms. Brandon often hit him, but she would

accuse him of hitting her, adding she never took responsibility for physically harming him. Mr. Quinde-Quishpi maintained that he and Ms. Brandon never ended their relationship during the three years they were together, despite being confronted with legal documents that indicate Ms. Brandon made statements indicating she had ended their relationship prior to the alleged offenses.

Mr. Quinde-Quishpi said at the time of the alleged offenses, he was working fulltime, but would have to leave sometimes "because my girlfriend thought I was cheating on her." He was not attending mental health treatment, taking psychiatric medications, or using alcohol or drugs. He indicated he was not sleeping well because he was working at night, and his girlfriend would wake him in the day, wanting him to do activities with her, such as going to Carowinds. He reported having auditory command hallucinations, telling him to harm himself and others, but never experienced auditory hallucinations telling him to harm Ms. Brandon. He also said he had never thought about killing Ms. Brandon.

Mr. Quinde-Quishpi said directly prior to the alleged offenses, Ms. Brandon had been staying with her children's father for a few days, but denied that he and she had an argument, disagreement, or relationship problems. Even though he said the children's father lived 30 minutes from them, he insisted he was okay with her staying there. He said he felt "depressed" and "lonely." He indicated he spent most of his time in his vehicle, in a parking lot away from home, because he worried he would commit suicide if he remained at his home. He also reported he would "shake," cut his arms, and "had these thoughts in my mind."

Mr. Quinde-Quishpi reported he has no memory of the day of the alleged offenses and does not recall committing the crimes. He added that he did not have any reason to want to harm Ms. Brandon.

Clinical Impressions Regarding Criminal Responsibility

Based on available evidence, in our opinion, at the time of the alleged offenses, Mr. Quinde-Quishpi was not suffering from a mental disease or defect to the extent that he lacked the capacity to distinguish moral or legal right from moral or legal wrong or to recognize the particular act charged as morally or legally wrong.

As noted above, Mr. Quinde-Quishpi's symptoms appear best characterized by diagnoses of PTSD and Unspecified Schizophrenia Spectrum and Other Psychotic Disorder. Mr. Quinde-Quishpi denied taking psychiatric medications or using alcohol or drugs during the days prior to the alleged offenses. He also reported experiencing auditory hallucinations telling him to harm himself and others, as well as symptoms of PTSD (i.e., anxiety, hypervigilance, depressed mood, thoughts of suicide, difficulties sleeping, etc.) around the time of the alleged offenses.

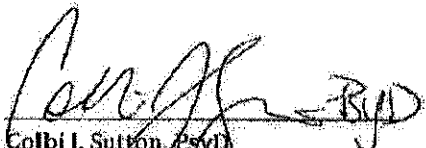
Mr. Quinde-Quishpi was unable or unwilling to provide an account of the alleged offenses. As a result, this precludes us from offering a criminal responsibility opinion with the usual degree of certainty. That stated, Mr. Quinde-Quishpi did not voice delusions related to the crimes and inconsistent with his report, collateral information suggests Ms. Brandon had ended their relationship briefly before the time in question. Thus, offering an extreme, but rational motive for the crimes. Additionally, although he reported having auditory command hallucinations to harm others, he denied that those hallucinations ever instructed him to harm Ms. Brandon, and yet he had a history of being violent towards Ms. Brandon prior to the alleged offenses.

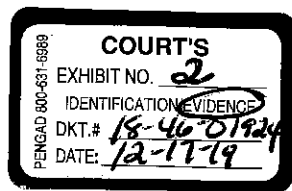
Regardless of whether Mr. Quinde-Quishpi was experiencing auditory commands to commit the crimes, there is evidence that Mr. Quinde-Quishpi understood the moral and legal wrongfulness of the illicit acts. Information found in the police reports indicate Mr. Quinde-Quishpi may have parked a vehicle away from their residence so Ms. Brandon would not know he was home. Secondly, he supposedly hid behind a door with a knife, until he was able to attack Ms. Brandon. Lastly, he threatened Ms. Brandon's son not to leave or make a noise, likely to avoid Ms. Brandon from knowing of his presence. All of the aforementioned behaviors would indicate his crimes were planned and intended to avoid detection before he had a chance to complete the actions (i.e., homicide/suicide). Thus, he appeared to have been able to distinguish right from wrong at the time of the alleged offenses.

Clinical Impression Regarding Capacity to Conform Conduct

In our opinion, at the time of the alleged offenses, Mr. Quinde-Quishpi did not lack sufficient capacity to conform his conduct to the requirements of the law as a result of mental disease or defect.

As previously noted, Mr. Quinde-Quishpi reported experiencing symptoms of PTSD and auditory command hallucinations around the time in question. Nonetheless, given the apparent prearranged nature of the crimes, it appears he had the ability to think of and carry out a plan, which suggests he had the ability to conform his conduct.


Colbi J. Sutton, PsyD
Licensed Clinical Psychologist



**FLORES FORENSIC &
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adriana@dunflo.com

August 12, 2019

Mr. Christopher Wellborn
142 Oakland Avenue
Rock Hill, South Carolina 2973

RE: Jefferson Quinde-Quishpi

Dear Mr. Wellborn,

Per your request, I evaluated your client, Jefferson Quinde-Quishpi, on July 29, 2019, with regard to competency to stand trial, and criminal responsibility on the charges of Murder and Possession of a Knife During the Commission of a Violent Crime, alleged to have occurred on or about September 18, 2017.

I understand that I will be called to provide expert witness testimony at an upcoming plea hearing. This is a brief summary of my forensic opinions and clinical impressions. At the hearing, I expect to expound on my opinions and how I arrived at my conclusions.

Previous Forensic Evaluations:

As you know, on January 31, 2018 and April 4, 2018, Dr. Colbi Sutton conducted court-ordered evaluations of Mr. Quinde-Quishpi on the issues of competency and criminal responsibility. She found him competent and criminally responsible. Dr. Sutton diagnosed Mr. Quinde-Quishpi with Posttraumatic Stress Disorder, Unspecified Schizophrenia Spectrum, and Other Psychotic Disorder.

Opinions:

My findings and opinions are based on my three and a half hour interview and evaluation of Mr. Quinde-Quishpi at the York County Detention Center on July 29, 2019, as well as my review of

Dr. Sutton's forensic reports (both dated April 14, 2018), and approximately 1,000 pages of information (all also reviewed by Dr. Sutton), including medical records and documents pertaining to Mr. Quinde-Quishpi's prosecution (including, but not limited to indictment, case reports, search warrants, crime scene photos, officers' camera footages).

I opine that—

1. Mr. Quinde-Quishpi is competent to stand trial.
2. He is criminally responsible.
3. Mr. Quinde-Quishpi was suffering from severe mental illness (depression and psychosis) at the time of the offenses. Onset of psychiatric symptoms occurred years prior to the offenses, had exacerbated in the months and days leading up to the offenses, and have continued throughout his detention, such that he is treated with psychotropic medication). Notably, Mr. Quinde-Quishpi went to the hospital in May of 2017 (four months prior to the offenses), due to a suicide attempt. Additionally, he contacted Catawba Mental Health Center on September 15, 2017 due to thoughts to hurt himself and others. He was to go to the mental health center as a walk-in on Monday, September 18, 2018 (one day after the offenses).

Diagnostic Impression:

It is my opinion, within a reasonable degree of scientific certainty that, the best diagnostic fit is consistent with:

1. *Persistent Depressive Disorder, With mood-incongruent psychotic features, With intermittent major depressive episodes, with current episode, Severe*
2. *Posttraumatic Stress Disorder*
3. *Borderline Personality Disorder*

Mr. Quinde-Quishpi's development of borderline personality disorder (BPD) is consistent with his childhood history of trauma, which includes physical abuse and parental abandonment. Mr. Quinde-Quishpi's history of self-mutilation and extensive difficulties with emotional regulation (including expressing inappropriate, intense anger, and difficulty controlling anger) are two classic characteristics of BPD.

Respectfully,

Adriana L. Flores, Ph.D.

Adriana L. Flores, Ph.D

Licensed Psychologist

Forensic Psychologist

Adjunct Assistant Professor

Emory University School of Medicine

Department of Psychiatry and Behavioral Sciences

Psychiatry and the Law Program

FORM 5

STATE OF SOUTH CAROLINA

County of York

2020 FEB -7 PM 4:29

IN THE COURT OF COMMON PLEAS

Jefferson Quinte. Quishp

Full name and prison number (if any) of Applicant

v.

State of South Carolina

2020 CP 46-499

APPLICATION FOR
POST-CONVICTION RELIEF

2020 FEB -7 PM 4:27

FILED-RECEIVED

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 Currently Kirkland Reception and evaluation
Not sure where I got from here
2. Name and location of Court which imposed sentence York County
General sessions
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2018-GS-46-01224
 - (b) 2018-GS-46-01924a

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) December 17, 2019
- (b) Murder 1 - Life
- (c) PWDVC - 5 year Concurrent
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty ☒
- (b) after a plea of not guilty _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
no
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) I was under the impression my lawyer was suppose to file
- (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 council
- (b) _____
- (c) _____

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

- (a) my lawyer never filed for the appeal
- (b) my sentencing sheet says without negotiations →
- (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No

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

- (a) the specific nature thereof:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

- i. _____
- ii. _____
- iii. _____
- iv. _____

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

no this is 1st time filing

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

(a) which grounds have been presented:

- i. _____
- ii. _____
- iii. _____

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

- i. _____
- ii. _____
- iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) first time filing
 (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? N/A
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? never filed
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
None

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. Chris Wellburn Bar # 11914
 ii. _____
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. Plea - December 17, 2019 York County
Judge - Daniel Hall JC # 2753
 ii. _____
 iii. _____

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

Relief on imposed sentence of life Can I plea to a
manslaughter? or have eligibility of parole? the never
offered me anything but life. → Back

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

No

STATE OF SOUTH CAROLINA)

County of York)

VERIFICATION

I, Jefferson Quishpi Quinde, 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.



SWORN to and subscribed before me this 30th
 day of January, 2020.

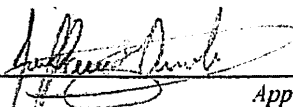
 (L.S.)
 Notary Public

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

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

I, Jefferson Quishpi Quinde, 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.


Applicant

SWORN or affirmed to and subscribed before me this

30th day of January, 2020.


Notary Public

My Commission Expires: BETH A. MANGOLD
Notary Public, State of South Carolina
My Commission Expires 8/10/2022

STATE OF SOUTH CAROLINA
COUNTY OF YORK

Jefferson Quishpi, #381901

Applicant,

v.

State of South Carolina,

Respondent.

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

Case No.: 2020-CP-46-0499

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

DAVID HAMILTON
C.C.P. # 05
YORK COUNTY, SC

2020 AUG 12 AM 11:19

FILED-RECEIVED

NOW COMES Respondent, the State of South Carolina, making its return to the application of post-conviction relief filed on February 7, 2020, by retained counsel Cassity Brewer on behalf of Jefferson Quishpi (Applicant), Respondent respectfully offers the following in support of its return:

I. Procedural History

Applicant is presently in the South Carolina Department of Corrections. In March 2018, the York County Grand Jury indicted Applicant for Murder (2018-GS-46-1924, Count 1); Possession of a Weapon during the Commission of a Violent Crime (2018-GS-46-1924a, Count 2); Domestic Violence, 2nd degree (2017-GS-46-5047); and Domestic Violence, 3rd degree (2017-GS-46-5048). Christopher A. Wellborn, Esquire, represented Applicant. Solicitor Kevin S. Brackett, Deputy Solicitor Walter W. Thompson, and Senior Solicitor Jenny Desch of the Sixteenth Circuit Solicitor's Office prosecuted the case.

On December 17, 2019, Applicant pleaded guilty but mentally ill to murder and possession of a weapon during the commission of a violent crime. The domestic violence charges were dismissed as part of the plea agreement. Prior to plea proceedings, the Honorable John Hayes

ordered Applicant to complete a competency evaluation with the South Carolina Department of Mental Health. (Tr. 5). Two medical experts concurred that at the time of the offense Applicant was suffering from a mental disease—reporting he experienced “PTSD auditory command hallucinations”—but nonetheless met the standards for competency and appeared to have the ability to think of and carry out his plan. (Tr. 8-10). The Honorable Daniel D. Hall conducted a thorough *Blair* hearing shortly before the plea was entered to confirm Applicant was competent to stand trial and criminally responsible at the time of these offenses. (Tr. 14-36).

On December 17, 2019, Judge Hall sentenced Applicant to life imprisonment for murder to run concurrent with five years’ imprisonment for possession of a weapon during the commission of a violent crime. Applicant did not appeal his sentence or conviction.

II. Factual History

The underlying facts of the crime for which Applicant is incarcerated were articulated by the State during the plea proceedings as follows:

In June 2017 and on September 11, 2017, law enforcement responded to a domestic violence calls after Applicant punched and strangled his live-in girlfriend (Victim). (Tr. 43, 45). After the first incident, Applicant was charged with domestic violence, 2nd degree on bond with a no-contact order. (Tr. 43-44). After the second incident, the Court revoked Applicant’s bond, but Applicant did not appear to his last court date on September 18. (Tr. 47-48). A couple days after both assault Victim called law enforcement to drop the charges. (Tr. 44, 46).

On September 18, 2017, Applicant text messaged Victim’s nine-year old son for their whereabouts before concealing his car down the street and hiding in Victim’s new residence. (Tr. 50). Upon Victim and her three young children’s return, Applicant locked Victim in a bedroom and stabbed her several times. (Tr. 50). When police arrive they witnessed Applicant in a locked bedroom stabbing himself. He refused to put down the knife until he was tased. (Tr. 49). Officers then spotted

Victim laying on her back against a wall. She was unresponsive and later pronounced dead at the scene due to severe blood loss from twenty stab wounds. (Tr. 49, 53).

III. Allegations Raised and Relief Sought in Application

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

1. Ineffective Assistance of Counsel
 - a. “My lawyer never filed for the appeal.”
 - b. “My sentencing sheet says without negotiations.”

Applicant requests the following forms of relief: “Relief an imposed sentence of life. Can I plea to a manslaughter? Or have eligibility of parole? They never offered me anything but life.”

Attached to and incorporated herein are the York County Clerk of Court Records regarding the subject convictions, the Applicant’s South Carolina Department of Corrections Records, the plea transcript, and the current PCR application. Respondent reserves the right to amend this Return upon receipt of relevant information.

IV. Responses to Claims of Ineffective Assistance of Counsel

In his application, Applicant asserts he is entitled to post-conviction relief based on two claims of ineffective assistance of counsel: failure to file an appeal and failure to present a proper plea. Beyond the claim that counsel was ineffective for failing to file a direct appeal, Applicant’s claims lack sufficient factual support required for Respondent to adequately respond with any specificity. Accordingly, Respondent responds generally to his claims of ineffective assistance of counsel and requests that Applicant—through his retained counsel—file an amended application properly setting forth specific allegations and claims with supporting facts well in advance of an evidentiary hearing. Additionally, Respondent requests that this matter not be set for an evidentiary hearing until Applicant provides a more definite statement.

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668 (1984); *Taylor v. State*, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). In a PCR action, an applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When the applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland*, 466 U.S. 668, 686 (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*, 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.

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

Applicant claims his plea counsel failed to file a timely notice of appeal and states "I was under the impression my lawyer was suppose (sic) to file;" however, he fails to provide proper reasoning for not appealing. Generally, there is no constitutional deprivation in not being advised of the right to appeal from a guilty plea absent extraordinary circumstances. Counsel only has a constitutionally imposed duty if counsel fails to consult with an applicant regarding an appeal if the applicant expresses some interest in appealing. *Frazer v. South Carolina*, 430 F.3d 696 (4th Cir. 2005); *Roe v. Flores-Ortega*, 528 U.S. 470, 120 S. Ct. 1029 (2000). In Applicant's case, he has not asserted he discussed his interest to appeal with his plea counsel or led his counsel to believe he wanted to appeal. Therefore, more information is needed to properly respond to this allegation.

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, but only after Applicant files an amended application containing the required specificity to support his claims. *See Sharper v. State*, 279 S.C. 264, 305 S.E.2d 247 (1983).

As discussed above, it is impossible for Respondent to adequately respond to Applicant's allegation of ineffective assistance of counsel because Applicant has completely failed to provide any specific allegations or facts to support such claims. Respondent requests Applicant, through counsel, provide specific claims and facts to support his vague allegations of ineffective assistance of counsel prior to an evidentiary hearing.

V. Motion for a More Definite Statement

Respondent also hereby moves for a more definite statement regarding Applicant's allegations. Applicant alleges plea counsel failed to appeal his case and his sentence is not in negotiations. 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.

VI. Assertion of Rights to Notice of Amendments, Experts

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

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent, or in the alternative continue the matter to permit adequate time to investigate and address the claims. *See Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); *see also* Rules 15(a)-(b), SCRCP (explaining how to amend a pleading).

Pursuant to § 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent

to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

VII. All Other Allegations

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

VIII. Conclusion

WHEREFORE, having made its return, the State requests an evidentiary hearing be held on Applicant's various claims of ineffective assistance of counsel.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

BRIANNA L. SCHILL
Assistant Attorney General

By: s/ Brianna L. Schill
ATTORNEYS FOR RESPONDENT

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

August 7, 2020

STATE OF SOUTH CAROLINA)
COUNTY OF YORK)
JEFFERSON QUINDE QUISHPI, #381901)
Applicant,)
vs)
STATE OF SOUTH CAROLINA,)
Respondent.)

IN THE COURT OF COMMON PLEAS

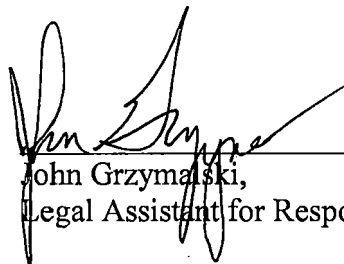
2020-CP-46-499

AFFIDAVIT OF SERVICE BY MAIL

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

Cassity Ann Brewer, Esquire
6277 Carolina Commons Dr.
Ste. 500
Fort Mill, SC 29707

DATED this the 7th day of August, 2020.


John Grzymalski,
Legal Assistant for Respondent

2020 AUG 12 AM 11:19
DAVID HAMILTON
C.O.C.P. & CS
YORK COUNTY, SC

FILED-RECEIVED


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 STATE OF SOUTH CAROLINA)
 2022 JUN 27 AM 9: 52
 COUNTY OF YORK)

DAVID HAMILTON)
 Jefferson Quinde Quishpi, C.C.C.P. & GS)
 SCDC # 381901, YORK COUNTY, SC)

Applicant,)

v.)

State of South Carolina.)
 _____)

COURT OF COMMON PLEAS
 SIXTEENTH JUDICIAL CIRCUIT
 Case No.: 2020-CP-46-0499

**AMENDED POST-CONVICTION
 RELIEF APPLICATION**

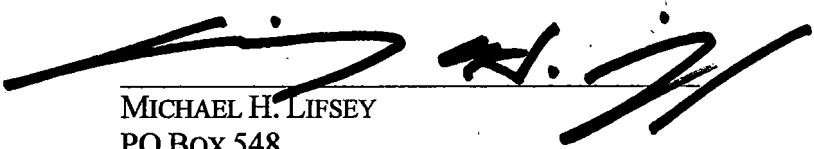
The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on February 7, 2020, to add the following allegations:

1. Ineffective assistance of counsel for

- (a) Applicant's plea counsel did not meet with Applicant a sufficient number of times prior to his plea, did not fully explain the strengths and weaknesses of the State's case, and did not explain the elements of the crimes of which he was charged. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
- (b) Based on plea counsel's ineffective advice as described in (a) above, Applicant believed that murder was a parole eligible offense. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
- (c) Based on plea counsel's ineffective advice as described in (a) and (b) above, Applicant believed that he had no choice but to answer the Judge's questions during the plea colloquy in such a manner as would result in the Judge accepting the plea. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.

- (d) Plea counsel did not adequately explain to Applicant the ramifications (and lack of any benefit) of a plea of Guilty but Mentally Ill. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
- (e) Plea counsel was ineffective for failing to object to the Judge sentencing Applicant on the charge of Possession of a Weapon During the Commission of a Violent Crime after imposing a life sentence without parole on the violent crime of Murder, as prohibited by S.C. Code Section 16-23-490(A) and for not filing an appeal of this illegal sentence.
2. The ineffective assistance of counsel as described above, rendered Applicant's plea involuntary.
3. Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. *See Simpson v. Moore*, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,



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SC BAR NO. 015154
ATTORNEY FOR APPLICANT

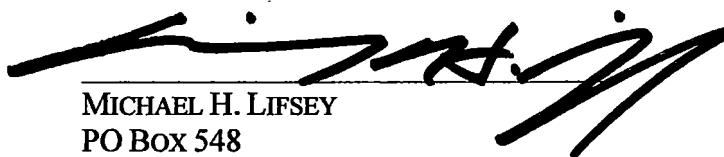
June 22, 2022

CERTIFICATE OF SERVICE

I certify that I have served this document via first class mail on:

Zachary Jones
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

This 22nd Day of June, 2022.



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ATTORNEY FOR APPLICANT

June 22, 2022

FILED-RECEIVED
2022 JUN 27 AM 9:52
DAVID HAMILTON
C.C.P. & GS
YORK COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS
CASE NO. 2020-CP-46-00499

JEFFERSON Q. QUISHPI,
Plaintiff,

-vs-

STATE OF SOUTH CAROLINA,
Defendant.

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TRANSCRIPT OF RECORD

February 29, 2024
York, South Carolina

B E F O R E:

Honorable Mark Hayes, Judge.

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

Mr. Michael Lifsey
Attorney at Law
Attorney for the Plaintiff
Chester, South Carolina

Mr. Cruise Mitchell
Assistant Attorney General
Attorney for the Defendant
Columbia, South Carolina

Ms. Sarah Robbins
Court Interpreter

Shannon E. McGilberry, CVR-M
Court Reporter

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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JEFFERSON QUINDE QUISHPI

Mr. Lifsey 5

Mr. Mitchell 9

Mr. Lifsey 11

CHRISTOPHER WELLBORN

Mr. Mitchell 13

Mr. Lifsey 21

CERTIFICATE 32

1 (Whereupon, Sarah Robbins, Court Interpreter, was duly
2 sworn prior to this hearing beginning.)

3 THE COURT: All right. I have that this is the case of
4 *Quishpi versus State*, 2020-CP-46-00499. I'll turn the
5 matter over to the Attorney General to announce the case.

6 MR. MITCHELL: May it please the Court. Your Honor,
7 this is the post-conviction relief matter of *Jefferson*
8 *Quinde Quishpi v. State*, case number 2020-CP-46-00499, out
9 of York County.

10 I am Cruise Mitchell on behalf of the State of South
11 Carolina. Applicant is present and represented by counsel,
12 Michael Lifsey.

13 Applicant was indicted at the March, 2018 term of the
14 York County Grand Jury for murder and possession of a weapon
15 during the commission of a violent crime.

16 Applicant was represented by Christopher Wellborn. The
17 case was prosecuted by Solicitor Kevin Brackett, Deputy
18 Solicitor Walter Thompson and Senior Solicitor Jenny Desch.

19 On December 17th, 2019, applicant appeared before the
20 Honorable Daniel D. Hall and pleaded guilty but mentally ill
21 to murder and possession of a weapon during the commission
22 of a violent crime.

23 Judge Hall sentenced applicant to life without parole
24 for murder and five years for possession of a weapon during
25 the commission of a violent crime, with those sentences to

1 be served concurrently. Applicant did not appeal his
2 conviction or sentence. Applicant timely commenced this PCR
3 action on February 7th, 2020 and with that, I'll turn the
4 case over to Mr. Lifsey.

5 MR. LIFSEY: May it please the Court, Your Honor?
6 We're ready to proceed. We filed an amended application and
7 we'll proceed on the grounds stated in the amended
8 application, Your Honor. If you have a copy of it, I
9 assume, as part of the record. If you don't, I have an
10 extra copy, I believe.

11 THE COURT: The document I have is it formerly
12 entitled, Amended Post-Conviction Relief Application?

13 MR. LIFSEY: Yes, sir.

14 THE COURT: I have that. Yes, sir.

15 MR. LIFSEY: We're ready to proceed when the Court is.

16 THE COURT: Okay. I'm ready.

17 MR. LIFSEY: And I would put on the record there is an
18 interpreter here. Mr. Quishpi understands English if you
19 speak slowly to him. My concern was that in court
20 frequently people don't speak slowly and sometimes it's hard
21 to read body language as well as hear them, so that's why we
22 have an interpreter here and I think the safest thing to do
23 to have Ms. Robbins interpret for him the entirety of this
24 proceeding.

25 THE COURT: Okay.

1 MR. LIFSEY: Thank you. We would call Mr. Quishpi to
2 the stand, please.

3 THE COURT: Sir, just come up here. Let the Clerk of
4 Court swear you in right in front of me, sir. Place your
5 left hand on the Bible and raise your right hand.

6 (JEFFERSON QUISHPI, being first duly sworn, was
7 examined and testified as follows):

8 THE COURT: Now, Madam Interpreter, you're going to
9 need to really speak up when you're responding, because the
10 court reporter way over there has got to be able to hear you
11 as well as the lawyers on the opposite sides of the
12 courtroom, so really speak up when you're interpreting for
13 him.

14 MS. ROBBINS: Yes, Your Honor.

15 MR. LIFSEY: You want to sit next him maybe? Would
16 that be easier? Or would you --

17 MS. ROBBINS: No. I'm fine. Thank you.

18 MR. LIFSEY: Okay.

19 DIRECT EXAMINATION

20 JEFFERSON QUISHPI BY MR. LIFSEY:

21 Q. Would you state your full name, please?

22 A. My name is Jefferson Quishpi.

23 Q. Mr. Quishpi, where are you being held right now?

24 A. In the Correctional Institute of Lee County.

25 Q. What sentence are you serving?

1 A. It's life in prison.

2 Q. And did you hear the Attorney General state the charges
3 that you pled guilty to?

4 A. Yes.

5 Q. Who represented you when you pled guilty to those
6 charges?

7 A. The attorney Chris Wellborn.

8 Q. How many times did you meet with Mr. Wellborn prior to
9 entering your plea?

10 A. Four times.

11 Q. Did Mr. Wellborn discuss with you the evidence in your
12 case?

13 A. Not much, just a little bit.

14 Q. What all did you and Mr. Wellborn talk about?

15 A. About the charges that they had against me and how many
16 years they were going to give me.

17 Q. Did Mr. Wellborn explain to you how much time murder
18 carried in South Carolina?

19 A. He just told me that it was life.

20 Q. So what made you finally decide to enter your plea of
21 guilty in this case?

22 A. Because he told me he had been talking to the
23 prosecutors and they were going to try to get a deal with
24 sixty-five.

25 (Whereupon, the Interpreter clarified the answer with

1 the witness.)

2 A. Sixty-five.

3 Q. Did Mr. Wellborn discuss with you the prospect of you
4 being released early on parole?

5 A. No.

6 Q. What did you believe you were facing when you pled
7 guilty in front of the judge?

8 A. I wasn't really sure, but when he told me that he was
9 speaking with the prosecutors, he said that he was trying to
10 make an -- get an agreement.

11 Q. Was that an agreement for some specific amount of time
12 you thought you were going to get?

13 A. Yes.

14 Q. And what was that specific amount of time you thought
15 you were going to get?

16 A. Forty-five.

17 Q. So when you pled guilty, you believed you were going to
18 get 45 years?

19 A. Yes.

20 Q. Did Mr. Wellborn explain to you that -- ever explain to
21 you that that was not a set deal, that you were not going to
22 get 45 years?

23 A. No, because the last time we talked, then he didn't
24 come see me.

25 Q. So when you stood in front of Judge Hall to enter your

1 plea, you believed you were getting 45 years? Is that what
2 you're saying?

3 A. Yes.

4 Q. Did you -- if you had known you were not going to get
5 45 years, would you have still pled guilty?

6 A. No.

7 Q. You pled guilty but mentally ill. Is that right?

8 A. Yes.

9 Q. Did Mr. Wellborn explain to you what that plea meant?

10 A. No.

11 Q. Did Mr. Wellborn explain to you that for sentencing
12 purposes, there's no difference between a guilty plea and a
13 guilty but mentally ill plea?

14 A. No.

15 Q. Did -- do you have any other complaints you want to
16 make about how Mr. Wellborn represented you?

17 A. Yes. The only thing he was doing was he wanted to
18 process the case and hurry through it.

19 Q. So you felt like you were rushed through this process?
20 Is that what you're saying?

21 A. Yes.

22 Q. Anything else you want to add?

23 A. No.

24 MR. LIFSEY: Your Honor, if I can address one thing and
25 I apologize. I should have addressed this early on. One of

1 the things we alleged in our amended post applicant -- post-
2 conviction relief application, 1(e) regards the sentencing
3 for the offense of possession of a weapon during a violent
4 crime. My understanding is the State agrees that that was
5 improper in that regard.

6 MR. MITCHELL: That's correct, Your Honor. The statute
7 is pretty clear that you can't sentence for possession of a
8 weapon with life without parole for murder.

9 MR. LIFSEY: So that's why I'm not asking him any
10 questions regarding that, Judge.

11 THE COURT: Okay. Okay. We can talk about it later as
12 to the effect. Okay. All right.

13 MR. LIFSEY: I don't have any further questions of this
14 witness.

15 THE COURT: Please answer any questions the Attorney
16 General might have for you.

17 CROSS-EXAMINATION

18 JEFFERSON QUISHPI BY MR. MITCHELL:

19 Q. Good morning, Mr. Quishpi. During your guilty plea,
20 the judge went over the Constitutional rights you would be
21 waiving; correct?

22 A. Yes.

23 Q. And you waived those rights; correct?

24 A. Yes.

25 Q. And the trial judge informed you that by pleading

1 guilty, you will be facing a maximum sentence of life
2 without parole; correct?

3 A. Yes.

4 Q. And you informed the judge that you understand that;
5 correct?

6 A. Yes.

7 Q. And do you recall the solicitor going over the facts of
8 this case?

9 A. Yes.

10 Q. And they went over the evidence that they were going to
11 present if you went to trial?

12 A. Yes.

13 Q. And included in that summary, the State informed the
14 plea Court that they were going to present evidence that you
15 broke into Jade's house, hid in her four-year-old daughter's
16 bedroom and then stabbed Jade multiple times, killing her;
17 correct?

18 A. Yes, but that wasn't her house. It was in my name.
19 All of it was in my name.

20 Q. And you agreed with the solicitor's recitation of the
21 facts?

22 A. No.

23 Q. You did not agree with the facts at the guilty plea
24 hearing?

25 A. About the facts of the case, yes, but the fact that it

1 was her house, no, because it was mine.

2 Q. Besides the -- whose house it was, you agreed with
3 everything else; correct?

4 A. Yes.

5 Q. And were you out on bond for domestic violence during
6 this time?

7 A. Yes.

8 Q. And you also had a no-contact order with the victim?

9 A. Yes.

10 Q. And you did plead guilty to this crime; correct?

11 A. Yes.

12 MR. MITCHELL: No further questions, Your Honor.

13 MR. LIFSEY: May I very briefly?

14 THE COURT: Yes, but limited to what the State went
15 into.

16 MR. LIFSEY: I'm sorry? Say that -- I'm trying to --

17 THE COURT: Redirect is limited to what the State went
18 into.

19 REDIRECT EXAMINATION

20 JEFFERSON QUISHPI BY MR. LIFSEY:

21 Q. The Attorney General asked you about the questions the
22 judge asked you during your guilty plea. Is that -- you
23 remember him asking you those questions?

24 A. No.

25 Q. Did you have a good memory of what happened during your

1 plea?

2 A. No.

3 Q. Were you pretty emotional about -- at the time those
4 questions were being asked to you by the judge when you pled
5 guilty?

6 A. Yes.

7 Q. And did you answer those questions -- were you paying
8 close attention to all those questions when they were asked
9 to you?

10 A. No, because when they showed me all of the evidence
11 about the day that it happened, I -- I couldn't even think
12 straight.

13 MR. LIFSEY: I don't have any further questions.

14 THE COURT: Anything from you?

15 MR. MITCHELL: No recross, Your Honor.

16 THE COURT: Thank you, sir. You may step down.

17 Does the Applicant intend to call any other witnesses?

18 MR. LIFSEY: No, Your Honor.

19 THE COURT: Is the State ready to proceed?

20 MR. MITCHELL: Yes, Your Honor.

21 The State calls Mr. Christopher Wellborn.

22 THE COURT: Mr. Wellborn, just come right up here and
23 let the Clerk of Court swear you in.

24 (CHRISTOPHER WELLBORN, being first duly sworn, was
25 examined and testified as follows):

1 THE COURT: Just have a seat in the witness chair.
2 Speak into the microphone so the court reporter and
3 everybody else can hear you.

4 DIRECT EXAMINATION

5 CHRISTOPHER WELLBORN BY MR. MITCHELL:

6 Q. Good morning, Mr. Wellborn.

7 A. Morning.

8 Q. How long have you been practicing law?

9 A. Since January 9, 1989.

10 Q. And most of that has been in criminal law?

11 A. Yes. In fact, since 1997, I've done, basically,
12 nothing but criminal defense work.

13 Q. And you were eventually retained to represent Mr.
14 Quishpi?

15 A. I was. Yes.

16 Q. And did you meet with Mr. Quishpi in preparation for
17 this case?

18 A. On multiple occasions, both in the York County -- well,
19 let's preface this by saying that when I was first retained
20 to represent Mr. Quishpi, he was already incarcerated at the
21 York County Detention Center, so all my meetings with him,
22 with the exception of the meeting, literally, behind the
23 deputy the day of the plea, have been at or were at the York
24 County Detention Center.

25 Q. And during those meetings, did you discuss the elements

1 of the crime and the penalties he faced?

2 A. Well, yes. It was -- we discussed the fact that he was
3 charged with murder and that under South Carolina Law, the
4 options for someone convicted of murder were a mandatory
5 minimum of 30 years. They could be any number in excess
6 of that 30 years up to life without parole or the State
7 could also choose to, if they chose to, seek the death
8 penalty. So those --

9 Q. And---

10 A. Sorry.

11 Q. ---did you review the discovery with Mr. Quishpi?

12 A. When you say review the discovery, we didn't -- we
13 talked about what the allegations were. We talked about
14 were in the incident reports. We discussed what the State
15 would present. Did I hand every piece of paper to him? No.
16 But we did talk about the facts of the case in detail,
17 including the fact that at the time of the, at that point,
18 alleged offense, he had a previous conviction for criminal
19 domestic violence, that the victim of that case was the same
20 person who was killed by Mr. Quishpi and that there had been
21 a protective order issued and that was potentially going to
22 be -- well, it would be used against him if he went to
23 trial, in my opinion, pursuant to 404(B) of the South
24 Carolina Rules of Evidence and/or *State versus Lyle*.

25 Q. And can you explain how the -- how Mr. Quishpi ended up

1 pleading guilty?

2 A. Well, okay. So he ended up pleading guilty because we
3 had -- when I first took over the case from prior counsel,
4 there was an offer that had been presented for a negotiated
5 sentence of 50 years. It was not 65, it was not 45, it was
6 a flat 50, and Mr. Quishpi was full aware that the -- and I
7 made him aware that the minimum that he could get under our
8 law was 30. We talked about the fact that given Mr.
9 Quishpi's size, his lack of context with the Department of
10 Corrections, the fact that he was, although legally in the
11 United States, he'd grown up in Ecuador and various other
12 issues, including what I felt were his mental issues, that
13 he would not survive 50 years and so our sort of
14 presentation to the State throughout was, you know, 30 years
15 is enough or a cap of 50, but not -- let him to plead to
16 that and we could argue for something less. The State stuck
17 to their position that it was either a negotiated 50 or we
18 could just do a straight-up plea. So we discussed that and
19 it was long time getting there, quite frankly, because there
20 was a lot of investigation that had to take place in this
21 case. First of all, before I got involved in the case,
22 there had been a mental evaluation of Mr. Quishpi. That was
23 by Dr. Colby Sutton. Dr. Sutton had determined that he did
24 not meet the standard of competent -- you know, not
25 competent to stand trial, that he was competent. She did a

1 thorough evaluation of him. My concern was whether or not,
2 of her language skills and/or whoever had assisted her
3 during the evaluation might be limited by their language
4 skills in terms of doing a proper evaluation. I have no
5 issues with Dr. Sutton. She's excellent. I've used her
6 before. So where we really went with this is to try and
7 build up something to see if we could, A, find mitigation
8 and B, determine whether or not, in fact, he had gotten a
9 thorough mental evaluation, given the language issues. Mr.
10 Quishpi had indicated to me through multiple jail visits and
11 every time I talked to him that he was hearing voices and
12 that these voices had spoken to him prior to going to the
13 deceased's apartment or house and were speaking to him and,
14 you know, telling him to do the things that he did. I don't
15 want to go into the detail about what happened in that
16 apartment because I think that that, A, it's not, at this
17 point, relevant, but B, it's also -- we have people in the
18 courtroom that have suffered as a result of that and I just
19 -- out of respect for them, unless you ask me. So what I
20 did is I reached out to Mr. Quishpi's family. He had family
21 in New York. He had, I believe, some family in Illinois, as
22 I recall. His parents had been separated. Mr. Quishpi had
23 grown up in a small city in Ecuador and there was some
24 indication that as a small child he had some issues that
25 indicated to me there might be some mental problems at play

1 and that he had not particularly received what one would
2 typically think of is appropriate treatment for those in
3 Ecuador. In fact, quite the opposite, that his -- whatever
4 it is that he had exhibited had resulted in physical
5 discipline from whoever was supervising him in Ecuador. So
6 I engaged Dr. Adriana Flores, who is in Atlanta, who is a
7 well-recognized psychologist and is also Spanish speaking.
8 Her background, she's from Qualia, Mexico, to reach out to
9 people in Ecuador to see what could find in the way of
10 records. She did that. She interviewed the family and she
11 reached out. I also engaged counsel in Ecuador to try and
12 track down any relevant medical records and/or school
13 records that we could use for purposes of the evaluation.
14 So we did this and, then, of course, Dr. Flores did a full
15 evaluation, psych evaluation of Mr. Quishpi, and came up
16 with this exact same conclusion that Dr. Sutton had come up
17 with. Dr. Flores, additionally, was the instructor or Dr.
18 Sutton when she was going through and getting her advance
19 degree, so Colby Sutton had been her student and when you
20 have the person who is the teacher of the student saying I
21 reached the same exact conclusion after the additional
22 investigation and investigation in Ecuador as well as
23 elsewhere, we were sort of locked in. There was no question
24 about competency. So then the question became, well, what
25 do we have if he's competent and was competent and would be

1 competent to stand trial, would be able to assist me in
2 defending him at trial, but also did not in any way meet the
3 standard of being, potentially, a defense of competency or a
4 defense of insanity, then what we have left is guilty but
5 mentally ill and that was explained to Mr. Quishpi that this
6 was not a defense, but it was something that we would
7 certainly, you know, use to try and help him out. So where
8 we stood on the eve of the plea was we had an offer on the
9 table of a negotiated 50. We had said we are, per my
10 client's decision, and I discussed this with my client and
11 my client's family, that what we were trying for was to do
12 better than that by way of the plea. Hopefully, get
13 something close to 30 and so we were -- that's where we were
14 and the client understood. I made it clear to him that
15 everything we were doing was to try and get this down from,
16 you know, where we stood with the negotiated 50. It was our
17 hope that the judge, understanding that the State would have
18 been satisfied with 50 at -- prior plea, so why should they
19 ask for more at the time of the plea. That was our hope.
20 At the time of the plea, Dr. Flores was here. She
21 testified. Judge did find that he met the standard for
22 guilty but mentally ill. We brought in some people who had
23 had experience in the Department of Corrections to talk
24 about life expectancy, to talk about what conditions would
25 be like for him, because he would not be the same,

1 potentially, as somebody who was coming in the Department of
2 Corrections with a different set of physical capability, a
3 different issue related to language, perhaps connections
4 with other inmates in the Department of Corrections, as well
5 as without the potential mental issues going on. That is
6 where we were at the time of the plea. So this was not by
7 way -- the process, which I believe was described as rushed.
8 This took quite a while to put together in terms of setting
9 this up. In fact, we had a plea date that had been
10 scheduled earlier that fell apart just because of time
11 constraints so we had to bring everybody back, Dr. Sutton
12 from Atlanta, the people from the Department of Corrections,
13 et cetera, for a second plea date.

14 Q. And so, the offer of 50, was that a decision that Mr.
15 Quishpi made in rejecting it or was that a decision that you
16 made?

17 A. Well, it was a decision Mr. Quishpi made. You know, I
18 didn't tell him, no, you're rejecting an offer of 50 years,
19 we're going for something else. I presented that to him.
20 He did not want to do 50 years. I think he understood that
21 50 years was something that might effectively be a life-
22 without-parole sentence for him. Nobody -- you know, when I
23 talked to anybody, whether it was the family, Mr. Quishpi,
24 nobody thought that that offer was going to be something
25 that he would feel comfortable accepting and so it was in

1 conjunction with discussions with him and his family that we
2 made the argument or made the presentation, made the
3 decision to go forward and see if, through mitigation, we
4 could do better than that.

5 Q. And in explaining that, did you also explain that he
6 could still get life without parole?

7 A. Yes. I mean, throughout the whole process it was
8 explained to everybody that the options were a minimum
9 mandatory 30 up to life without parole, that a judge could
10 sentence anywhere more than 30, which, you know, could be
11 40, 50, 60, 180, whatever a judge might want to do and that,
12 of course, they could certainly take this whole thing off
13 the table and seek the death penalty.

14 Q. And there was never an offer for 45 years?

15 A. There was never an offer for 45 years. There was never
16 an offer for anything other than a negotiated 50.

17 Q. And going back, when you -- in your discussions with
18 Mr. Quishpi regarding pleading guilty but not mentally ill,
19 you went over -- went over all that with him; correct?

20 A. Yes. I mean, we talked repetitively about the
21 sentences and the potential sentences, but we also talked
22 about a lot of other stuff, too. We discussed why it was
23 that he went to the house that day, the fact that he did
24 have a protective order that, you know, legally prevented
25 him from going into the house. We talked about where the

1 knife came from that was the murder weapon. We talked about
2 what happened to the knife. We talked about a lot of
3 details which were, you know, pretty graphic in terms of the
4 timing of everything that happened and, yeah, we talked
5 about all of that.

6 Q. And, ultimately, the decision to plead guilty but
7 mentally ill was Mr. Quishpi's alone?

8 A. Yes. I mean, I -- it was my suggestion to him that
9 this was -- that he did not want to go to trial on these
10 facts and this is why: it was clear from the very beginning
11 of this case and certainly as the case went on and the idea
12 that the insanity or potential insanity defense was
13 foreclosed, that there was no viable or ethical or factual
14 basis for me, as an Officer of the Court, to present to a
15 Court that he was unable to assist me as counsel in his own
16 defense, that he -- if he went to trial, he would have to go
17 to trial and the facts were, quite frankly, horrendous.

18 MR. MITCHELL: Thank you, Mr. Wellborn. I think that's
19 all I have for you.

20 CROSS-EXAMINATION

21 CHRISTOPHER WELLBORN BY MR. LIFSEY:

22 Q. Mr. Wellborn, just a couple questions here. You
23 mentioned his background, he grew up in Ecuador. Is that
24 right?

25 A. Yes.

1 Q. So he didn't have a lot of -- well, let me put it this
2 way: he didn't have a lot of familiarity with the
3 intricacies of the American legal system. Is that fair to
4 say?

5 A. I think that's fair to say. I mean, he had his -- I
6 mean, other than his prior conviction for the domestic
7 violence, I'm not aware that he had much interaction with
8 the American legal system.

9 Q. And a lot of these issues that we discussed or has been
10 discussed in this courtroom, such as, parole eligibility and
11 the benefits or not benefits of a plea of guilty but
12 mentally ill, those are complicated legal issues?

13 A. Well, they certainly can be. Parole eligibility was
14 not particularly complicated in this case 'cause he wasn't
15 looking at any parole eligibility and that was explained to
16 him, but as far as the complexity of things like whether
17 someone is subject to early release or credits and all that
18 stuff, that could be something I certainly understand would
19 be very, very difficult for someone who is not -- who grew
20 up in a working-class background, came to the United States
21 and I can't remember how old he was when he came to the
22 United States, but he was fairly young when he was sent from
23 Ecuador to live with his family in the United States. He
24 actually grew up as a preteen and teenager in the upstate
25 New York area, so you know, again, what I can say is that we

1 kept it pretty simple, that he was -- the lowest he could
2 get was 30 years. He could get life without parole. Life
3 meant life, means he would die in prison and it was
4 explained to him that way, that the State was offering him a
5 straight 50 years and it was our position, ours meaning
6 collectively the position of Mr. Quishpi and myself, that he
7 wished to try for less than 50 years. So that's the way we
8 kept it, you know, so --

9 Q. And I guess my question to you is these issues you're
10 describing, even for people who are -- I don't want to use
11 the word normal -- but the normal clients you and I get who
12 grew up here, a lot of them have mis conceptions about the
13 criminal justice system. Is that fair to say?

14 A. I think there are a lot of people that have
15 misconceptions about the criminal justice system.

16 Q. Yes.

17 A. One misconception would be that it's a criminal justice
18 system.

19 Q. And, obviously, part of what you do as a lawyer is
20 explaining to them what the reality is of the system;
21 correct?

22 A. Correct.

23 Q. And explain -- and sometimes that takes some effort,
24 would you agree, to get people to understand what they're
25 facing and what the reality of the process is like. Is that

1 fair to say?

2 A. That is absolutely fair to say.

3 Q. And those issues are certainly not made simpler by
4 someone who didn't grow up in this country and has no innate
5 familiarity with these issues. Is that fair to say?

6 A. That's also fair to say.

7 Q. All right. When you were retained on the case, you
8 said -- you testified that the offer at that point was a
9 negotiated 50?

10 A. Correct.

11 Q. And --

12 A. At least that's what I was told, that that was the
13 offer.

14 Q. Your understanding of it?

15 A. That was my understanding.

16 Q. Right. So is it fair -- certainly his perception --
17 you explained that to him once you were on the case
18 yourself, that you believe the offer was 50. Is that
19 correct?

20 A. Yes. I told him that that's what I had been informed.

21 Q. So it certainly is not surprising, is it, that he would
22 have viewed the case as not more than 50; correct?

23 A. He might have viewed it that way. I cert- --

24 Q. I mean, you --

25 A. I certainly -- I don't know if he would have viewed it

1 that way after we had spoken for about fifteen minutes,
2 because I explained to him in the first visit and in almost
3 every visit after that that that was the negotiated sentence
4 if he pled, but that a judge -- that the offense that he was
5 charged with could carry significantly more, including life
6 without parole or the death penalty.

7 Q. I think under -- and in response to questions by the
8 Attorney General, I think you said that certainly going into
9 the plea your hope was that he would face no more than 50?

10 A. Well, going into the plea, my hope was that he would
11 place -- he would be sentenced to significantly less than
12 50. That was my hope.

13 Q. Because you indicated that, of course, if the State was
14 satisfied with 50 prior to the plea, it didn't inherently
15 make a lot of sense for them to want more than 50?

16 A. Correct.

17 Q. Okay. It's not unusual for him to have shared that
18 same belief?

19 A. No. I mean, certainly I can understand why he would
20 hold out hope because that was certainly something that we
21 hoped for as well, but I want to make this clear. He was
22 informed multiple times that this was going to be a decision
23 that a judge made. There was no guarantee of 50. There was
24 no guarantee that he would get no more than 50, that we were
25 taking a risk by rejecting the negotiated sentence of 50 in

1 the hope that he would get less than 50.

2 Q. Did you do a plea affidavit in this case?

3 A. Did I do a plea affidavit?

4 Q. Was there a plea -- any kind of -- maybe plea
5 affidavit, that's the wrong terminology. I'm sorry. Did
6 you do any written waiver of rights for him in this case?

7 A. I can't recall. I do recall that Dr. Flores, who was
8 present, spoke with him, not only during the -- well,
9 immediately before the plea, but also was with him, talking
10 to him during the plea process as well.

11 Q. Maybe I misunderstood one thing you said earlier, but
12 -- so correct me if I'm not remembering this part of it
13 right. You said the effort -- the decision to plead guilty
14 but mentally ill, did you use the phrase that was a -- that
15 was something to help him out?

16 A. Well, it was our hope that it would show the judge that
17 this was not somebody who was just, quite frankly, just an
18 angry -- I hate to use the term evil, but just a really
19 nasty situation and that there were mental issues involved
20 and that that might mitigate more towards less than the 50
21 that was -- and that was the point.

22 Q. So you viewed the guilty but mentally ill plea, for
23 lack of a better word, as sort of an extension of your
24 mitigation in this case?

25 A. I did.

1 Q. Is that fair to say?

2 A. Yes, and the reason for that is because I wanted Dr.
3 Flores to talk about the background, talk about his
4 background. He, as a young boy, had -- he had indicated to
5 me, he meaning Mr. Quishpi, that he had started hearing
6 these voices as a child in Ecuador and that when he would
7 act out, the response of the family that were care-taking
8 him -- his mother and father had separated early on and I
9 believe -- if I can get this right -- I think his father
10 came to the United States first. He was left with
11 collateral relatives and when he would act out, he was
12 physically beaten.

13 Q. Okay.

14 A. And so that was stuff that we wanted to get in in
15 mitigation, the fact that he had continued to have voices
16 and hear some of this stuff when he was a teenager, that
17 it had gone untreated, that there were, you know, issues
18 relating to him that he had no control over and so this was
19 something we thought was -- would hopefully mitigate in some
20 way to the Court.

21 Q. And I asked you that about mitigation, because
22 obviously, as you well know, from a sentencing -- from a
23 sentencing standpoint, there's no benefit for a defendant to
24 plead guilty but mentally ill in the State of South
25 Carolina?

1 A. That is absolutely true.

2 Q. You -- I believe you said at trial, I mean, excuse me,
3 under questioning by the Attorney General, but correct me if
4 I'm wrong, that he really could not go to trial in this case
5 or didn't want to go to trial with those facts. Is that
6 right?

7 A. Well, okay. So, first, to answer your first statement,
8 he could have gone to trial.

9 Q. Sure.

10 A. Anybody can go to trial.

11 Q. Sure.

12 A. The facts were such, you've got a guy who's got a prior
13 protective order, convicted of criminal domestic violence
14 against the very person who was stabbed to death, who comes
15 to the residence, and it was explained to him and explained
16 to the family that just because he paid money in the home,
17 you know, theoretically thought the home was his did not
18 justify breaking in under those circumstances, especially
19 given the protective order, came in, with a small child
20 there, pushes or bars the child from the room, hides in the
21 closet with a butcher knife effectively and then stabs this
22 person when she comes in an unbelievable amount of time.
23 Under those facts, it was going to be extraordinarily
24 difficult to convince a jury that there was any potential
25 defense, such as, self defense, such as, accident, such as

1 -- and I kind of narrowed it down towards insanity and
2 insanity was foreclosed by two psychologists, one of whom we
3 hired who said that he didn't meet that standard.

4 Q. Certainly bad facts. I'm not arguing with you. I
5 mean, you would agree those are terrible facts, but on the
6 other hand, you've dealt with the Solicitor's office in York
7 County for many, many years. Even on pleas, they're not
8 going to hesitate to delve deeply into those facts, are
9 they?

10 A. Well, I mean, it -- they all came out.

11 Q. Yeah. Absolutely.

12 A. And the thing is that they might not have come out if
13 or if they're going to negotiated plea of 50, if that is
14 what he accepted. Arguably, those facts might not have come
15 out. We would have -- we would have moved forward, but
16 because my client chose to seek less than 50, they then
17 brought out the facts.

18 Q. Well, that wasn't unexpected, though, was it?

19 A. That was not unexpected.

20 Q. And, I mean, I guess what I'm getting at is, obviously,
21 if he had gone to trial, I mean, he couldn't have gotten any
22 worse?

23 A. Well, that's right, but also couldn't have gotten any
24 better.

25 Q. Sure. Well, I mean, certainly --

1 A. If he'd gone to trial, he could have gotten life
2 without parole. He could have also taken the life without
3 -- they could have also taken that off the table and sought
4 the death penalty.

5 Q. I mean, did they ever file notice of the death penalty?

6 A. No, they didn't. What I'm saying is they could have.

7 Q. I mean, there was any real serious discussion of that?

8 A. Well, there was the fact that it is a possibility---

9 Q. Sure.

10 A. ---required me to inform my client that was it a
11 possibility and that, of course, would be a serious
12 discussion.

13 Q. Sure.

14 MR. LIFSEY: Your Honor, may I have just a moment to
15 speak to the client?

16 (Whereupon, Mr. Lifsey and his client conferred through
17 the interpreter.)

18 MR. LIFSEY: I don't have any further questions.

19 THE COURT: Thank you. Any redirect limited to what
20 the Applicant went into?

21 MR. MITCHELL: No, Your Honor.

22 THE COURT: Thank you, sir. You may step down.

23 MR. MITCHELL: Your Honor, at this time the State
24 rests.

25 THE COURT: Any witnesses in reply?

1 MR. LIFSEY: No, Your Honor.

2 THE COURT: All right. I will let you know. Thank you
3 very much.

4 MR. LIFSEY: Thank you, Your Honor.

5 THE COURT: May I see the lawyers at the Bench for a
6 moment?

7 (Whereupon, a bench conference was held off the record,
8 out of the hearing of the court reporter, and the hearing
9 was concluded.)

10 (END OF REQUESTED TRANSCRIPT)

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STATE OF SOUTH CAROLINA)
) C E R T I F I C A T E
COUNTY OF YORK)

I, the undersigned Shannon E. McGilberry, official Court Reporter for the Sixteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of the record of all proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of Common Pleas for York County, South Carolina, on the 29th day of February, 2024.

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

In witness whereof, I have hereunto subscribed my name, this 19th day of August, 2024.

Shannon E. McGilberry, CVR-M

My Commission Expires:
April 26, 2027

1 MR. LIFSEY: No, Your Honor.

2 THE COURT: All right. I will let you know. Thank you
3 very much.

4 MR. LIFSEY: Thank you, Your Honor.

5 THE COURT: May I see the lawyers at the Bench for a
6 moment?

7 (Whereupon, a bench conference was held off the record,
8 out of the hearing of the court reporter, and the hearing
9 was concluded.)

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STATE OF SOUTH CAROLINA)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS
FOR THE SIXTEENTH JUDICIAL CIRCUIT

Jefferson Quinde Quishpi, SCDC #381901,)

Case No. 2020-CP-46-00499

Applicant,)

v.)

**ORDER VACATING POSSESSION OF A
WEAPON SENTENCE AND DISMISSING
REMAINING PCR APPLICATION**

State of South Carolina,)

Respondent.)

INTRODUCTION

The matter before this Court is an action for post-conviction relief (PCR) commenced by Jefferson Quinde Quishpi ("Applicant") on February 7, 2020. On February 29, 2024, a hearing into the matter was convened before the Honorable J. Mark Hayes, II, at the Moss Justice Center. Applicant was present and represented by Michael H. Lifsey, Esquire. Assistant Attorney General T. Cruise Mitchell represented the State. During the hearing, testimony was taken from Applicant and Christopher A. Wellborn ("Counsel"). Applicant testified through a Spanish interpreter, who was sworn in at the outset of the hearing.

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 possession of a weapon during the commission of a violent crime 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 possession of a weapon during the commission of a violent crime, denies relief on all other claims, and dismisses this application with prejudice.

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ANGIE M. BRYANT
C.C.P. & G.S.
YORK COUNTY, SC

PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections. During its March 2018 term, the York County Grand Jury indicted Applicant for murder (2018-GS-46-01924, Count 1) and possession of a weapon during the commission of a violent crime (2018-GS-46-01924, Count 2). Applicant was represented by Christopher A. Wellborn, Esquire. Solicitor Kevin S. Brackett, Deputy Solicitor Walter W. Thompson, and Senior Solicitor Jenny Desch of the Sixteenth Circuit Solicitor's Office prosecuted the case.

On December 17, 2019, Applicant appeared before the Honorable Daniel D. Hall and pleaded guilty but mentally ill to murder and possession of a weapon during the commission of a violent crime. Prior to the plea proceedings, the Honorable John Hayes ordered Applicant to complete a competency evaluation with the South Carolina Department of Mental Health. (Gp. Tr. p. 5). Two medical experts concurred that at the time of the offense Applicant was suffering from a mental disease—reporting he experienced “PTSD auditory hallucinations”—but nonetheless met the standards for competency and appeared to have the ability to think of and carry out his plan. (Gp. Tr. p. 8—10). The Honorable Daniel D. Hall conducted a *Blair* hearing shortly before the plea was entered to confirm Applicant was competent to stand trial and criminally responsible at the time of these offenses. (Gp. Tr. pp. 14—36).

On December 17, 2019, Judge Hall sentenced Applicant to life imprisonment for murder and five years' imprisonment for possession of a weapon during the commission of a violent crime, with those sentences to be served concurrently. Applicant did not appeal his conviction or sentence.

FACTUAL SUMMARY

The underlying facts of the crime for which Applicant is incarcerated were articulated by the State during the plea proceedings as follows:

In June 2017 and on September 11, 2017, law enforcement responded to a domestic violence calls after Applicant punched and strangled his live-in girlfriend (Victim). (Gp. Tr. 43, 45). After the first incident, Applicant was charged with domestic violence, 2nd degree on bond with a no-contact order. (Gp. Tr. 43-44). After the second incident, the Court revoked Applicant's bond, but Applicant did not appear to his last court date on September 18. (Gp. Tr. 47-48). A couple days after both assault Victim called law enforcement to drop the charges. (Gp. Tr. 44, 46).

On September 18, 2017, Applicant text messaged Victim's nine-year old son for their whereabouts before concealing his car down the street and hiding in Victim's new residence. (Gp. Tr. 50). Upon Victim and her three young children's return, Applicant locked Victim in a bedroom and stabbed her several times. (Gp. Tr. 50). When police arrive they witnessed Applicant in a locked bedroom stabbing himself. He refused to put down the knife until he was tased. (Gp. Tr. 49). Officers then spotted Victim laying on her back against a wall. She was unresponsive and later pronounced dead at the scene due to severe blood loss from twenty stab wounds. (Gp. Tr. 49, 53).

CURRENT APPLICATION

Applicant timely commenced this PCR application on February 7, 2020. In his application Applicant alleged he was entitled to relief based on the following grounds:

1. Ineffective Assistance of Counsel
 - a. "My lawyer never filed for the appeal."
 - b. "My sentencing sheet says without negotiations."

On June 21, 2022, Applicant amended his application to include the following allegations:

1. Ineffective Assistance of Counsel for
 - a. Applicant's plea counsel did not meet with Applicant a sufficient number of times prior to his plea, did not fully explain the strengths and weaknesses of the

- State's case, and did not explain the elements of the crimes of which he was charged. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
- b. Based on plea counsel's ineffective advice as described in (a) above, Applicant believed that murder was a parole eligible offense. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
 - c. Based on plea counsel's ineffective advice as described in (a) and (b) above, Applicant believed that he had no choice but to answer the Judge's questions during the plea colloquy in such a manner as would result in the Judge accepting the plea. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
 - d. Plea counsel did not adequately explain to Applicant the ramifications (and lack of any benefit) of a plea of Guilty but Mentally Ill. Had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial.
 - e. Plea counsel was ineffective for failing to object to the Judge sentencing Applicant on the charge of Possession of a Weapon During the Commission of a Violent Crime after imposing a life sentence without parole on the violent crime of Murder, as prohibited by S.C. Code Section 16-23-490(A) and for not filing an appeal of this illegal sentence.
2. The ineffective assistance of counsel as described above, rendered Applicant's plea involuntary.
 3. Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. *See Simpson v. Moore*, 367 S.C. 587, 627 S.E.2d 701 (2006).

Applicant went forward only on the allegations raised in his amended application.

INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

In a PCR action, Applicant bears the burden of proving the allegations in his application by a preponderance of the evidence. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985); Rule 71.1(e), SCRPC. 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, 686 (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*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 687; *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). "When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect." *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). "[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight." *Yarborough*, 540 U.S. at 6; *see also Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) ("[C]ounsel's performance need not be optimal to be reasonable.").

Second, counsel's deficient performance must have prejudiced 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 (quoting *Strickland*, 466 U.S. at 694). "This does not require a showing that counsel's actions 'more likely than not altered the outcome,' but the difference between *Strickland*'s prejudice standard and a more-

probable-than-not standard is slight and matters 'only in the rarest case.'" *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). "The likelihood of a different result must be substantial, not just conceivable." *Id.* at 112.

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

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. *See Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977) ("Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible."). Statements made during a guilty plea should be considered conclusive, unless an applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. *Dalton v. State*, 376 S.C. 130, 137-38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

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 finds Applicant has met his burden of proof as to the claim regarding his possession of a weapon during the commission of a violent crime sentence and hereby vacates the sentence for possession of a weapon during the commission of a violent crime. This Court finds Applicant's remaining allegations of ineffective assistance of counsel are 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 Failed to Adequately Discuss the Case with Applicant and Counsel Erroneously***Misadvised Applicant Regarding Potential Sentence¹***

Applicant contends counsel did not meet with Applicant a sufficient number of times prior to his plea, did not fully explain the strengths and weaknesses of the State's case, and did not explain the elements of the crimes of which he was charged. Because of this, Applicant believed murder was a parole eligible offense and he would only be sentenced to 45 years if he pleaded guilty. This Court disagrees and finds counsel thoroughly reviewed all aspects of Applicant's case, including discovery, the charges, and the potential sentence he faced. Counsel properly informed Applicant of the consequences of the guilty plea.

1. PCR Testimony

Applicant testified he is currently serving a life sentence in the South Carolina Department

¹ Allegations 1(a) and (b) of the amended application are addressed in this section.

of Corrections. Applicant testified he met with Counsel four times. Applicant avers Counsel hardly reviewed discovery or the evidence with him. Applicant testified Counsel attempted to negotiate a plea deal for 65 years. Applicant testified that, based on Counsel's advice, he would be sentenced to 45 years if he pleaded guilty. Applicant testified the plea Judge informed him he could be sentenced to a maximum of life without parole.

Counsel testified he met with Applicant multiple times. During these meetings, Counsel explained they reviewed the allegations, incident reports, and discovery. Counsel testified there was never a plea offer of 45 years and he never advised Applicant of such. Counsel testified it was always Applicant's understanding that he faced a potential sentence of life without parole.

2. Discussion

This Court finds Counsel was not ineffective in consulting or reviewing the case with Applicant. At the time of his plea, Applicant asserted that he had enough time to speak with Counsel, that Counsel explained the law and evidence the State has, and that he had no complaints about the way Counsel represented him. (Gp. Tr. p. 39–40).

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." *Dalton v. State*, 376 S.C. 130, 137, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Blackledge v. Allison*, 431 U.S. 63, 74 (1977); see also *Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014)). Admissions made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements. *Id.* at 137–38, 654 S.E.2d at 874; see also *Blackledge*, 431 U.S. at 73–74 (pointing out that representations made by a defendant, his lawyer, and the prosecutor at a guilty plea hearing, as well as any findings made by the judge accepting the plea, constitute a "formidable

barrier in any subsequent collateral proceedings”).

Applicant suggests a failure to adequately meet with him prior to the plea. This Court finds Counsel’s credible testimony, and the record of Applicant’s guilty plea, demonstrates Counsel met with Applicant a sufficient number of times. There is no established “minimum number of meetings between counsel and client prior to trial necessary to prepare an attorney to provide effective assistance of counsel.” *United States v. Olson*, 846 F.2d 1103, 1108 (7th Cir.1988) (there is no constitutional minimum number of meetings between attorney and client and observes that an experienced attorney may get more out of a single meeting than a neophyte); *Moody v. Polk*, 408 F.3d 141, 148 (4th Cir. 2005); *Campbell v. Polk*, 447 F.3d 270, 279, n.2 (4th Cir. 2006) (“we cannot conclude that the fact that Campbell’s counsel only met with him five times before trial made them ineffective.”). “[B]revity of consultation time between a defendant and his counsel, alone,” “cannot support a claim of ineffective assistance of counsel.” *Davis v. State*, 44 So. 3d 1118, 1130 (Ala. Crim. App. 2009) (quoting *Murray v. Maggio*, 736 F.2d 279, 282 (5th Cir. 1984)); *White v. Godinez*, 301 F.3d 796, 800 (7th Cir. 2002) (“A brief consultation does not by itself establish that counsel’s performance was inadequate.”); *Chavez v. Pulley*, 623 F. Supp. 672, 685 (E.D. Cal. 1985) (“brevity of consultation time between a defendant and his counsel alone cannot support a claim of ineffective assistance of counsel,” especially where the defendant “fails to allege what purpose further consultation with his attorney would have served and fails to demonstrate how further consultation with his attorney would have produced a different result”). Counsel testified he met with Applicant multiple times, which is corroborated by the exhaustive *Blair* hearing that was held prior to the entry of the plea. Counsel’s use of Applicant’s background and records from Ecuador could only have been possible through consultation with Applicant. Thus, this Court finds Applicant has failed to prove Applicant was deficient in consulting with him

regarding his case prior to the plea.

Applicant further fails to specify what Counsel did not disclose to him from materials provided in discovery, or what, if anything, could have been achieved had Counsel spent more time with him in consultation regarding the contents of his discovery. *See Smith v. State*, 404 S.C. 493, 500–01, 745 S.E.2d 378, 382 (Ct. App. 2012) (noting that an applicant must present evidence to show how additional time spent in consultation regarding discovery would have resulted in a different outcome; mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief). Thus, Applicant has failed to meet his burden establishing prejudice as to this allegation.

This Court further finds Counsel was not ineffective in advising Applicant of the consequences of his guilty plea. Specifically, this Court finds Counsel properly advised Applicant he was facing a maximum sentence of life without parole by pleading guilty. This Court finds Counsel never informed Applicant that murder is a parole eligible offense, nor that Applicant would be sentenced to 45 years in exchange for his guilty plea.

Counsel was clear the decision to reject the State's offer of 50 years was ultimately Applicant's own decision. This Court finds Applicant was aware he was pleading guilty pursuant to no recommendations or negotiations, and he faced a possible sentence of life without parole. Although they were hoping for a lighter sentence by pleading guilty, this Court finds Counsel made no assurances to Applicant that this would result in a 45-year sentence.

Based on Counsel's credible testimony and the record of the guilty plea hearing, this Court finds Counsel did not inform Applicant he would be sentenced to 45 years by pleading guilty but mentally ill. This Court finds Counsel properly advised Applicant he was facing a potential sentence of life without parole 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 parole eligibility or sentencing, 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).

At the outset of the guilty plea hearing, the Solicitor informed the plea court this is a straight up plea. (GP. Tr. p. 4). The Court later engaged in the following colloquy with Applicant:

The Court: . . . the charge of murder carries a mandatory sentence of at least thirty years in prison and a potential the Court can give you a *life without parole* sentence. Do you understand that? (Emphasis added)

Mr. Quishpi: Yes, you Honor.

(Gp. Tr. p. 37).

Applicant alleges he only answered the trial judge affirmatively upon alleged advice of counsel; however, this does not support the grant of post-conviction relief.² See *Moorehead v.*

² Allegation 1(c) of the amended application.

State, 329 S.C. 329, 333, 496 S.E.2d 415, 417 (1998) (citing *Wolfe*, 326 S.C. 158) (“Further, respondent’s explanation that he answered the trial judge affirmatively on counsel’s alleged advice that the questions were meaningless does not support the grant of PCR”). Therefore, any misconception Applicant may have had regarding his potential sentence or parole eligibility was cured by information conveyed at the guilty plea hearing. Thus, Applicant suffered no prejudice by any alleged deficiency.

Although Applicant was hoping for a lighter sentence by pleading guilty, “wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences, especially where one acknowledges on the record that one knows the range of sentences and that no promises have been made.” *Wolfe v. State*, 326 S.C. 158, 165, 485 S.E.2d 367, 371 (1997). Applicant was aware of the charges and consequences of his plea as evidenced from the record of the guilty plea hearing. Furthermore, the plea court thoroughly explained to Applicant the Constitutional rights he would be waiving by pleading guilty. (Gp. Tr. pp. 35–41). Thus, this Court finds Applicant’s guilty plea was knowing, voluntary, and intelligent.

Accordingly, this Court finds Applicant’s allegation counsel was ineffective for misadvising Applicant as to his parole eligibility and sentence are **DENIED**.

Counsel Failed to Inform Applicant of the Ramifications of Pleading Guilty But Mentally Ill³

Applicant next contends Counsel was ineffective for failing to adequately explain to Applicant the ramifications (and lack of any benefit) of a plea of Guilty but Mentally Ill. Applicant further alleges that had plea counsel given effective representation in this regard, Applicant would not have entered a guilty plea and would have insisted on a jury trial. This Court disagrees and

³ Allegation 1(d) of the amended application.

finds the record from Applicant's guilty plea and Counsel's credible testimony refutes this allegation.

1. PCR Testimony

Counsel testified that an initial mental health evaluation was conducted by Dr. Colby Sutton who found Applicant competent to stand trial. After Applicant informed Counsel he was hearing voices, Counsel explained he retained the services of Adranna Flores – a Spanish speaking psychologist – to interview family members and track down Applicant's records from Ecuador. Counsel testified Dr. Flores conducted a full mental evaluation of Applicant, who also found Applicant competent to stand trial. Counsel pointed out this put an end to any potential insanity defense.

2. Discussion

This Court finds Counsel properly informed Applicant of the ramifications of pleading guilty but mentally ill. Counsel credibly testified he explained to Applicant that pleading guilty but mentally ill conferred no legal benefit as to sentencing. Counsel explained that due to the horrific facts of this case and the strength of the State's evidence, he advised Applicant to plead guilty but mentally ill in an attempt to convince the plea court a lesser sentence was warranted. Despite the worthy efforts of Counsel, the plea judge sentenced Applicant to life without parole.

This Court finds Counsel's explanation he advised Applicant to plead guilty but mentally ill for mitigation purposes was a valid strategy in this case. This Court reiterates that the tragic nature of the case left Counsel with few, if any, strategic alternatives. Therefore, Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in his case." *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing *Strickland*). "[W]hen Counsel

articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel.” *Smith v. State*, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010). The underlying facts of this case are both significant and tragic, which presented a difficult case from the defense position. Although an offer of 50 years was presented to Applicant, Counsel explained this was essentially a life sentence and advised Applicant to plead straight up and argue in mitigation that Applicant was mentally ill at the time of the crime. This Court again finds this strategy valid.

For these reasons, this Court finds counsel was not deficient in advising Applicant of the ramifications of pleading guilty but mentally ill. Additionally, Applicant has not presented sufficient evidence he would have proceeded to a jury trial had he been advised differently. Accordingly, this Court finds Applicant’s allegation Counsel was ineffective for failing to inform Applicant of the ramifications of pleading guilty but mentally ill is **DENIED**.

Counsel Failed to Object to Possession of a Weapon Sentence⁴

This Court finds Applicant has shown he is entitled to relief for Counsel’s failure to object to the Court’s five-year sentence for possession of a weapon during the commission of a violent crime. The five-year sentence for possession of a weapon during the commission of a violent crime “does not apply in cases where the death penalty or a life sentence without parole is imposed for the violent crime.” S.C. Code Ann. § 16-23-490(A) (2010). Where a defendant has been sentenced to life without parole for murder, the “five-year sentence for possession of a weapon during the commission of a violent crime [is] inapplicable.” *State v. Palmer*, 415 S.C. 502, 783 S.E.2d 823 (Ct. App. 2016). Here, Counsel failed to object to the Court’s five-year sentence for possession of

⁴ Allegation 1(e) of the amended application.

a weapon during the commission of a violent crime. At the evidentiary hearing, the State conceded this was in error. Accordingly, this Court finds Applicant has met his burden on this claim, and his five-year *sentence* for possession of a weapon during the commission of a violent crime is hereby vacated pursuant to Section 16-23-490 of the South Carolina Code. Notwithstanding, this Court does not vacate Applicant's *conviction* for possession of a weapon.

[SIGNATURE PAGE FOLLOWS]

CONCLUSION

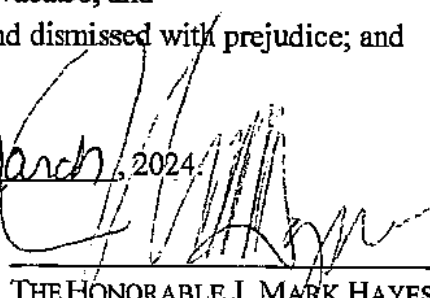
Based on the foregoing, this Court finds and concludes Applicant has met his burden on the claim related to his possession of a weapon sentence and hereby vacates Applicant's sentence for possession of a weapon. Notwithstanding, this Court finds Applicant has not established any constitutional violations 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 possession of a weapon 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 25th day of March, 2024.



THE HONORABLE J. MARK HAYES, II
Presiding Judge
Sixteenth Judicial Circuit

York, South Carolina

WITNESSES

RHPD / *Vreeland*

ARREST WARRANT NUMBER

COUNT ONE 2017A4620301840
COUNT TWO 2017A4620301842

ACTION OF GRAND JURY

TRUE BILL

Ume Bann
Foreperson of Grand Jury
Date: *3-22-18*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2018-GS-46- 01924
2018-GS-46- 01924a

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

MARCH 22ND, TERM 2018

THE STATE

VS.

JEFFERSON QUINDE QUISHPI

INDICTMENT FOR

COUNT ONE - MURDER

SC Code: § 16-03-0010
CDR Code: 0116

**COUNT TWO - POSSESSION OF A
KNIFE DURING THE COMMISSION OF A
VIOLENT CRIME**

SC Code: § 16-23-0490
CDR Code: 0549

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

166

Defendant

Jefferson Quinde Quishpi
hereby appear in my own proper
person and plead guilty to the within
indictment or to

X
Jefferson Quinde Quishpi
Defendant

Witness:

Anthony Mark Clasper
C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 22, 2018, the Grand Jurors of York County present upon their oath:

COUNT ONE – MURDER

Jefferson Quinde Quishpi did in York County on or about September 18, 2017, unlawfully and with malice aforethought, either express or implied, kill Marandy Jade Brandon by means of stabbing her, and the victim died as a proximate result thereof. The murder occurred at 1017 Barrow Court in Rock Hill, South Carolina, all in violation of Section 16-3-10, *Code of Laws of South Carolina* (1976), as amended.

COUNT TWO – POSSESSION OF A KNIFE DURING THE COMMISSION OF A VIOLENT CRIME

Jefferson Quinde Quishpi did in York County on or about September 18, 2017, while committing the violent crime of murder, visibly display and use a knife. The murder occurred at 1017 Barrow Court in Rock Hill, South Carolina, all in violation of 16-23-0490, *Code of Law of South Carolina* (1976), as amended.

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

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC
2018 FEB 20 AM 11:38
CERTIFIED TRUE COPY

Willy Thompson
WILLY THOMPSON
DEPUTY SOLICITOR

168
COUNTY OF YORK
STATE VS.

JEFFERSON QUINDE QUTSHIP

AKA: Quisphi

Race: White

Sex: M

Age: 28

DOB: [REDACTED]

Address: [REDACTED]

City: [REDACTED]

DL#

SID# SC02291343

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or☒ PLEADS

TO: Murder (Death, Life, or NLT 30 years to Life)

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

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)

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:

Willy Thompson
Willy Thompson, Deputy Solicitor 65118
SC Bar #

[Signature]
Defendant

[Signature]
Attorney for Defendant 11914
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: 12-11-19☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc.☐ 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 (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: _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

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

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

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

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

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 185

Clerk of Court/Deputy Clerk: DAVID HAMILTON

Court Reporter: *Wanda Nelson*Presiding Judge: *[Signature]*Judge Code: 255Sentence Date: 12-17-19

COUNTY OF YORK
STATE VS.

JEFFERSON QUINDE QUISHPI

AKA: Quisphi

Race: White

Sex: M

Age: 28

DOB: [REDACTED]

Address: [REDACTED]

City: [REDACTED]

DL#: [REDACTED]

SID# SC02291343

INDICTMENT/CASE#: 2018-GS-46-01924a ✓
A/W: 2017A4620301842
Date of Offense: 09/18/2017
S.C. Code §: 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

ORIGINAL

*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: **Possession Of A Weapon During The Commission Of A Violent Crime (I)**

In 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 CSC w/minor 3rd)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:

Willy Thompson 65118
Willy Thompson, Deputy Solicitor SC Bar #X [Signature]
DefendantX [Signature] 11914
Attorney for Defendant 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 _____ 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 SCDOP.☐ 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 (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 _____

Recipient: _____

*Fine: _____ \$ _____

§14-1-206 (Assessments 107.5%) \$ _____

§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100

§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____

§56-5-2995 (DUI Assessment) \$12 \$ _____

§56-1-286 (DUI Breath Test) \$25 \$ _____

Proviso (Public Def/Probation) \$500 \$ _____

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

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

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

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

3% to County (if paid in installments) \$ \$ _____

TOTAL \$ 125

Attend Voc. Rehab. Or Job Corp. _____

May serve WE 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, _____

Proviso requires \$500 be paid to Clerk _____

during probation and shall be collected before _____

any other fee _____

Presiding Judge Code _____

Sentence Date: 12-17-19

Clerk of Court/Deputy Clerk: DAVID HAMILTON

Court Reporter: Wanda Nelson