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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Clarendon County

Honorable Grace Gilchrist Knie, Circuit Court Judge

WALLACE DEMERY, JR.,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001677

APPENDIX

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STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
STATE,)

TRANSCRIPT OF RECORD
17-GS-14-0037

v.)

WALLACE DEMERY, JR.,)

DEFENDANT.)

August 15, 2022
Manning, South Carolina

BEFORE :

THE HONORABLE KRISTI F. CURTIS, JUDGE

APPEARANCES:

ERNEST A. FINNEY, III, ESQ.
Solicitor Of the Third Circuit

J. DAVID WEEKS, ESQ.
Attorney for Defendant

FRANCES B. RAY, RPR
Circuit Court Reporter

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(There were no exhibits submitted.)

1 SOLICITOR FINNEY: The first case for the
2 morning is the State of South Carolina v. Wallace
3 Demery, Jr., indicted for murder, true billed by the
4 grand jury February the 2nd, 2017. Mr. Demery was
5 charged with the willful and felonious killing of
6 the victim Jeffrey Myron Ceasar on August the 19th,
7 2016, whereby he was charged with killing Mr. Ceasar
8 by beating him with a blunt object, and the victim
9 Mr. Ceasar did die as a proximate result thereof in
10 Clarendon County on or about August the 19th, 2016.

11 Mr. Demery is represented by the honorable
12 Jay David Weeks of Sumter; and through negotiations
13 with our office, we have reached an agreement to
14 reduce the charge of murder to manslaughter, and Mr.
15 Demery is scheduled now to plead guilty to
16 manslaughter without recommendation.

17 THE COURT: If you'll come on up, sir.
18 Please stand and be sworn.

19 SOLICITOR FINNEY: For the record, Your
20 Honor, this is docket number 2017-GS-14-0037.

21 THE COURT: Okay, Mr. Demery, let's swear
22 you in, sir.

23 THE CLERK: Please raise your right hand,
24 sir.

25 WHEREUPON,

1 **WALLACE DEMERY, JR. ,**
2 having been duly sworn by the Clerk, testified
3 as follows:

4 THE COURT: Again, Mr. Demery, I'm Judge
5 Curtis. Sir, I understand that you're here today to
6 plead guilty to voluntary manslaughter. That
7 offense carries up to 30 years. Is that your
8 understanding?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: You can hear me okay?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: You talked this over with your
13 attorney Mr. Weeks?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And has Mr. Weeks answered all
16 your questions for you?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Do you need any further time
19 to confer with him before moving forward this
20 morning?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Are you satisfied with what
23 Mr. Weeks has done for you?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Are you under the influence

1 today of any drugs or alcohol?

2 THE DEFENDANT: No, ma'am.

3 THE COURT: Are you taking any
4 prescription medications?

5 THE DEFENDANT: I am, but it's not
6 clouding my judgment.

7 THE COURT: If you'll speak up a little
8 bit for me. If you'll come up right here to this
9 microphone please. Okay, you're taking some
10 prescription medications?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Anything that would interfere
13 with your ability to think clearly?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Are you taking any medications
16 for any mental health issues?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Can you tell me what you're
19 taking?

20 THE DEFENDANT: I'm taking generic brand
21 of Seroquel.

22 THE COURT: Okay. And have you had some
23 mental health treatment in the past?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Are you currently under a

1 physician's care for any mental treatment?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And can you tell me about
4 that?

5 THE DEFENDANT: I'm scheduled over here
6 Clarendon Behavioral Mental Health.

7 THE COURT: Uh-huh.

8 THE DEFENDANT: I'm going over there for
9 depression and anxiety.

10 THE COURT: Okay. And how long have they
11 been treating you over there?

12 THE DEFENDANT: For the past about six
13 years now.

14 THE COURT: And do you feel the Seroquel
15 helps those conditions?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Any adverse effects on you
18 that keep you from thinking clearly?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: You, Mr. Weeks, have had, I
21 would imagine, numerous chances to communicate with
22 Mr. Demery?

23 MR. WEEKS: Yes, ma'am.

24 THE COURT: Any concern at all about his
25 mental health?

1 MR. WEEKS: No, ma'am, not as relates to
2 the plea. No, ma'am.

3 THE COURT: And you've been able to
4 communicate with him?

5 MR. WEEKS: Yes, ma'am.

6 THE COURT: You feel like he's understood
7 all of your communications?

8 MR. WEEKS: I think so, Your Honor.

9 THE COURT: And do you agree with his
10 decision to enter this plea today?

11 MR. WEEKS: Yes, ma'am.

12 THE COURT: You have a number of rights
13 that you're waiving today in order to enter this
14 plea so we're gonna go over those rights this
15 morning. First of all, has anyone promised you
16 anything to try to get you to plead guilty?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: Has anyone forced you,
19 threatened you, or coerced you in any way?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Your initial case looks like
22 it did go to the grand jury; but, of course, you
23 understand it did not go to the grand jury on the
24 reduced charge of attempted murder and will not go
25 forward to the grand jury after you enter this plea

1 today. You understand that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: You have a constitutional
4 right to remain silent. That means if you decided
5 you wanted a trial, no one could force you to
6 testify, not the State, not your attorney, nobody.
7 That's a constitutional right. If you elected to
8 exercise that right and decided you did not want to
9 testify, nobody can hold that against you, not the
10 judge and not the jury. I would specifically
11 instruct the jury that they can't even discuss that
12 fact during their deliberations at all. It's not a
13 factor that should go into their deliberations; but,
14 of course, you get to -- you get to make that
15 decision whether or not you want to testify. When
16 you enter a guilty plea, you're waiving that
17 constitutional right to remain silent. And you
18 understand that?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: You also have the
21 constitutional right to a trial by jury. You
22 understand we have a jury panel that's ready and
23 willing to hear your case. We can impanel those
24 twelve jurors to hear your case and let them decide
25 whether you're guilty or not guilty. Of course,

1 when you plead guilty you're waiving that right to a
2 jury trial. And you understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: In a trial, it's always the
5 State's burden to prove you guilty beyond a
6 reasonable doubt and that standard beyond a
7 reasonable doubt is the highest standard that we
8 have in the law. It means that all twelve jurors
9 have to be firmly convinced of your guilt before you
10 can be convicted. You're waiving that right today.
11 And you understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: In addition, when you have a
14 trial, it means you get the chance to confront the
15 State's witnesses. Every witness testifies from
16 this witness stand. That means you get the right to
17 hear their testimony in open court and then
18 Mr. Weeks gets the chance to ask those witnesses
19 questions on cross-examination. He would get a
20 chance to present a defense on your behalf. He
21 would have the power of the subpoena so he could
22 compel your witnesses to come to court and compel
23 them to testify in your case. You waive each of
24 those rights today when you enter this plea. And
25 you understand that?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: You understand that if you
3 made any statements to law enforcement, that
4 Mr. Weeks could request a hearing on whether or not
5 those statements are admissible, and you're waiving
6 that right today. You understand that?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: If there's any particular
9 pieces of evidence that the State would offer during
10 the course of the trial, it's possible that your
11 attorney could challenge the admissibility of the
12 evidence and you waive that right today, to
13 challenge the admissibility of any of the State's
14 evidence. And you understand that?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Have you gone over the
17 discovery with Mr. Weeks? Basically, what the
18 State's evidence would be against you if you went to
19 trial?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: So you're familiar with the
22 State's case?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Knowing all of your rights,
25 Mr. Demery, are you pleading guilty or not guilty?

1 THE DEFENDANT: Guilty.

2 THE COURT: Okay. I'm gonna hear the
3 facts from Mr. Finney, then I'm gonna have some more
4 questions for you.

5 SOLICITOR FINNEY: Please the Court, Your
6 Honor.

7 THE COURT: Let's go over this first
8 before we do that. You understand that this is
9 classified as a violent offense. That's going to
10 effect how much the percentage of the prison
11 sentence is affected by the fact that this is
12 considered a violent offense under our laws. And
13 you're aware of that?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: It's also a most serious
16 offense, so in our code we classify certain offenses
17 as serious and certain offenses as most serious.
18 Most serious means it counts as two strikes for the
19 purposes of our three strikes law. If after this
20 conviction you were convicted of an offense that was
21 either a serious offense or a most serious offense,
22 the State could then seek to imprison you for life.
23 They would give notice, again, upon being charged
24 with a serious or most serious offense that they
25 would seek a term of life imprisonment. And you

1 understand that?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And you've had a chance to
4 discuss that with your attorney as well?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Just look and see if there are
7 any other particular provisions I need to discuss
8 with Mr. Demery. This is also a no parole offense,
9 and you're aware of that?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And you discussed that with
12 Mr. Weeks?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Okay. Mr. Finney.

15 SOLICITOR FINNEY: May it please the
16 Court. Your Honor, Jeffrey Ceasar was 34 years old.
17 He was a resident of Clarendon County. He had an
18 extended family here. Many of them are here today
19 on the front row of the courtroom. Also here is his
20 sister Miss Tina Ceasar and his father Mr. Albert
21 Brown who would like to speak to the Court. Jeffrey
22 Ceasar, it has come to my attention, grew up in the
23 rural part of Clarendon County not very far from
24 Wallace Demery. I believe that these men knew each
25 other for some time. They had a -- some type of

1 acquaintanceship with each other. Mr. Demery, who
2 is before you, is younger and bigger than Mr.
3 Ceasar, and that would have played into our
4 presentation of these facts in the court. As it
5 turns out, we've learned through witnesses that
6 Mr. Jeffrey Ceasar went to the truck wash, which is
7 a business not too far from here over by the I-95
8 area of Clarendon County, stopped in there about
9 5:30 on this Friday afternoon to see Mr. Demery.
10 They spoke. We don't know exactly what was
11 mentioned because Mr. Demery didn't tell the
12 investigators that there was a 5:30 meeting that
13 Friday afternoon between the victim Mr. Ceasar and
14 himself.

15 The witnesses saw them talking at the
16 truck wash. Two hours later about 7:30, Mr. Ceasar
17 came back to the truck wash driving his blue
18 Mercury; and he had two passengers, two
19 four-year-old boys. He left the car running. He
20 left the boys in the car. He went inside the truck
21 wash where he and Mr. Demery had some type of
22 encounter. Mr. Ceasar never came out. Mr. Wallace
23 Demery, after coming out after the employees there
24 seeing him washing his hands, told the fellas, y'all
25 can leave now, police are on the way. And the

1 fellas left because they didn't want any part of the
2 police.

3 What we've learned is that Mr. Jeffrey
4 Ceasar was beaten severely with a hammer and with a
5 wrench that were located in a inner office. His
6 body was found by the paramedics after the 9-1-1
7 call on the floor bleeding heavily, and he was not
8 able to be resuscitated. We believe that the
9 injuries that were sustained by Mr. Ceasar are
10 brutal, to say the least. The autopsy report showed
11 that not only did he suffer serious bruising and
12 injuries to the head, but his larynx was broken.
13 His chest ribs on the right side were broken, and
14 there was a sternum that was contused or broken
15 also. Because of all these injuries, he succumbed
16 to those injuries and was not able to be
17 resuscitated.

18 I want to hand up about 12 color
19 photographs for you to look at. There is a large
20 wrench, a metal wrench, lieing on the floor near Mr.
21 Ceasar's body. There are some very strong
22 indications that that wrench was used to inflict
23 damage on the body. There was also, later on,
24 police were called back to the scene by the manager
25 of the truck wash when he found a metal hammer a few

1 feet away that had not been taken into evidence
2 because he -- he thought the metal hammer had blood
3 on it. Both objects were sent to SLED, and
4 Mr. Ceasar's DNA was located on both the metal
5 wrench and the metal hammer. There's also
6 indications from the photographs at autopsy that the
7 metal hammer was used to inflict some of the
8 injuries on Mr. Ceasar.

9 We believe, Your Honor, that there were
10 over a dozen impacts to his body and to his head
11 especially, by these metal objects causing great
12 bodily injury; and that doesn't include the damages
13 to his rib area, his sternum, and his throat. Those
14 are the injuries that caused him not to be able to
15 bleed -- to breathe, and to, we think, succumb to
16 the injuries. I want to hand these up to the Court
17 to view.

18 Obviously, the charge of murder has been
19 pending for a long time. We have obviously been
20 trying to get this case before the Court, and we've
21 obviously had difficulties with scheduling and Covid
22 and all of that. The big picture of this is that
23 Mr. Demery gave a statement to law enforcement about
24 an hour after EMS was called. In his statement he
25 claimed self defense. He claimed that Jeffrey

1 Ceasar was choking him over a debt that was owed of
2 about \$100. He claimed that he had to hit
3 Mr. Ceasar with a metal object to get him off of him
4 and that he hit Mr. Ceasar two, two or three times.
5 None of that checks out with the facts that we've
6 seen. The number of injuries on the body, the
7 significantly more than two or three, the type of
8 beating that was given was -- was really
9 unconscionable in terms of there were no scratches
10 on Mr. Demery. There was no blood on Mr. Demery of
11 his, you know, his own. There was no black eye, no
12 bloody nose. There was no sign of a struggle.
13 Mr. Demery claims that he was pushed up against a
14 desk in the office. There's a picture of the desk
15 in your photographs and that he, as result of being
16 pushed and fearing for his life, he picked up a
17 metal wrench and struck the victim.

18 What really shows in the photograph when
19 we started looking closely is that on that desk is
20 Mr. Jeffrey Ceasar's hat that he was wearing that
21 afternoon; and above that hat on the desk is
22 Mr. Jeffrey Ceasar's blood on the wall where he was
23 struck. The State's theory is that Mr. Jeffrey
24 Ceasar was struck without knowledge, that he was not
25 in a fight, and that Mr. Demery took advantage of

1 the situation, put the victim in a compromising
2 position where his hat came off, his phone fell on
3 the floor. We have other pictures showing that
4 Mr. Ceasar's shoes came off. He had on flip-flops.
5 One was on one side of the room; one was on the
6 other side of the room. And he just didn't have a
7 chance, we believe, Your Honor.

8 More importantly, we found out from three
9 co-workers who were sitting outside the truck wash
10 waiting to get off that evening, that they heard no
11 noise inside. These two men, nobody cried for help.
12 Nobody screamed. Nobody made any noise or
13 struggling; it was quiet inside. And that leads the
14 State to believe that this was a surprise attack by
15 Mr. Demery and that Mr. Ceasar didn't know what was
16 coming. Also we found out from witnesses that Mr.
17 Demery came outside after a few minutes of being
18 inside the office with Mr. Ceasar, came outside and
19 found that, in fact, there were three men there who
20 were waiting to get off; and he found that there was
21 Mr. Ceasar's car parked there with two kids in it.
22 After he saw that, Mr. Jeffrey -- Mr. Demery went
23 back inside the office and stayed several more
24 minutes. Both times that Mr. Demery was in the
25 office, witnesses heard a metal object falling to

1 the floor like they described it as a iron -- some
2 kind of iron pipe or something falling to the floor.
3 One, after the first time he was in there and once
4 again after he came out the second time after going
5 back in and came out the second time.

6 Witnesses on the scene, law enforcement
7 and citizens, saw Mr. Demery sweating to the point
8 where they noticed that and put it in their
9 statements and reports. We believe that those
10 indications show that he had time and opportunity to
11 take this man's life without -- without any kind of
12 justice so to speak. The only thing that we can say
13 in Mr. Demery's favor is that after the altercation
14 was over, he called 9-1-1, and I think -- we think
15 that was because he knew that there were people on
16 the outside, and there were these two boys in the
17 car waiting for Mr. Jeffrey to come back.

18 Mr. Demery did not tell the investigators
19 that he used two weapons. He did not tell
20 Investigator Clark that he went outside and saw the
21 kids in the car and then returned to the inner
22 office. He did not tell Investigator Clark that he
23 washed his hands, which was witnessed by one of his
24 co-workers. He did not tell Investigator Clark that
25 Mr. Ceasar was -- had come by earlier in the

1 afternoon at 5:30. And he did not tell Mr. Clark
2 that he hit Mr. Ceasar more than, we think, twelve
3 times.

4 This story about a debt, \$100 bill, we
5 think was just made up. It happened, according to
6 him, weeks before this and it doesn't make sense
7 that Mr. Ceasar, who came to the shop twice that
8 day, would have come looking for trouble or looking
9 for a fight when he left his car running and he left
10 two young people in the car waiting for him to
11 return. And whenever the Court would be ready to
12 hear, we'd like to have the victims talk.

13 THE COURT: Okay. First I need to ask
14 you, Mr. Demery, are you, in fact, guilty of
15 voluntary manslaughter, sir? And I understand you
16 may not agree with everything that you heard from
17 the State. What I need to know, sir, are you, in
18 fact, guilty of the offense of voluntary
19 manslaughter?

20 THE DEFENDANT: Yes. Yes, ma'am.

21 THE COURT: Okay. I do find that your
22 plea today is voluntary. I find that you understand
23 your rights, that you've had competent counsel
24 advising you, and that you're making this decision
25 to enter this plea today freely, voluntarily, and so

1 I will accept that plea. Sir, you've got ten days
2 from today's date if you wanted to appeal the
3 conviction. That ten-day deadline is a hard and
4 fast deadline. If you decide you want to appeal on
5 day eleven, you've lost the right forever. It's
6 jurisdictional so it cannot be extended by any court
7 or any judge. Any appeal has got to be in writing
8 to this court and to the higher court.

9 Mr. Weeks, I'm glad to hear from you, sir.

10 MR. WEEKS: Your Honor, may it please the
11 Court. Your Honor, of course, whenever you have a
12 situation like this there's a -- there's two sides
13 to the story. You've heard the Solicitor's side of
14 the story. Let me tell you Mr. Demery's side of the
15 story, and I think that this little bit of
16 background might be very helpful, Your Honor. Your
17 Honor, Mr. Demery is 33 years old. He graduated
18 from East Clarendon High School in 2006. He goes to
19 Melina Presbyterian Church up there in New Zion.

20 Your Honor, he started working at
21 Southeastern eight years before this incident
22 occurred. He started out as a washer. He worked
23 hard. He was rewarded for his hard work with
24 several promotions. And at the time of this
25 incident, he was actually the manager for that

1 particular area of the store. We have one
2 statement, of course, that we would have presented
3 from his employer that says he's the best employer
4 he ever had. So Mr. Demery is a -- is a man of
5 character, a hard working man, and not a street
6 thug.

7 Your Honor, Mr. Demery's side of the story
8 is very straight forward. He and the victim,
9 they're sort of distantly related. They have, you
10 know, interactions from time to time. A couple of
11 weeks, our evidence, a couple of weeks before this
12 incident happened they were playing cards. They
13 were playing punk. And one of the things that
14 happened is that Mr. Demery owed the victim some
15 money. Mr. Demery and the victim came -- got the
16 money from Mr. Demery. Mr. Demery gave him \$100
17 bill. He'd just cashed his check, got the money
18 from Walmart, and gave it to him. He, in turn, gave
19 him \$65 back because he owed him \$35.

20 Apparently at some point after this, the
21 victim determined that this was a fake or a bad
22 bill. He goes to Mr. Demery and says, look, I want
23 you to make it good. Mr. Demery responds, I made it
24 good, I'm not going back any place else, I know that
25 money is good because I got it from Walmart, and

1 things sort of got a little -- a little bad from
2 that point forward. Ultimately, he tells Mr.
3 Demery, you're gonna have to pay me this \$100 or I'm
4 gonna take it out in blood; and then that would have
5 been a part of our case and a part of our testimony
6 here.

7 Your Honor, at the time at the evening
8 that this incident occurred, Mr. Demery was working
9 and doing what he's supposed to do. He was where he
10 was supposed to do, doing what he was supposed to be
11 doing when the victim came in. Again, the victim
12 demanded the money. Mr. Demery says, I ain't, I'm
13 not giving you any money. The victim says, I'm
14 gonna take, I'm gonna take it out in blood. And
15 according to Mr. Demery, it would have been our
16 testimony, that he was attacked and they struggled.
17 Now mind you, Your Honor, Mr. Demery had a -- among
18 his work stuff he had a knife on the side. He
19 didn't draw that knife, didn't happen. He claims --
20 and the way the office is set up, there's one way in
21 and one way out. So what happens is, the victim
22 comes in and stands first between him and the door
23 so he can't get out. And then the victim charges
24 him, pushes him back, they end up struggling, and
25 then ultimately they knock over the table or

1 whatever. Mr. Demery says he was choking, he felt
2 life leaving him, and all he could do is reach out
3 and grab. And what he reached out and grabbed was
4 a -- was a wrench that was on the table, and he
5 admits in his statement that he took that wrench and
6 he struck the victim several times. And then he
7 says he blacked out at that point. He woke back up.
8 Seconds later, you know, he -- the wrench was still
9 in his hand, fell to the floor. He was in full
10 panic mode then. So what does he do? He goes to
11 call 9-1-1, and that's what he does. Not only does
12 he call 9-1-1, he closes the door and he locks the
13 door. He's the only one that's got a key. He's
14 heading straight out to go call 9-1-1, and that's
15 what he does. 9-1-1 comes, of course, and when law
16 enforcement comes he takes law enforcement to the
17 exact room, unlocks the door, and then the
18 investigation begins at that time.

19 Your Honor, Mr. Demery tried to protect
20 himself. This is an unfortunate -- it's a terrible,
21 it's an egregious outcome, but he was where he was
22 supposed to be being attacked by somebody else. And
23 that would have been his -- the gist of what our
24 evidence and testimony would have been in this
25 particular case. He said he hit him multiple times;

1 he said that. He didn't know how much hitting was
2 going to be necessary to get this guy off of him so
3 he's trying to do that.

4 And when he goes outside, Your Honor, the
5 -- Mr. Finney alludes to three workers who were --
6 there were workers on the outside; they weren't even
7 on the inside. They couldn't have seen what was
8 going on on the inside, but that's what happened.
9 And his sister who is a student at the College of
10 Charleston was supposed to come back to pick him up,
11 and his sister was al-- came there during this
12 particular time waiting to pick him up 'cause he was
13 getting ready to go when this incident happened,
14 when he told her, you know, go ahead on and, you
15 know, the evidence can go back and forth on that.
16 But that's Mr. -- Mr. Demery's side of the story.

17 Mr. Demery is married for nine years to
18 Josey Walker. She's currently a student studying
19 for her bachelors in entrepreneurship. They have
20 four children ages 12, 6, 4, and 1. He has worked
21 since this accident at Banks Construction Company.
22 He recently started there -- they started their own
23 business doing handyman services doing yard work
24 because he had so many years, Your Honor, in the
25 construction business. Your Honor, he spent six

1 months in jail from this and he's got that much time
2 in and whatever sentence Your Honor would seek to
3 impose, we ask Your Honor to give time served,
4 credit for that time.

5 Your Honor, more than anything else, more
6 than anything else, Mr. Demery is very, very sorry
7 about this incident and what happened. Nobody would
8 have expected that on his job somebody would come in
9 and attack him. I mean, he would have to defend
10 himself which is what he had to do; but more than
11 that, he's sorry that he hit this guy so many times.
12 He didn't know. Life is going on, you're defending
13 yourself, and you just pushing back and forth, and
14 that's the sense of what happened. Deeply
15 remorseful. As a matter of fact, the counseling
16 that he told the Court about is the counseling
17 that's helping him cope with the reality of that
18 sit-- of this situation. So he's been deeply hurt,
19 very sorry, because actually, the victim and him,
20 they're sort of the same family. They're distant
21 cousins or distant cousins, relatives of some sort,
22 and so he's not the run-of-the-mill kind of guy who
23 runs around, gets in trouble.

24 Your Honor, if you look at his criminal
25 background he's got some misdemeanor and bad checks

1 and maybe possession of marijuana back in the day or
2 a petit -- I think maybe one petit larceny. He
3 didn't have a record. I mean, he's basically trying
4 to be a good fella, and those are -- those charges
5 are back like 2013 and 2012, 2013, so three or four
6 years before he started working and doing whatever
7 he was doing at this place.

8 So, Your Honor, that's what we have here.
9 We have a deeply sad, remorseful person, cries,
10 cries a good bit. A person who got into the
11 situation, tried to defend himself, went overboard
12 in trying to defend himself. And as a result, we
13 are here. Your Honor, to believe otherwise you
14 would have to believe that he summoned someone to
15 his office so he can kill him in his office, which
16 just makes no common sense whatsoever. That's what
17 the State would have you believe, but that's not
18 what happened here. This was an unfortunate
19 situation, it got out of control, and one person
20 ended up dead and one person ends up sorry and very
21 remorseful.

22 THE COURT: Thank you, Mr. Weeks.

23 MR. WEEKS: Thank you, ma'am.

24 THE COURT: I'm glad to see -- first of
25 all, if you would tell me anything on his criminal

1 history besides what Mr. Weeks just told me.

2 SOLICITOR FINNEY: Mr. Weeks was accurate.

3 THE COURT: I'd like to hear from the
4 family if you want. You can have them come on up or
5 they can stay right where they are.

6 MR. BROWN: Your Honor, my name is Albert
7 Brown.

8 THE COURT: Thank you, Mr. Brown.

9 MR. BROWN: I'm the father of Jeffrey
10 Ceasar. And I just to say that the family has gone
11 through a lot since this happened. His son is out
12 there. And this was hard on the family, and it's
13 hard on me too. And all I ask for you is I would
14 like for you to at least give him the maximum
15 sentence that you can give him.

16 THE COURT: How old was Mr. Ceasar?

17 SOLICITOR FINNEY: Thirty-four.

18 THE COURT: And how old is -- his son you
19 said is here today?

20 SOLICITOR FINNEY: Sixteen now, Your
21 Honor.

22 THE COURT: Thank you.

23 Mr. Brown, thank you for being here, sir.

24 THE SISTER: My name is Senseney (ph).
25 Jeffrey Ceasar was my brother, my only brother. And

1 I'm the oldest so he's like my best friend. As his
2 father stated, yes, it was a major impact to our
3 family. It has hurt us tremendously, but the one it
4 hurt the most is his son. He was 10 at the time of
5 this incident. He's 16 now. His father got taken
6 away from him at a very early age. That's something
7 that he can never get back, as well as the rest of
8 us. This is a letter that my 14-year old daughter
9 wrote. How I feel. My love is gone. I lost the
10 person that mean the most to me. Only needed to
11 make one call and he was on the way. If anybody
12 needed something, he'd come. My favorite memory is
13 when we went to the dance at the church; it was fun.
14 I miss being outside waiting until he come by every
15 day. He be like, you need something? I would say,
16 yeah. She asked, can I come over. He always be
17 like, on the weekend you can. And he come by to get
18 me, he said tell her to go pack, I will come back
19 and get you. I have to pick someone up and get gas.
20 Later that night he never came back. Then when we
21 got that call, the call that the police say he was
22 in jail, it was a little misunderstanding but it got
23 straightened. But he was actually at the hospital.
24 This is things that hard for my whole family to deal
25 with. It's hurting. It's very hurtful. And as his

1 father say, I would like for him to receive the
2 maximum sentence today allowed.

3 THE COURT: Thank you, Ms. Ceasar.

4 THE SISTER: You're welcome.

5 THE COURT: Anything else from the State?

6 SOLICITOR FINNEY: Please the Court, Your
7 Honor. I can't tell you how many hours my
8 investigator and I and other police officers in the
9 room today have put in this case. Obviously, it was
10 an older case and we wanted to -- we had to work
11 very hard to pull everything together. People --
12 one of the guys that worked at the truck wash that
13 day, it was his first day there and he quit that day
14 because of all the violence that he saw there so he
15 -- it was hard on a lot of people.

16 We are glad to offer as a way of resolving
17 this case without a trial, the charge of
18 manslaughter. I know neither one of those men
19 probably got up that morning with the intent to harm
20 each other; but we do also believe that because he's
21 been given the benefit of not having to face a
22 murder charge, that he ought to be looking at the
23 maximum 30-year sentence. The State is asking for
24 the Court to impose that because this was not a
25 beating that needed to take place, and it took -- it

1 went way overboard to the point where that the
2 murder charge would have been substantiated under
3 the evidence. Obviously, we have two sides of the
4 story, and I understand that. But we're giving Mr.
5 Demery a break. We've also giving him the fact that
6 because of court schedule and other things, he's had
7 six years to get ready for this day. So we ask you
8 to impose the maximum sentence and to give this
9 family the sense of justice that they've been
10 waiting for for a long, long time.

11 May I just say these two final things.
12 Mr. Ceasar took no weapon into that office that
13 night, and Mr. Ceasar had a clean tox report from
14 the autopsy.

15 MR. WEEKS: Your Honor, if the Court may
16 please, my client would like to address the Court if
17 the Court allow.

18 THE COURT: Yes, sir.

19 THE DEFENDANT: This situation, it is
20 very, very sad and I am very, very sorry for
21 everything that transpired. I had no intentions
22 that morning on waking up being in any trouble,
23 getting into anything. I have no intentions now
24 into getting into anything. I'm very sorry. I, I
25 suffer from PTSD from this, anxiety, depression.

1 I'm still battling it. And it's been a long time
2 coming. I just wanted to let the Court know that I
3 am truly sorry and hope one day to be forgive for
4 this.

5 THE COURT: Thank you, Mr. Demery.

6 Mr. Weeks, anything else, sir?

7 MR. WEEKS: Nothing. Nothing else, Your
8 Honor. I think we've said enough. Your Honor, I
9 would like to say if the Court will allow me to,
10 that if you consider all of the mitigating factors
11 here, I think that without a doubt, Your Honor, this
12 is not a case that would merit maximum penalty. I
13 would ask the Court to consider a lot less than that
14 because of what Mr. Demery in trying to at least
15 call law enforcement, cooperate with law enforcement
16 as best he could and called 9-1-1 when he understood
17 this situation had gotten out of control. This guy
18 said we're gonna take it out in blood; and when
19 people do stuff like that and attack you, you got to
20 try to do something. So I just want Your Honor to
21 consider that and whatever decision when it comes to
22 evaluating a sentence in this matter.

23 THE COURT: I wish so much that we had a
24 rewind button that when people make a bad and tragic
25 decision we could rewind and, you know, that remorse

1 would equal a second chance to just start back at
2 square one. I know you wish that, Mr. Demery. I
3 certainly know that Mr. Ceasar's family wishes that.
4 Unfortunately, that's not the way the world works.
5 I do take into consideration the fact this was
6 obviously not premeditated. I take into
7 consideration the fact that Mr. Ceasar came to your
8 place of business and you didn't go looking for him.
9 I'm taking into consideration the fact that you have
10 a very limited criminal record. You had stable
11 employment, stable marriage, and children. I'm
12 taking into consideration the fact that you have not
13 gotten into any further trouble since this incident,
14 which you would think would be we feel about the
15 same; but unfortunately, we see time and time again
16 that people out on bond then get in trouble
17 repeatedly so I take that into consideration
18 certainly.

19 I also have to take into consideration the
20 fact that the victim had a 10-year old child, that
21 he didn't have a weapon on him, and that this is a
22 very violent occurrence, way more violence than
23 would have been necessary. Even had everything you
24 tell me been true and he was choking you, this was
25 extremely violent with a deadly weapon. And if the

1 defendant would not have any weapon or drugs in his
2 system so I'm -- victim, excuse me, so I certainly
3 have to take that into consideration. I wish what I
4 did today would bring the family something more than
5 what I have to offer them 'cause I know they've been
6 through a lot as well.

7 So the sentence of the Court is 20 years.
8 Again, I'm taking into consideration the fact that
9 you were facing a murder charge, that you called
10 9-1-1, that you're here today taking responsibility
11 for your actions. I wish that that meant that it
12 would bring Mr. Ceasar back; but unfortunately,
13 there's consequences for everything we do in this
14 life. I'm gonna give you credit for the time you
15 previously served of six months. Good luck to you.

16
17 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

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C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 24th day of March, 2023.

Frances B. Ray

FRANCES B. RAY, RPR

FORM 5

STATE OF SOUTH CAROLINA)

CASE #2023-CP-14-00209
IN THE COURT OF COMMON PLEAS

County of Clarendon)

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

Wallace Demery Jr 388733)
v.)

State of South Carolina)

APPLICATION FOR
POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Allendale Correctional Institution
P.O. Box 1151 Fairfax, SC 29827
2. Name and location of Court which imposed sentence Clarendon County Judicial court
Manning, SC
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) 2017-GS-14-00037
(b) _____

CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE
DATE 6/18/2023
Raula B. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) August 15, 2022
 - (b) 20 years without parole
 - (c) _____

- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty Yes
 - (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) My attorney denied my request for an appeal.
 - (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 Counsel
- (b) _____
- (c) _____

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

- (a) Hill v Lockhart, 474 U.S. 52, 106 S.Ct. 366 (1985)
- (b) Strickland v Washington, 466 U.S. 668, 686, 104 S.Ct. 2055, 2063
- (c) Frazer v United States, 18 F.3d 778, 795 (9th Cir. 1994)

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

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

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

- (a) the specific nature thereof:
 - i. Filed a petition for resentencing
 - ii. Filed a motion for plea withdrawal
 - iii. _____
 - iv. _____
- (b) the name and location of the Court in which each was filed:
 - i. Clarendon County Judicial Court, Manning, SC
 - ii. _____
 - iii. _____
 - iv. _____

(c) the disposition thereof:

- i. Resentencing denied and not considered
- ii. plea withdrawal motion no response after 30 days
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. August 20, 2022
- ii. April 4, 2023
- 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?

N/D

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) No response to 2nd motion.
- (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? yes
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? no
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
no

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. David weeks P.O. Box 170
Sumter, SC 29151
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. arraignment and plea
 - ii. sentencing
 - iii. _____

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

Seeking a PCR bond while awaiting for a new trial. If at all is possible, I would like for my original plea of O-5 with probation.

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

No

STATE OF SOUTH CAROLINA)
County of Clarendon)

VERIFICATION

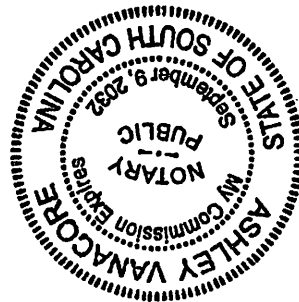
I, Wallace Demey Jr, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

[Signature]

SWORN to and subscribed before me this 5th day of June, 2023

Ashley Vanacore (L.S.)
Notary Public

My Commission Expires: 9/9/32



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

I, Wallace Demery Jr, 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:

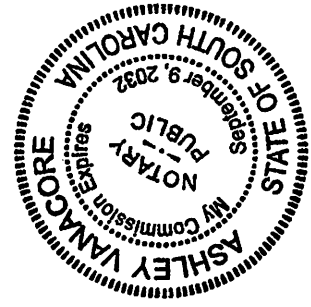
- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

[Signature]
Applicant

SWORN or affirmed to and subscribed before me this
5th day of June, 2023.

[Signature]
Notary Public

My Commission Expires: 9/1/32



Question 9. My attorney David weeks was contacted and asked to file a notice of an written appeal, he said no and denied my request. He did not consult anyone with me nor my supporters. He would not return nor speak with us.

Question 11. I was led into and coerced into a plea that was not intelligently made by me. The ABA standards relating to the Administration of Criminal Justice provides that it is unprofessional conduct for the lawyer to understate or overstate the risks, hazards, or prospects of the case to exert undue influence on the accused's decision as to his/her plea." Standard 4-5.1 (c) (1979). My attorney understated the risks. My attorney failed to mention the plea he led me into was for 20 years without parole. He failed to obtain a mental evaluation or investigate a self defense or blackout defense. He failed to investigate missing evidence in which was vital information to my case. Being advised that my plea was for 0-5 with probation was what my attorney coerced me to sign for. My attorney failed to file a notice of appeal. He failed to follow up with new witnesses. My attorney was advised of the medication sequel I was taken and under the influence of that he failed to acknowledge. I know that the outcome would be different had I known that my plea of being coerced into 20 years. I would have taken my case to trial. He did not conduct a reasonable pre-trial investigation he did not serve as a vigorous and devoted advocate of my cause." U.S. Ex. Rel. Partee v Lane 926 F.2d 694, 702 (7th Cir. 1991)

Question 16. On April 4th, 2023 I filed a motion of a plea withdrawal due to misrepresentation, mis conduct, and new evidence. Upon my motion being filed I never received an response within the 30 day time frame. Therefore I was not able to present my claim set forth in question 10.

Question 19. I seeking the O-S with probation, as p.c.t. bond and the chance with an effective counsel that I never received.

case was prosecuted by Third Circuit Solicitor Ernest A. Finney, III. Applicant was represented by J. David Weeks, esquire.

On August 15, 2022, Applicant pleaded guilty to the lesser included offense of voluntary manslaughter before the Honorable Kristi F. Curtis. Judge Curtis sentenced Applicant to twenty (20) years' imprisonment for voluntary manslaughter. Applicant did not file a direct appeal.

FACTS

Victim went to a truck wash in Clarendon County at approximately 5:30 pm on August 19, 2016. Victim came back to car wash approximately two hours later. At approximately 7:30 pm, a witness saw Victim get out of his vehicle and run inside the office at the truck wash where an altercation occurred between Victim and Applicant. Applicant beat Victim to death with a hammer and a wrench in an office inside the truck wash. Victim died on the scene.

(Gp. Tr. pp. 12 – 14).

CURRENT APPLICATION

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

1. Ineffective Assistance of Counsel
 - a. Counsel failed to "consult avenues with me or my supporters. He would not return nor speak with us."
 - b. "My attorney failed to mention the plea he led me into was for 20 years without parole."
 - c. Counsel "failed to obtain a mental evaluation or investigate a self defense or blackout defense."
 - d. Counsel "failed to investigate missing evidence in which was vital information to my case."
 - e. Counsel erroneously "advised that my plea was for 0-5 with probation."
 - f. Counsel "was advised of the medication Seroquel I was taken and under the influence of that he failed to acknowledge."
 - g. Counsel "failed to conduct a reasonable pre-trial investigation."
2. *White v. State* Claim
 - a. Counsel "was contacted and asked to file a written appeal, he said no and denied my request."

Applicant requests relief as follows:

“Seek a per bond while awaiting for a new trial. If at all is possible, I would like for my original plea at 0-5 with probation.”

Attached to this return and incorporated by reference are the Clarendon County Clerk of Court records regarding the subject conviction, Applicant’s records from the South Carolina Department of Corrections, the plea transcript, and the records of the current PCR action. The State reserves the right to amend this return upon receipt of any relevant materials.

RESPONSE TO ALLEGATIONS OF INEFFECTIVE ASSISTANCE OF COUNSEL

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). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a prima facie violation of this constitutional right and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRCPP; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland to determine whether counsel’s conduct “was so ineffective as to require reversal” of the applicant’s conviction or sentence. 466 U.S. at 687. First, the applicant must show that counsel’s performance was deficient; and second, that the deficient performance prejudiced the applicant. Id. at 668; Butler,

286 S.C. at 442, 334 S.E.2d at 814.

The first prong—constitutional deficiency—is “necessarily linked to the practice and expectations of the legal community.” Padilla v. Kentucky, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel’s representation fell below an objective standard of “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). 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.

Strickland, however, “does not guarantee perfect representation[—]only a ‘reasonably competent attorney.’” Harrington v. Richter, 562 U.S. 86, 110 (2011) (quoting Strickland, 466 U.S. at 687). Representation is constitutionally ineffective only if counsel’s conduct “so undermined the proper functioning of the adversarial process” that the defendant was denied a fair proceeding. Strickland, 466 U.S. at 686. Just as there is “no expectation that competent counsel will be a flawless strategist or tactician, an attorney may not be faulted for a reasonable miscalculation or lack of foresight or for failing to prepare for what appear to be remote possibilities.” Harrington, 562 U.S. at 110.

Accordingly, “[j]udicial scrutiny of counsel’s performance must be highly deferential, as it is all too tempting for a defendant to second-guess counsel’s assistance after conviction or an adverse sentence, and it is all too easy for a court, examining counsel’s defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.” Strickland, 466 U.S. at 689; see also Yarborough v. Gentry, 540 U.S. 1, 6 (2003) (“The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.”). Thus, the question is whether an attorney’s representation amounted to incompetence

under “prevailing professional norms,” not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690).

Thus, a fair assessment of attorney performance requires every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time. Id. Because of the difficulties inherent in making such an evaluation, the reviewing court must indulge in a “strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” Butler, 286 S.C. at 445, 334 S.E.2d at 816. The applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Reviewing courts “must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed at the time of counsel’s conduct.” Strickland, 466 U.S. at 690. An applicant making a claim of ineffective assistance “must identify the acts or omissions of counsel that are alleged not to have been the result of reasonable professional judgment.” Id. The reviewing court must then “determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professionally competent assistance.” Id.

The Strickland standard must be applied with scrupulous care, lest “intrusive post-trial inquiry” threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689-690; see also Harrington, 562 U.S. at 105 (cautioning that an ineffective assistance of counsel claim could potentially function as a way to escape rules of waiver and forfeiture and raise issues not presented at trial). Even under *de novo* review, the standard for judging counsel’s representation is a most deferential one. Harrington, 562 U.S. at 105. Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an

attorney's representation amounted to incompetence under "prevailing professional norms," **not** whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690) (emphasis added).

The second, or "prejudice" prong of Strickland is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. Id. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 694. Thus, it is not enough "to show the errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to deprive the defendant of a fair trial." Id. at 687 (emphasis added).

The performance and prejudice standards, however, "do not establish mechanical rules; [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." Strickland at 696. Moreover, "there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one." Strickland at 697. The court "need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. Id. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the prejudice prong only. Id.

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty

plea, Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on ineffective assistance of counsel.” Hill, 474 U.S. 52; cf. Padilla, 559 U.S. at 373 (recognizing the guilty plea process is a “critical phase of litigation” for purposes of the Sixth Amendment right to effective assistance of counsel). A claim of ineffective assistance of guilty plea counsel requires the applicant present evidence satisfying two prongs: first, evidence that counsel’s performance was deficient; and second, evidence that counsel’s deficient performance prejudiced the defendant by causing him to plead guilty rather than go to trial. Hill, 474 U.S. 52.

The analysis of counsel’s performance under the first prong of Strickland remains unchanged—the applicant must show counsel’s representation fell below the objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his plea was induced by ineffective assistance of counsel must prove counsel’s advice to plead guilty was not “within the competence demanded of attorneys in criminal cases.” Hill, 474 U.S. at 56.

The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” Id. at 58–59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” Id. at 59. This inquiry “focuses on a defendant’s decision making” and does not turn on the outcome of a defendant’s actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. ___, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly

informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Allegation e: Counsel Erroneously Advised Applicant of His Sentence

Applicant alleges Counsel erroneously informed him he would be sentenced to 0-5 years with probation if he pleaded guilty. Respondent submits this allegation is without merit. “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). At the outset of the guilty plea hearing, the plea court informed Applicant the offense of voluntary manslaughter carries up to 30 years. Applicant indicated he understood this. (Gp. Tr. p. 4). Additionally, the plea court informed Applicant this is a no parole offense. (Gp. Tr. p. 12). During mitigation, Counsel argued against sentencing Applicant to the maximum sentence of 30 years, which clearly indicates Counsel was not under the impression this plea was for 0-5 years with probation. (Gp. Tr. p. 31).

Applicant was properly informed of the consequences of his plea by the court; thus, this allegation is without merit.

Allegation f: Counsel Failed to Acknowledge Applicant was on Medication and Under the Influence During the Guilty Plea Hearing

Applicant alleges Counsel failed to acknowledge Applicant was under the influence of Seroquel during the guilty plea hearing. Respondent submits this allegation is without merit.

During the guilty plea hearing, the plea court engaged in a lengthy colloquy with Applicant surrounding this exact issue. (Gp. Tr. pp. 5 – 7). Applicant indicated he was on Seroquel, but it does not interfere with his ability to think clearly. (Gp. Tr. p. 5). Additionally, Counsel informed the plea court that, based on his numerous conversations with Applicant, he had no concern regarding Applicant's mental health. (Gp. Tr. p. 6). Thus, the record conclusively refutes this allegation.

Response to Allegations a, b, c, d, and g

Respondent submits these allegations are without merit. However, these allegations cannot be conclusively refuted by the record; thus, Respondent requests an evidentiary hearing be held on these allegations.

White v. State² Claim

Applicant alleges that he was denied the right to a direct appeal of his plea and sentence. Though counsel is required to make certain that a defendant is made fully aware of his or her right to appeal after a *trial*, a different standard applies to a guilty plea:

Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to a direct appeal from a guilty plea.

Turner v. State, 380 S.C. 223, 224-25, 670 S.E.2d 373, 374 (2008) (citations omitted); see also Roe v. Flores-Ortega, 528 U.S. 470, 480 (2000) (imposing the duty to consult when there is reason to think either that a rational defendant would want to appeal or that the particular defendant reasonably demonstrated interest in doing so); contra Frazer v. South Carolina, 430 F.3d 696 (4th Cir. 2005) (reading Flores-Ortega to mean counsel generally has a duty to consult with his client

² White v. State, 263 S.C. 110, 208 S.E.2d 35 (1974).

regarding whether to pursue an appeal). Therefore, in a collateral action attacking a guilty plea, the “bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief.” Jones v. State, 382 S.C. 589, 598, 677 S.E.2d 20, 23-24 (2009) (quoting Weathers v. State, 319 S.C. 59, 61, 459 S.E.2d 838, 839 (1995)).

Where an Applicant reasonably demonstrates an interest in appealing, or where there is a reason to think a rational defendant would want to appeal, and where Counsel fails to either initiate that appeal or comply with Anders procedure, “White permits consideration of the full trial record on [an] issue in conjunction with appellate review of the PCR proceeding under an exception to the prohibition against appellate courts considering appeals in the absence of notice of direct appeal given and timely served.” Smith v. State, 309 S.C. 413, 415, 424 S.E.2d 480, 481 (1992) (citing Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986)).

Respondent lacks sufficient information to admit or deny this allegation at this time. Respondent requests an evidentiary hearing on this ground for relief. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

Conclusion and Action Requested

For the above-reasons, Applicant cannot satisfy either requirement of Strickland. To the extent Applicant’s allegations are not conclusively refuted by the record, the State requests an evidentiary hearing be held to fully resolve those issues. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application “alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court”).

ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

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. See Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to Love v. State, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. Id. at 245, 834 S.E.2d at 203 (Kittredge, J., dissenting) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, the State reserves the right to move to dismiss this allegation or claim. S.C. Code Ann. §§ 17-27-10 to -160; Rule 71.1, SCRPC; see also Rules 15(a)-(b), SCRPC. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State. See Rule 15(a), SCRPC.

Pursuant to S.C. Code Ann. § 17-27-150, 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, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. The State 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 the State.

GENERAL DENIAL

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

CONCLUSION

WHEREFORE, Respondent respectfully requests an evidentiary hearing be held on the claims of ineffective assistance of counsel and the White v. State claim.

Respectfully submitted,

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Attorney General

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By: 

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P.O. Box 11549
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September 19, 2023

STATE OF SOUTH CAROLINA)
 COUNTY OF CLARENDON)
)
 Wallace Demery Jr, #388733)
)
 Applicant,)
)
 v.)
)
 State of South Carolina)
)
 Respondent,)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE THIRD JUDICIAL CIRCUIT

Case No.: 2023-CP-14-00209

Certificate of Service by Mail

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

Timothy L. Griffith, Esquire
2338 Mount Vernon Dr
Sumter, SC 29154

DATED this 19th day of September, 2023.



 Blake Means, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)	
)	COURT OF COMMON PLEAS
COUNTY OF CLARENDON)	2023-CP-14-00209
)	
)	
)	
WALLACE DEMERY, JR.,)	
APPLICANT,)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
THE STATE,)	
RESPONDENT.)	
_____)	

July 23, 2024
Manning, South Carolina

B E F O R E:

THE HONORABLE GRACE GILCHRIST KNIE, JUDGE.

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

TIMOTHY L. GRIFFITH, ESQ.
Attorney for the Applicant

CRUISE MITCHELL, ESQ.
Attorney for the Respondent

Proceedings Recorded by DCRP
Transcribed by Penny M. Johnson

I N D E X

(AW) - Denotes Applicant's Witness
 (RW) - Denotes Respondent Witness

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E X H I B I T S

(There were no exhibits submitted)

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P R O C E E D I N G S

THE COURT: Good morning. I am Judge Knie. It is my sincere pleasure to be with you all today here in Sumter. This is a term of common pleas nonjury and I am hearing post-conviction relief matters.

I would like for counsel to first identify yourselves for the record, starting with counsel for the Applicant.

MR. GRIFFITH: Attorney Timothy L. Griffith of the Sumter Bar for Applicant, Your Honor.

THE COURT: Thank you.

MR. MITCHELL: I am Cruise Mitchell with the South Carolina Attorney General's Office on behalf of the State of South Carolina.

THE COURT: Thank you.

The matter showing on my docket is Wallace, is it Demery?

THE APPLICANT: Demery.

THE COURT: Jr. Okay.

Good morning, sir, you're Mr. Demery?

THE APPLICANT: Yes, ma'am.

THE COURT: Let me have you rise and be sworn in, okay?

WALLACE DEMERY, JR.,

after being duly sworn, testified as follows:

THE COURT: Okay, sir, please, be seated. You understand this is an action for post-conviction relief?

1 THE APPLICANT: Yes, ma'am.

2 THE COURT: If at any time you need to talk to your
3 lawyer, you just raise your hand and I'll let y'all talk
4 privately, okay, and we'll make sure that mic is off.

5 THE APPLICANT: Yes, ma'am.

6 THE COURT: All right. Thank you.

7 Is there any objection to me getting the procedural
8 history from counsel for the Respondent?

9 MR. GRIFFITH: No objection, Your Honor.

10 THE COURT: Okay. Mr. Mitchell.

11 MR. MITCHELL: May it please the Court.

12 This is the post-conviction relief matter of Wallace
13 Demery v. State, case number 2023-CP-14-00209 out of
14 Clarendon County. I'm Cruise Mitchell on behalf of the
15 State of South Carolina. The Applicant is present and
16 represented by counsel, Timothy Griffith.

17 During its February 2017 term, the Clarendon County
18 Grand Jury indicted Applicant for murder. The case was
19 prosecuted by 3rd Circuit Solicitor Ernest A. Finney, III.
20 Applicant was represented by the Honorable J. David Weeks,
21 Esquire.

22 On August 15th, 2022, Applicant pleaded guilty to the
23 lesser included offense of voluntary manslaughter before the
24 Honorable Kristi F. Curtis. Judge Curtis sentenced
25 Applicant to 20 years imprisonment for voluntary

1 manslaughter. Applicant did not file a direct appeal.

2 With that, I'll turn it over to Mr. Demery.

3 THE COURT: Thank you.

4 Mr. Griffith.

5 MR. GRIFFITH: If it please the Court, Your Honor.

6 Of course, I have had time to speak with my client
7 prior to this and have informed him that if we are
8 successful and he wins his PCR, he, again, is facing the
9 initial charge of murder rather than involuntary
10 manslaughter, which he finally pled to. I just wanted to
11 put that on the record to make sure that he totally
12 understands that at every point.

13 THE COURT: Mr. Demery, do you understand what Mr.
14 Griffith has just stated?

15 THE APPLICANT: Yes, ma'am.

16 THE COURT: Do you have any questions?

17 THE APPLICANT: No, ma'am.

18 THE COURT: Do you wish to go forward?

19 THE APPLICANT: Yes, ma'am.

20 THE COURT: Okay. Thank you.

21 MR. GRIFFITH: Thank you, Your Honor.

22 At this time, I would call Mr. Wallace Demery, Jr.

23 THE COURT: Okay, sir, I'm going to let you come up.

24 You've already been sworn. You have to come way over here.

25 So I want you to take your time. Be careful.

1 THE BAILIFF: State your full name and spell your last
2 name for the record, please, sir.

3 THE APPLICANT: Wallace Demery, Jr., D-E-M-E-R-Y.

4 THE COURT: Thank you. Sir, first, you'll answer the
5 questions of your lawyer on direct examination.

6 Mr. Griffith.

7 MR. GRIFFITH: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MR. GRIFFITH:

10 Q Mr. Demery, Jr., your father is here, Mr. Demery, Sr.
11 How long have you been incarcerated, Mr. Demery?

12 A Going on three years.

13 Q So you were sentenced -- or you pled guilty on August
14 15th of 2022; is that correct?

15 A Correct.

16 Q And when you pled guilty, how long had you been working
17 with your attorney before you pled guilty? Do you remember
18 that?

19 A He was my attorney since 2016.

20 Q So the case really started way back in 2016; correct?

21 A Correct.

22 Q So during that time, all that time he was your
23 attorney, were you in the jail that whole time or what
24 happened?

25 A I got bond in 2017.

1 Q So you were out after a year. And then -- so,
2 evidently, you retained Mr. Weeks as your attorney; is that
3 correct? Or your family did?

4 A Correct.

5 Q So once you started working with Mr. Weeks, how often
6 do you think that you had the opportunity to speak with Mr.
7 Weeks?

8 A Can't give a direct number, but it was a handful of
9 times.

10 Q Okay. Over the course of that five years?

11 A Yes, sir.

12 Q Had you tried to get Mr. Weeks some information that
13 would help your case?

14 A Yes, sir.

15 Q Why don't you tell us about that?

16 A For starters, one of the witnesses was my sister. She
17 never was contacted nor questioned by Weeks and his office.
18 I, also, tried to mention the information regarding the
19 property that went missing from the First Responders that
20 never turned in to the police department.

21 Q So who didn't turn it in?

22 A One of the First Responders that came to the scene that
23 night.

24 Q What did they have?

25 A They took a Smith & Wesson stainless and black knife

1 off my person and never turned it in along with the
2 property.

3 Q Okay. So what other information did you try to bring
4 to your attorney's attention so he could help you in your
5 trial? Anything else?

6 A Yes. I didn't mention it, but upon trial preparation,
7 another attorney happened to mention getting myself
8 evaluated for M'Naghten test, I believe it was, for
9 blackouts. And then, of course, that I was on a medication
10 during the time of the trial, which would have resulted in
11 another evaluation.

12 Q So did Mr. Weeks ever ask that you be evaluated or talk
13 to you like you should be evaluated?

14 A No, sir.

15 Q Now, in the transcript, it does state that Mr. Weeks
16 told the Judge that every time that he talked to you, you
17 were able to communicate with him. Is that the way you
18 remember it?

19 A Every time he contacted me, we talked.

20 Q Okay. But during that whole time, you were on
21 medication; is that correct?

22 A For the later part of my bond.

23 Q So you feel like without the medication that you --
24 it's possible that you would have blacked out or something
25 like that, is that what you're telling me?

1 A No, without the medication during my trial, I would
2 have had a different outcome. I wouldn't have never agreed
3 to this plea, especially knowing what he told me and my
4 supporters. The medication that I was on was for when I was
5 diagnosed with PTSD and anxiety. And it slowed my thought
6 process and my thinking. So I was a little groggy on that
7 day. I was not sure of making a clear, conscious decision.

8 Q But you remember the Judge asked you if you were on any
9 medication that would keep you from making a good decision.
10 But you couldn't make a good decision to answer, is that
11 what you're telling us?

12 A I was able to tell her the drug that I was on. I,
13 also, stated that I was not sure of being able to make a
14 clear, conscious decision.

15 Q Okay. Now, as to contacting and talking to your
16 attorney, you're saying it was just a handful of times over
17 that five years?

18 A Yes, sir.

19 Q When did they happen? Did they happen at the beginning
20 or all through it or at the end or what?

21 A It was pretty much through it. It was only a handful
22 of times pretty much through it. We spoke more getting
23 closer to trial than we did the whole time.

24 Q All right. So had your family tried to talk to him,
25 too?

1 A Yes. Because my family was the ones that retained Mr.
2 Weeks.

3 Q But did they have some information that they thought
4 would be very important?

5 A To be honest with you, I believe so is the reason for
6 them wanting to contact him. Because a lot of times, my
7 father would do the talking because we wouldn't really talk.
8 Because, I guess, he knew him or something. I don't know.

9 Q But one of your grounds is that he failed to consult
10 with your supporters. He failed to consult with your
11 family, the people that had more information. Is that what
12 you --

13 A He failed to consult with us with the different avenues
14 that maybe would have been grounds to help me in my case.
15 We just was told that everything was worked out, but he
16 never talked to us on anything that could have went
17 differently.

18 Q And one of your grounds, you said he failed to do a
19 mental evaluation. You had told him that you had some
20 issues, like the PTSD and some other issues; isn't that
21 correct?

22 A Correct.

23 Q And so do you feel like you possibly needed to be
24 evaluated, a mental evaluation?

25 A I believe so.

1 Q Have you been evaluated since then?

2 A No, sir.

3 Q And one of your grounds, you stated that he failed to
4 investigate some missing evidence. What can you tell us
5 about that?

6 A That is the knife I mentioned previous, earlier. That
7 knife, I felt would have been probably vital because I had
8 not acted with malice. And that would have showed that me
9 having a weapon of that on would have showed that if I would
10 have had malice in mind, I could have just simply acted with
11 that knife. The First Responder took that knife off of me,
12 retrieved it. But when they took me to the sheriff's office
13 and they bagged my clothes and took it in for evidence to
14 put in, they never turned that in.

15 Q Okay. And, also, you're talking about your attorney
16 did not argue self-defense for you?

17 A Yes, sir.

18 Q Tell us about it.

19 A I was defending myself. That never came up. I found
20 out later after being incarcerated that there was such a
21 thing called an immunity hearing that I was never advised
22 of, that I could have possibly had on my behalf.

23 Q Had you told Mr. Weeks that you were defending
24 yourself?

25 A Yes, sir.

1 Q Okay. Go ahead.

2 A So knowing that I could have had an immunity hearing
3 and was never advised that I could by my attorney, I felt
4 like that was information left out that should have been
5 brought up.

6 Q Okay. And at one point, did you talk to him -- as it
7 got closer to the trial, did he have any kind of information
8 about an offer that the solicitor had made?

9 A The day of the offer.

10 Q The day of the plea?

11 A The day of the plea.

12 Q Okay. What did he tell you?

13 A The day of the plea, he had me and my wife in the
14 conference room and told us that he had a plea for us for
15 involuntary manslaughter. Me being under the advice of my
16 attorney, I thought that was the best go round so I didn't
17 have to go to trial. Thinking I was just going to go in for
18 two years, which he said everything is worked out between
19 the Judge and the solicitor. So me and my wife, we spoke on
20 multiple occasions before we finally made the final decision
21 and said if it was only two years for involuntary, we will
22 take that. For defending myself, I would take that.

23 Q So what was the offer?

24 A For involuntary manslaughter.

25 Q Did he tell you a certain number of years?

1 A Two years.

2 Q He did? In your complaint, you said zero to five with
3 probation?

4 A Yes, sir.

5 Q Is that what he told you?

6 A Zero to five, but it was worked out for two years. So
7 that's what I went in there looking to get was two years.

8 Q Now, do you think -- in your complaint, you said that
9 Mr. Weeks failed to conduct a reasonable pretrial
10 investigation. Tell us about that.

11 A I think the investigation into the case could have been
12 a little bit more diligent on my attorney's behalf. And I
13 strongly feel like it was not, especially with the fact that
14 the witnesses that I know, my sister being one, Mr. Dennis
15 Rodman being another one and the witnesses of the State were
16 not properly investigated by my attorney's office.

17 Q Okay. So did he hire an investigator?

18 A He had a private investigator, which later I found out
19 that he resigned and took employment with the State
20 prosecutor.

21 Q Okay. And another issue that's kind of separate. Did
22 you ask Mr. Weeks to appeal your case?

23 A I did. I didn't personally because at the time, I had
24 no way of contacting him, so that was left up to my father.
25 My father had told me maybe two weeks later that he had

1 refused to do so.

2 Q What else can you tell us about your claim on your PCR?
3 We want you to be able to tell us all you need to.

4 A Other than having the conflict of interest not only
5 with the private investigator, but the First Responder, who
6 was related to the deceased, I feel like it's the reason for
7 the missing evidence. It could be very vital. To me, it
8 would have been very vital in that case, proving my
9 self-defense.

10 If I would have had a couple more days just to get the
11 medicine I was taking out of my system, I could have had a
12 better chance of understanding everything I was going into
13 on the day of trial and would have understood that the
14 decision that was being made was not all of my conscious.
15 It was from the advice my attorney was giving me.

16 Q Would you have appealed if given the opportunity?

17 A Yes, sir.

18 Q Do you have anything else you want to add?

19 A No, sir.

20 MR. GRIFFITH: Please answer any questions the Attorney
21 General may have.

22 THE COURT: Cross-examination.

23 MR. MITCHELL: Yes, ma'am, just briefly, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. MITCHELL:

1 Q Mr. Demery, you pled guilty in this case, correct?

2 A Yes, sir.

3 Q And at the guilty plea hearing, you told Judge Curtis
4 you were on Seroquel; correct?

5 A Correct.

6 Q And you, also, told Judge Curtis that Seroquel did not
7 have any adverse affects on you?

8 A Incorrect. Because I stated I was not sure.

9 MR. MITCHELL: Your Honor, may I approach the witness?

10 THE COURT: Yes.

11 BY MR. MITCHELL:

12 Q Mr. Demery, would you look on Line -- this is on Page 6
13 of your guilty plea transcript. Line 17, the Court asked
14 you if there were any adverse affects on you that kept you
15 from thinking clearly. And you responded -- how did you
16 respond?

17 A I responded I'm not sure. But there, it says no,
18 ma'am.

19 Q You dispute the transcript then?

20 A Yes. Because I was then on Seroquel. Everything that
21 happened during that trial, all that happened was under the
22 advice of my attorney.

23 Q And, also, during your guilty plea hearing, Judge
24 Curtis told you she could sentence you up to 30 years;
25 correct?

1 A Yes.

2 Q And you told her you understood that, correct?

3 A Yes.

4 Q She, also, told you that it would be a no parole
5 offense; correct?

6 A Yes, she did.

7 Q And you, also, waived certain Constitutional rights at
8 your guilty plea hearing, such as your right to trial;
9 correct?

10 A Which I did not know I was waiving my rights.

11 Q Well, Judge Curtis went over it with you in depth at
12 the hearing; correct?

13 A See, that's what I'm telling you. Under advice of my
14 attorney, things that was left out when he spoke to me and
15 things that I heard when I got in front of her, I did not
16 know. So being told that I was waiving my Constitutional
17 rights, I would not have went through with it.

18 Q She still said to you --

19 A I went under advice of my attorney. I have every right
20 to go under the advice of my attorney believing that my
21 attorney is leading me right. So thinking that I'm still
22 getting the offer by my attorney when I went in front of the
23 Judge --

24 Q But you told her you understood --

25 THE COURT: One at a time, please.

1 Please let the gentleman answer your questions, Mr.
2 Mitchell.

3 THE APPLICANT: Yes, I told her I understood, but,
4 also, going under the advice of my attorney. And there's
5 nothing wrong with a client believing in the advice of his
6 attorney.

7 MR. MITCHELL: Your Honor, I have no further questions
8 of this witness.

9 THE COURT: Any redirect?

10 MR. GRIFFITH: No redirect, Your Honor.

11 THE COURT: Any objection to me asking Mr. Demery a
12 question?

13 MR. GRIFFITH: No objection, Your Honor.

14 MR. MITCHELL: No objection, Your Honor.

15 THE COURT: Sir, can you hear me okay?

16 THE APPLICANT: Yes, ma'am.

17 THE COURT: You indicated in your plea transcript and
18 hearing that you had had some mental health treatment for
19 six years prior to the plea. Would that have been since the
20 incident happened?

21 THE APPLICANT: Yes, ma'am.

22 THE COURT: Okay. But what about before that?

23 THE APPLICANT: No, ma'am.

24 THE COURT: Okay.

25 Any followup questions as to mine?

1 MR. GRIFFITH: None, Your Honor.

2 MR. MITCHELL: None from the State, Your Honor.

3 THE COURT: Okay, sir. Watch your step.

4 MR. GRIFFITH: Once he comes down, Your Honor, I would
5 call Wallace Demery, Sr.

6 THE COURT: Okay.

7 Sir, please, come forward.

8 WALLACE DEMERY, SR.,

9 after being duly sworn, testified as follows:

10 THE COURT: Sir, make yourself comfortable, okay?

11 THE BAILIFF: State your full name and spell your last
12 name for the record, sir.

13 THE WITNESS: Wallace Demery, Sr. Last name is
14 D-E-M-E-R-Y.

15 THE COURT: Direct examination by Mr. Griffith.

16 DIRECT EXAMINATION

17 BY MR. GRIFFITH:

18 Q Mr. Demery, thank you for coming today. Do you live
19 here in Sumter?

20 A No, I live in New Zion in Clarendon County.

21 Q What's that, sir?

22 A I'm in Clarendon County.

23 Q This incident happened in Clarendon County?

24 A Right.

25 Q And how long have you been living over there?

1 A I've been in New Zion all my life, 59 years.

2 Q And when your son was arrested in this case, you do
3 remember back then, don't you?

4 A Yes. It happened August of 2016.

5 Q And so you and your family contacted Mr. Weeks to be
6 the attorney; is that correct?

7 A Right.

8 Q And subsequent to -- while Mr. Weeks was representing
9 your son, had you tried to communicate with Mr. Weeks?

10 A I tried to communicate with him after the trial. I
11 think we talked a couple days after the trial to try to do
12 the -- I wanted to get his advice on what to do to appeal.
13 His response to me was it's not going to do any good. But
14 he did allow me to write a letter and take it to his office.
15 I'm pretty sure he presented it to the Judge or the
16 solicitor. But we didn't do an official appeal.

17 Q Did you ask for an appeal?

18 A Yes, I did.

19 Q Also, during the time before the trial, your son says
20 that his family tried to talk to Mr. Weeks, but you weren't
21 able to speak with him; is that correct?

22 A I called a few times and the reply I got was he's
23 unavailable. I may have talked to him once or twice
24 face-to-face, but, mostly, I couldn't get ahold to him.

25 Q And, also, your daughter tried to talk to him; isn't

1 that correct?

2 A I'm not sure whether she called him, but she was at the
3 place where it happened that night, the incident happened.
4 And she wrote a statement, which I showed to you earlier
5 this morning, of what happened that night that she can
6 recall.

7 Q So was she trying to get that information to Mr. Weeks?

8 A I'm not sure if she contacted him.

9 MR. GRIFFITH: I have no further questions, Your Honor.

10 THE COURT: Okay.

11 Cross-examination.

12 MR. MITCHELL: The State has no questions for this
13 witness, Your Honor.

14 THE COURT: All right.

15 MR. GRIFFITH: Your Honor, I would call Mr. Wallace
16 Demery, Jr., 's wife, Josie Walker.

17 THE BAILIFF: Place your left hand on the Bible and
18 raise your right hand.

19 State your full name.

20 THE WITNESS: Josie Walker.

21 JOSIE WALKER,

22 after being duly sworn, testified as follows:

23 THE COURT: Ma'am, make yourself comfortable.

24 THE BAILIFF: State your full name and spell your last
25 name for the record, please, ma'am.

1 THE WITNESS: My full name is Josie Bernita Walker.
2 Last name, W-A-L-K-E-R.

3 THE COURT: Direct examination.

4 MR. GRIFFITH: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. GRIFFITH:

7 Q Ms. Walker, thank you for being here. Nobody likes to
8 get up in front of the Court and talk, I know, but I
9 appreciate it. Let me just ask you, I just have one
10 question for you, really -- well, a couple. During the time
11 before the trial period, did you, along with your husband,
12 try to contact and have time to talk to Mr. Weeks?

13 A Before the trial?

14 Q Yes.

15 A Maybe was two times he called him to talk about the
16 case before the trial.

17 Q Did you go with him?

18 A Yes, I did.

19 Q On one of those times, Mr. Demery tells us that he was
20 under the impression that if he pled to involuntary
21 manslaughter that he would get, like, zero to five years.
22 Do you remember anything about that?

23 A When he was talking about a plea, he did mention that
24 he did speak with a Judge and it was best to go with the
25 Judge instead of his 12 peers. Because he did speak to him

1 already and he was looking at between zero and five years
2 and probation if he did go with the plea.

3 Q And that was what prompted your husband to go with the
4 plea?

5 A Yes.

6 Q In your opinion?

7 A Yes.

8 Q Do you have anything else you want to add?

9 A I did feel like he at trial -- well, when he got
10 sentenced, I did feel like he did not represent my husband
11 in the case because it was things that happened in the case
12 that he didn't mention. Like, the guy didn't -- he had a no
13 trespassing at my husband's job. He didn't mention that. I
14 felt like he didn't mention anything to save my husband
15 where he could lesser time than 20 years.

16 MR. GRIFFITH: Than you. Please answer any questions
17 of the Attorney General.

18 THE WITNESS: Okay.

19 MR. MITCHELL: The State has no questions of this
20 witness, Your Honor.

21 THE COURT: Okay.

22 Thank you, ma'am.

23 THE WITNESS: Thank you.

24 MR. GRIFFITH: Your Honor, if it please the Court, I
25 have no more witnesses.

1 THE COURT: Okay. Thank you.

2 Mr. Mitchell.

3 MR. MITCHELL: Yes, Your Honor, the State calls the
4 Honorable J. David Weeks to the stand.

5 THE COURT: Please come forward.

6 THE BAILIFF: Place your left hand on the Bible, raise
7 your right hand and state your full name, sir.

8 THE WITNESS: My name is David Weeks.

9 DAVID WEEKS,

10 after being duly sworn, testified as follows:

11 THE BAILIFF: State your full name and spell your last
12 name for the record, sir.

13 THE WITNESS: James David Weeks, W-E-E-K-S.

14 THE COURT: Direct examination.

15 DIRECT EXAMINATION

16 BY MR. MITCHELL:

17 Q Good morning, Mr. Weeks.

18 A Good morning.

19 Q Mr. Weeks, did you represent Mr. Demery in this case?

20 A I did.

21 Q And were you appointed or retained?

22 A Retained.

23 Q Do you remember how long before the plea you were
24 representing Mr. Demery?

25 A It had been several years.

1 Q So you were representing him for years prior to the
2 plea?

3 A Yes.

4 Q And did you meet with Mr. Demery prior to the plea?

5 A Yes.

6 Q More than once?

7 A Yes.

8 Q Several times?

9 A Yes.

10 Q And during those meetings, did you review the discovery
11 with Mr. Demery?

12 A Yes. Not only did I review it, I, actually, gave him
13 copies of the discovery.

14 Q So you gave him copies of everything that the State
15 provided to you?

16 A I did.

17 Q And will you briefly explain to the Court the facts of
18 this case as far as you remember them?

19 A Well, this happened at a place in Clarendon County
20 where Mr. Demery was working. This was just someone coming
21 in and there was an altercation. As a result of that
22 altercation, Mr. Demery was alleged to have killed the
23 person.

24 Q And would you just explain how the plea negotiations
25 went?

1 A Well, we didn't have initial plea negotiations. As a
2 matter of fact, we didn't get a firm plea from the
3 solicitor's office until, actually, of the day of the trial
4 itself. We had discussed that there would possibly be some
5 offer, but there was not a specific offer on the table at
6 that time.

7 Now, this case was supposed to have come up for docket,
8 at least, three times during the course of these years, but
9 they didn't for various reasons. One of the reasons was
10 because there was an issue in Clarendon County with a
11 solicitor to, actually, prosecute the case. Apparently,
12 there was a lot of turnover in that office. And then, of
13 course, we got into the Covid years and then there was no
14 court for awhile. We, ultimately, ended up having this
15 particular thing finally called. So we got together and did
16 that.

17 Initially, I had hired an investigator who, actually,
18 did an initial investigation. I provided that information,
19 also, to Mr. Demery. That's, of course, the first thing
20 that we do when we get cases like this. And we did that.
21 And that report was provided, also, way before we got to the
22 discovery part of it all.

23 Q And so you mentioned that this plea offer came to you
24 the day of trial?

25 A It did.

1 Q What was your defense strategy at trial going to be?

2 A Well, we were going to put Mr. Demery -- it was not a
3 case that I thought that we would just rely on the State and
4 try to -- basically, try to get rid of it based upon
5 whatever testimony the State put up. I was, actually, going
6 to put Mr. Demery up. That would have been sort of a last
7 resort. As we do in these cases, we hear what the State has
8 to put up and we make a decision very strategically at that
9 time. And that was the strategy that day. We came ready to
10 roll. We made that very clear that we were ready to go.
11 And we were ready.

12 Q Was this going to be a self-defense case?

13 A Self-defense, but it probably would -- matter of fact,
14 if you look at the comments that I made to the Judge in the
15 transcript of record, it did indicate that there was some
16 situations there that we thought we might have had a defense
17 on that.

18 Q And you said you were prepared to go to trial in this
19 case at that time?

20 A Yes, we were ready to go.

21 Q So what, ultimately, was the plea offer?

22 A Well, the plea offer was to plea to the lesser included
23 offense of involuntary. What we did is -- and I never
24 advise a client to plead guilty. Never. Never have I done
25 it in the 30 years that I've practiced law.

1 What I do is I put out the information that's been
2 given to us, particularly, as it relates to a plea offer and
3 I tell them what I think the consequences are. I mean,
4 you're looking at what you're looking at with this and
5 you're looking at what you're looking at if you go to trial
6 and found guilty. Of course, I always say you always have a
7 chance to have a trial and you may win. I mean, the jury
8 may find you not guilty.

9 So what we did is we went through all of the paperwork,
10 all of the discovery. And we had everything sort of lined
11 up ready to hear the case, the State's case on the matter.
12 And that's the morning of the trial is when we got that
13 plea. I called everybody into the room, which is what I
14 normally do when there's a Defendant. I not only ask the
15 Defendant, but I ask the Defendant's family if they will
16 come in. They came into the room. We talked about the
17 possibilities of a plea.

18 And I always say this, we're ready to go. That's your
19 decision as to whether or not you decide you want to go
20 forward with a plea or whether you want to proceed with the
21 trial. I go through all of the things, you know, the right
22 to call witnesses and to cross-examine the State's witnesses
23 and things like that. I always go through all of that and
24 that's what I did in the room that day with Mr. Demery and
25 Mr. Demery's father and Mr. Demery's wife. I don't know if

1 the sister was there at that meeting or not. But we went
2 through that.

3 We went through all of those possibilities. I said,
4 you know, y'all think about it. You don't have to say it at
5 this moment. I always give Defendants, particularly in a
6 case like this, you just think about it and talk about it
7 among yourselves. If y'all decide you want to roll with
8 this, we're ready to roll. If you decide you want to go
9 with the plea, we'll go with the plea. Whatever you decide
10 to do, but that is your decision. My job is to let you know
11 what the implications are based upon the evidence. I showed
12 them the evidence. Of course, they had copies of the
13 evidence. And that's sort of where we were with it.

14 Q How did -- what decision did Mr. Demery, ultimately,
15 decide on?

16 A After having a discussion, after having that time with
17 his family, they all agreed that the guilty plea was the way
18 to go. And I did something else that I normally do when I
19 have family members, I said, you support -- I went round the
20 room. I said, You're in support of this plea? Even though
21 it's his plea, I went around the room and everybody said
22 they supported that. And that's when we went out and did
23 that.

24 Q And as far as sentencing, there was no recommendations
25 or negotiations in this case?

1 A There was no recommendations.

2 Q Did you tell that to Mr. Demery?

3 A Yes. The only thing that we said is that, you know, if
4 you do a lesser-included, you're looking at the possibility
5 of getting a life sentence or whatever on that original
6 charge, that you would get a lesser offense -- for a
7 lesser-included offense, you would get less time. And
8 that's what -- there's never been any conversation about
9 zero to six. I don't know where that came from. That's
10 never been dismissed. Not by me.

11 Q And what was Mr. Demery, ultimately, sentenced to?

12 A I think 20.

13 Q And he could have been sentenced up to 30?

14 A He could have. He could have gotten 30 years in jail.

15 Q And Mr. Weeks, was there ever any indication based on
16 your interactions with Mr. Demery that he should be
17 evaluated for mental competency?

18 A No, no. Not from my standpoint.

19 Q So he never asked to be?

20 A No. Mr. Demery seemed to be, to me, in pretty good
21 shape. He understood me. We talked. We had extensive
22 conversations. We talked back and forth. Mr. Demery, his
23 father, was a great guy, a good friend of mine. We talked
24 about the case a little bit, also. I've never spoke to his
25 mother about it. But in terms of other family members,

1 these are the ones we talked to. I didn't get any
2 indication at all that he had any mental issues.

3 Q And after the plea, did Mr. Demery ever you to file an
4 appeal?

5 A Mr. Demery called me to explore the possibility of an
6 appeal. I told him that what I would do, first of all, was
7 to file a motion for reconsideration by the Judge. And
8 that's what I did. Mr. Demery, also, wrote a letter. I
9 asked him to. And I incorporated some of the things that he
10 brought up, along with some things that I brought up that I
11 had already mentioned to the Judge at the time of the plea.
12 And that's what we did at that point. We did not do any
13 further beyond -- appeal beyond the filing of that motion.
14 And when we got it back, we sent that information to him.

15 Q And then after the motion for reconsideration was
16 denied, did they -- were you ever asked to file a direct
17 appeal?

18 A Not after that. Mr. Demery and I talked about it. He
19 talked about the prospects or the possibilities of an appeal
20 if an appeal was filed. And that was pretty much it. I did
21 not file an appeal.

22 Q And did you see any meritorious potential grounds for
23 an appeal in this case?

24 A I did not, mainly, because it was a plea. If this was
25 a trial, I mean, of course, it's a lot easier. But when you

1 got a straight plea and when the Judge goes down the list of
2 things that are normally asked to a defendant about his
3 rights and whether or not he's of right mind and conscious
4 of what is going on, that pretty much -- I thought the
5 record was fairly sealed on that.

6 Q And Mr. Weeks, this guilty plea was Mr. Demery's free
7 and voluntarily choice?

8 A Absolutely, it was. It was.

9 Q You never forced or threatened him in any way?

10 A Never did. I don't do that. I made it clear, this is
11 what you're looking at and this is what we got. These are
12 the strengths of the case. These are the weaknesses of the
13 case. Put that together, evaluate that against a potential
14 plea offer that the State may offer you. When you do that,
15 you make that decision. It's never my decision and I never
16 advise you. I just tell you what you looking at if you go
17 one way or if you go the other way.

18 Q And you never advised him that he would be sentenced to
19 zero to five years?

20 A No, I've never heard that before, zero to five or zero
21 to six. No, no, no, no, no.

22 MR. MITCHELL: Thank you, Mr. Weeks. I believe that's
23 all I have for you.

24 THE WITNESS: Thank you.

25 THE COURT: Okay. Any cross-examination?

1 MR. GRIFFITH: Just briefly, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. GRIFFITH:

4 Q Mr. Weeks, thanks for coming.

5 A Thank you, sir. Glad to be here. I think.

6 Q Mr. Weeks, just to make things clear, did you ever
7 speak to Mr. Demery or his wife telling them that they had
8 an offer for zero to five years?

9 A No, never.

10 Q You did hire an investigator?

11 A Yes.

12 Q What happened to that guy?

13 A Well, he was going to be on standby if we needed him.

14 Q But you did hire an investigator?

15 A Yes, we did.

16 Q Did he give you a report?

17 A He did.

18 Q Did you share that report with Mr. Demery?

19 A Along with all the other discovery. It was all there.

20 Q Is there anything that you got in discovery that you
21 didn't share with Mr. Demery?

22 A No, they got the complete package. Now, keep in mind,
23 we met prior to -- when this case was finally getting ready
24 to be tried, we met in my office for some time. We went
25 through everything. We went through every picture. We went

1 through forensic examiner's report. We went through all of
2 what I call the pertinent evidence that we anticipated the
3 State was going to use to try to indict him -- to try to
4 convict him.

5 Q When he talks about his family members trying to
6 contact you in your office, do you feel like you had an
7 opportunity to talk to them?

8 A Yeah. I mean, if I'm not there, they're going to say
9 I'm not available. That's standard office protocol. But we
10 met -- I think we met on the weekend on one of the times.
11 There was no issue about accessibility at all when it came
12 to trial prep.

13 Q And you filed a motion for reconsideration?

14 A We did.

15 Q But you did not consider or file an appeal. Were you
16 ever asked by your client to file an appeal?

17 A My conversation was with Mr. Demery. We discussed what
18 are the prospects of an appeal. And I said the best I can
19 tell you, because this is a plea and because of the way it
20 went down -- Judge Curtis sort of went beyond what Judges
21 normally do in going down those steps of the plea. I didn't
22 think that it would be very meritorious, that there were any
23 meritorious factors that could come up from it. And I made
24 that clear.

25 Q If you file for an appeal and you don't have any

1 grounds, the Court doesn't like it?

2 A I understand that, yes. That is absolutely correct.

3 Q I've gotten those letters.

4 A Yes, sir.

5 MR. GRIFFITH: Thank you, Mr. Weeks. I don't have any
6 other questions.

7 THE COURT: Okay. Anything on redirect?

8 MR. MITCHELL: No redirect, Your Honor.

9 THE COURT: Thank you. You may step down.

10 THE WITNESS: Thank you, Your Honor.

11 MR. MITCHELL: Your Honor, at this time, the State
12 rest.

13 THE COURT: Okay. Anything in reply, Mr. Griffith?

14 MR. GRIFFITH: Nothing, Your Honor.

15 THE COURT: Do you all wish to make closing arguments?
16 You don't have to, but you can.

17 MR. MITCHELL: Just briefly, Your Honor. I don't know
18 which one of us you want to go first.

19 MR. GRIFFITH: Go ahead.

20 THE COURT: That's fine. He is yielding the floor to
21 you, sir. And then I will hear from Mr. Griffith.

22 MR. MITCHELL: Thank you, Your Honor.

23 Your Honor, Mr. Demery has failed to meet his burden
24 entitling him to post-conviction relief. Regarding the
25 allegation that Mr. Weeks failed to request a competency

1 evaluation. The standard is you must prove deficiency and
2 prejudice. And as it pertains to a competency evaluation,
3 as to the deficiency prong -- and this is from Jeter V.
4 State, 308 S.C. 234. It says that an attorney may
5 reasonably rely upon his or her perceptions of a Defendant
6 in determining whether or not their client should be
7 mentally evaluated.

8 Your Honor, you heard the testimony from Mr. Weeks. He
9 said that based on all of his interactions and he
10 represented him for years prior to the plea that there was
11 never any indication that he should be mentally evaluated,
12 nor did Mr. Demery indicate to him that he should be
13 mentally evaluated.

14 Also, to establish prejudice in a failure to request a
15 competency evaluation, the Applicant must show a reasonable
16 probability that he wasn't competent at the time of the
17 plea. The Applicant has presented no evidence besides his
18 own testimony about his competency. There's been -- he
19 admitted today there's been no competency evaluation since
20 or before the plea. For those reasons, that allegation
21 should be denied.

22 Your Honor, as far as Mr. Weeks advising him that he
23 would be facing zero to six years prior to this plea, Mr.
24 Weeks completely refutes that allegation. He explained to
25 the Court the process he goes through when informing a

1 client about their options of whether pleading guilty or
2 going to trial. He told Mr. Demery that there was no
3 recommendation or negotiation in this case as far as
4 sentencing.

5 Further, Your Honor, Judge Curtis at the plea hearing,
6 she advised Mr. Demery that she could sentence him up to 30
7 years. He affirmed that he understood all this.

8 And I know that there is an allegation that he only
9 said yes because Mr. Weeks told him to. Moorehead V. State,
10 329 S.C. 329 stated that a Respondent's explanation that he
11 answered the trial judge affirmatively on counsel's alleged
12 advice of the questions were meaningless does not support
13 the grant of a PCR. That's exactly the situation we have
14 here. Courts have ruled multiple times that admissions made
15 during a plea hearing are solemn and should not be construed
16 differently unless there's compelling evidence to show that.

17 Mr. Demery said he understood his potential sentence.
18 He told the Court that he was -- that his medication didn't
19 affect him and he understood his sentence. So even if Mr.
20 Weeks had affirmatively misadvised him, the Courts have,
21 also, been clear that any misadvice on the part of counsel
22 can be cured by the Judge at the colloquy. And Judge Curtis
23 gave a thorough one in this case, Your Honor.

24 As far as the failure to file a direct appeal claim,
25 Mr. Weeks testified that he was never asked to file a direct

1 appeal after the denial of the motion for reconsideration,
2 which is when a direct appeal would have been proper. And
3 in the context of a guilty plea, for -- they have to show
4 two things in order to be successful in a failure to request
5 direct appeal. One, that he actually asked for the direct
6 appeal; and two, whether there were evidence of some
7 nonfrivolous grounds. Mr. Weeks said he was never asked to
8 file one and the Applicant has not presented any meritorious
9 ground for an appeal in this case, Your Honor.

10 So for those reasons, this application should be
11 denied.

12 THE COURT: Okay. Thank you.

13 Mr. Griffith.

14 MR. GRIFFITH: Your Honor, the only thing I would point
15 out is the two witnesses who said that they heard zero to
16 five was on the table. But, of course, it's been some years
17 since that happened. But they did testify to that, Your
18 Honor.

19 Also, as far as the appeal is concerned, I totally
20 understand as far as -- because of the plea, but we would
21 ask that he be given an opportunity to appeal if he wanted
22 to do one under White.

23 Nothing else, Your Honor.

24 THE COURT: Okay. Anything else about the White case?

25 MR. MITCHELL: Nothing further, Your Honor. Just that

1 he was never asked to file one and there has been no
2 meritorious grounds presented that could possibly prevail an
3 appeal.

4 THE COURT: Thank you all very much for your efficient
5 presentations and testimony presented. Y'all were able to
6 get through a lot of information very quickly and I do
7 appreciate it. So I'm going to direct my comments to Mr.
8 Demery, Jr.

9 Mr. Demery, I know that you've not been before me
10 before and you haven't been in one of these hearings before,
11 but I am going to review everything now with the benefit of
12 the testimony and the arguments that have been made. I have
13 a copy of the transcript from your plea hearing. I have a
14 copy of the motion for reconsideration and the statements
15 from your family members and, I believe, an employer that
16 were attached at that time. I have the sentencing sheet and
17 I have your application.

18 I want to review all of that now that I have been able
19 to put these very pertinent facts with that information. So
20 I'll issue instructions for an order in writing. And those
21 instructions will go to Mr. Griffith and to Mr. Mitchell
22 electronically, okay, via e-mail. And it will instruct one
23 of them to draft an order based on those instructions.

24 Sir, I do wish you the very best in the future.

25 Anything else?

1 MR. MITCHELL: Nothing from the State, Your Honor.

2 MR. GRIFFITH: Nothing from the Applicant, Your Honor.

3 THE COURT: Okay.

4 Good luck to you, sir.

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CERTIFICATE OF TRANSCRIBER

I, PENNY M. JOHNSON, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

December 14, 2024

Penny M. Johnson
Penny M. Johnson
Transcriber

STATE OF SOUTH CAROLINA)
 COUNTY OF CLARENDON)
)
)
 Wallace Demery, Jr., SCDC #388733,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE THIRD JUDICIAL CIRCUIT

Case No. 2023-CP-14-00209

ORDER OF DISMISSAL

I. INTRODUCTION

The matter before this Court is an action for post-conviction relief (PCR) commenced by Wallace Demery Jr. (“Applicant”) on June 8, 2023. On July 23, 2024, a hearing into the matter was convened before the Honorable Grace Gilchrist Knie at the Sumter County Courthouse. Applicant was present and represented by Timothy L. Griffith, Esquire. Assistant Attorney General T. Cruise Mitchell represented the State.

After hearing the testimony at the PCR hearing and upon full review of the record, this Court finds Applicant’s allegations regarding ineffective assistance of counsel are without merit. For the reasons discussed below, this Court denies relief and dismisses this action with prejudice.

II. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Clarendon County Clerk of Court. During its February 2017 term, the Clarendon County Grand Jury indicted Applicant for murder (2017-GS-14-00037). The case was prosecuted by Third Circuit Solicitor Ernest A. Finney, III. Applicant was represented by J. David Weeks, esquire.

On August 15, 2022, Applicant pleaded guilty to the lesser included offense of voluntary manslaughter before the Honorable Kristi F. Curtis. Judge Curtis sentenced Applicant to twenty (20) years' imprisonment for voluntary manslaughter. Applicant did not file a direct appeal.

III. STATEMENT OF FACTS

Victim went to a truck wash in Clarendon County at approximately 5:30 pm on August 19, 2016. Victim came back to car wash approximately two hours later. At approximately 7:30 pm, a witness saw Victim get out of his vehicle and run inside the office at the truck wash where an altercation occurred between Victim and Applicant. Applicant beat Victim to death with a hammer and a wrench in an office inside the truck wash. Victim died on the scene.

(Gp. Tr. pp. 12–14).

IV. CURRENT APPLICATION

Applicant commenced this PCR application on June 8, 2023. In his application Applicant alleged he was entitled to relief based on the following grounds:

1. Ineffective Assistance of Counsel
 - a. Counsel failed to "consult avenues with me or my supporters. He would not return nor speak with us."
 - b. "My attorney failed to mention the plea he led me into was for 20 years without parole."
 - c. Counsel "failed to obtain a mental evaluation or investigate a self defense or blackout defense."
 - d. Counsel "failed to investigate missing evidence in which was vital information to my case."
 - e. Counsel erroneously "advised that my plea was for 0-5 with probation."
 - f. Counsel "was advised of the medication Seroquel I was taken and under the influence of that he failed to acknowledge."
 - g. Counsel "failed to conduct a reasonable pre-trial investigation."
2. *White v. State* Claim
 - a. Counsel "was contacted and asked to file a written appeal, he said no and denied my request."

V. INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

The reviewing court applies the two-part test outlined in *Strickland v. Washington* to determine whether counsel's conduct "was so ineffective as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Id.* at 687-88; *accord. Cherry v. State*, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *see also Bell v. Cone*, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable" (citation and internal quotation marks omitted)).

The applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. *Hughes v. State*, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); Rule 71.1(e), SCRPC. To prove deficient performance, the applicant must establish that, in light of all the circumstances, the acts or omissions complained of "were outside the wide range of competence" demanded of attorneys in criminal cases. *Strickland*, 466 U.S. at 688. To prove prejudice, the applicant must establish "a reasonable probability that, but for counsel's unprofessional errors, the

result of the proceeding would have been different.” *Id.* at 694. A reasonable probability is a probability “sufficient to undermine confidence in the outcome.” *Id.* Significantly, “the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged.” *Id.* at 696.

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)).

VI. FINDINGS OF FACT & CONCLUSIONS OF LAW

This Court has reviewed the testimony presented at the PCR hearing, observed the witnesses, passed upon their credibility, and weighed their testimony accordingly. After hearing the testimony presented and considering the legal arguments by counsel, as well as the record in this action incorporated by way of the State’s return, this Court finds Applicant’s claims to be without merit. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings of facts and conclusions of law based upon all of the probative evidence presented.

Counsel Erroneously Advised Applicant His Plea Was for 0-5 Years

Applicant contends Counsel was ineffective for erroneously advising him he would be sentenced to 0-5 years with probation if he pleaded guilty. This Court finds the credible testimony of Counsel coupled with the record of Applicant's guilty plea refutes this allegation.

At the evidentiary hearing, Applicant testified he had a plea offer of two years for voluntary manslaughter. Counsel testified there was never a 0-5 year offer and he never advised Applicant of such. Counsel explained he was ready to go to trial and never pressured Applicant to plead guilty. Based on Counsel's credible testimony, this Court finds Counsel never informed Applicant he would be sentenced to 0-5 years in exchange for his guilty plea. This Court finds Counsel properly advised Applicant he was facing a potential sentence of 30 years by pleading guilty. Therefore, Counsel was not deficient in advising Applicant of his potential sentence.

Even supposing Counsel affirmatively misadvised Applicant regarding 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 Plea Court engaged in the following colloquy with Applicant:

The Court: Again, Mr. Demery, I'm Judge Curtis. Sir, I understand that you're here today to plead guilty to voluntary manslaughter. That offense carries up to 30 years. Is that your understanding?

The Defendant: Yes, ma'am.

(Gp Tr. p.4).

Applicant affirmed, under oath, that he understood he was facing a potential sentence of 30 years by pleading guilty. Therefore, any misconception Applicant may have had regarding his potential sentence was cured by information conveyed at the guilty plea. Thus, Applicant has failed to prove he was prejudiced by any alleged deficiency.

Accordingly, this allegation is DENIED.

Failure to Request a Mental Health Evaluation/Competency Issue at Time of Plea

Applicant contends Counsel was ineffective for failing to request a mental health evaluation. Additionally, Applicant contends he was on the medication Seroquel at the time of the plea. This Court finds this allegation is without merit. At the evidentiary hearing, Applicant testified he never received a mental health evaluation. Applicant avers Counsel should have requested a mental health evaluation. Applicant testified he was on Seroquel at the time of his guilty plea. Counsel testified that, based on his interactions with Applicant, there was no indication Applicant was incompetent to stand trial.

This Court finds Applicant has failed to prove Counsel was ineffective for failing to request a mental health evaluation. As to the deficiency prong under *Strickland*, an attorney may reasonably rely upon his or her own perceptions of a defendant in determining whether or not their client should be mentally evaluated. *Jeter*, 308 S.C. at 233, 417 S.E.2d at 596. When establishing

Strickland prejudice in the context of counsel's failure to request a mental competency evaluation, the applicant must show a reasonable probability that he was incompetent at the time of the original proceeding. *Garren*, 423 S.C. at 12, 813 S.E.2d at 710 (citing *Ramirez v. State*, 419 S.C. 14, 21, 795 S.E.2d 841, 845 (2017)).

Here, Counsel credibly testified he did not perceive any mental health competencies based on his interactions with Applicant. Counsel properly determined a mental health evaluation was not necessary. The following colloquy from Applicant's guilty plea corroborates Counsel's testimony:

The Court: You, Mr. Weeks, have had, I would imagine, numerous chances to communicate with Mr. Demery?

Mr. Weeks: Yes, ma'am.

The Court: Any concern at all about his mental health?

Mr. Weeks: No, ma'am, not as relates to the plea. No, ma'am.

The Court: And you've been able to communicate with him?

Mr. Weeks: Yes, ma'am.

The Court: You feel like he's understood all of your communications?

Mr. Weeks: I think so, Your Honor.

(GP Tr. pp.6-7).

Based on Counsel's credible testimony and the record from Applicant's guilty plea, this Court finds Counsel properly determined a mental health evaluation was not necessary. Thus, this Court finds Counsel was not deficient for failing to request a mental health evaluation.

Furthermore, Applicant has failed to prove he was prejudiced by Counsel's alleged failure to request a mental health evaluation. Applicant presented no evidence at the evidentiary hearing

that he was incompetent at the time of his plea. Applicant alleges he was on Seroquel at the time of his plea; however, this issue was raised at his guilty plea hearing:

The Court: Are you under the influence today of any drugs or alcohol?

The Defendant: No, ma'am.

The Court: Are you taking any prescription medications?

The Defendant: I am, but it's not clouding my judgment.

The Court: If you'll speak up a little bit for me. If you'll come up right here to the microphone please. Okay, you're taking some prescription medications?

The Defendant: Yes, ma'am.

The Court: Can you tell me what you're taking?

The Defendant: I'm taking generic brand of Seroquel.

The Court: Okay. And have you had some mental health treatment in the past?

The Defendant: Yes, ma'am.

The Court: Are you currently under a physician's care for any mental treatment?

The Defendant: Yes, ma'am.

The Court: And can you tell me about that?

The Defendant: I'm scheduled over here Clarendon Behavioral Mental Health.

The Court: Uh-uh.

The Defendant: I'm going over there for depression and anxiety.

The Court: Okay. And how long have they been treating you over there?

The Defendant: For the past about six years now.

The Court: And do you feel the Seroquel helps those conditions?

The Defendant: Yes, ma'am.

The Court: Any adverse effects on you that keep you from thinking clearly?

The Defendant: No, ma'am.

(GP Tr. pp.6-7).

Applicant affirmed, under oath, the Seroquel he was taking at the time of his plea did not cloud his judgment and did not keep him from thinking clearly. Thus, based on Applicant's own admissions at the guilty plea hearing, he has failed to prove he was incompetent at the plea due to his medication. Furthermore, Applicant has produced no objective data about the nature and effect of Seroquel for this Court to consider whether such medication could have rendered him incompetent to enter a guilty plea. *See Garren v. State*, 423 S.C. 1, 813 S.E.2d 704 (2018) (holding that "a PCR court must consider objective data about the nature and effect of the medication the defendant had taken and evaluate whether such medication had the capability to produce a sufficient effect on his mental faculties to render him incompetent to enter a guilty plea.").

Accordingly, this allegation is DENIED.

Failure to Investigate

Applicant contends Counsel was ineffective for failing to adequately investigate his case. This Court finds this allegation is without merit.

At the evidentiary hearing, Applicant testified Counsel should have conducted a more diligent investigation in his case. Specifically, Applicant asserts Counsel should have investigated two pieces of missing evidence: a knife and a Smith and Wesson. Counsel testified he reviewed all of the discovery and the State's evidence with Applicant. Counsel explained he hired an investigator and was prepared to argue self-defense had Applicant's case gone to trial.

In order to prevail upon a claim that counsel did not adequately prepare or investigate a case, an applicant must present evidence of what counsel could have discovered or what other defenses applicant could have requested counsel develop and present had counsel been more

prepared. *Harris v. State*, 377 S.C. 66, 75-76, 659 S.E.2d 140, 145-46 (2008) (citing *Jackson v. State*, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998)). Furthermore, an applicant must also present evidence to show how the discoverable matters or defenses would have resulted in a different outcome. *Id.* (citing *Davis v. State*, 326 S.C. 283, 288, 486 S.E.2d 747, 749 (1997); *Skeen v. State*, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997)). Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief.

Here, Counsel's credible testimony demonstrates he properly investigated Applicant's case, was prepared for trial and prepared to argue self-defense. This Court finds Counsel was not deficient in his investigation of Applicant's case. Additionally, Applicant merely speculates that the discovery of a knife or Smith and Wesson would have somehow resulted in him proceeding to a trial rather than plead guilty. Applicant has failed to show how these items would have been relevant to any defense or how further investigation into these items would have resulted in a different outcome. Thus, Applicant has failed to prove he was prejudiced by Counsel's alleged lack of investigation.

Accordingly, this allegation is DENIED.

Failed to Adequately Consult with Applicant

Applicant contends Counsel was ineffective for failing to adequately consult with him. This Court finds this allegation is without merit.

Applicant suggests a failure to adequately meet with him or "his supporters" prior to the plea. This Court finds Counsel's credible testimony, and the record of Applicant's guilty plea, refutes this allegation. 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”). Applicant testified Counsel only met with him a handful of times and failed to consult with his supporters. Applicant further testified Counsel would not answer his calls. Counsel testified he met with Applicant, reviewed discovery with Applicant, and was prepared for trial. This Court finds Counsel’s testimony credible. Thus, this Court finds Counsel was not deficient in his consultations with Applicant.

Furthermore, Applicant has failed to specify what, if anything, could have been achieved had Counsel spent more time with him in consultation regarding his case. *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.

Accordingly, this allegation is DENIED.

Failure to File a Direct Appeal

Applicant alleges Counsel failed to file a direct appeal on his behalf after being requested to do so. This Court finds this allegation is without merit.

Counsel has a constitutionally imposed duty to consult with a defendant about an appeal *only* when there is reason to think (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. *Roe v. Flores-Ortega*, 528 U.S. 470, 471 (2000). These elements are much harder to establish when a conviction follows a guilty plea, because a plea both reduces the scope of appealable issues and indicates that the defendant sought an end to judicial proceedings. *Id.* In addition, to prove prejudice, an applicant must demonstrate a reasonable probability that he would have timely appealed but for counsel's deficiency. *Id.* Evidence that there were nonfrivolous grounds for appeal or that the defendant promptly expressed a desire to appeal is highly relevant to this determination. *Id.* at 472.

This Court finds Counsel had no duty under *Roe* to consult with Applicant about an appeal in this case. Although Applicant was facing a murder charge carrying a potential life sentence, with the assistance of Counsel he was able to obtain a plea deal in which he was allowed to plead to the lesser included offense of voluntary manslaughter. Applicant was sentenced to 20 years. No rational defendant would want to appeal such a favorable outcome. At the evidentiary hearing, Counsel testified Applicant did not ask him to file a direct appeal, nor did he see any meritorious reasons for appealing. Based on Counsel's credible testimony, this Court finds Applicant did not

express a desire to appeal. Additionally, Applicant failed to present any nonfrivolous ground for appeal at the evidentiary hearing. Thus, he has failed to prove both deficiency and prejudice as to this allegation.

Accordingly, this allegation is DENIED.

[Signature Page Follows]

VII. CONCLUSION

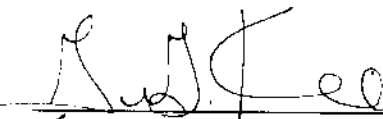
Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. Therefore, this Court denies relief on all allegations and 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. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of the State.

AND IT IS SO ORDERED this 12 day of September, 2024.



THE HONORABLE GRACE GILCHRIST KNIE
Presiding Judge
Third Judicial Circuit

Spartanburg, South Carolina

WITNESSES

Inv. T.A. Brown, CCSO

DOCKET NO. 2017-GS-14-0037

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

February TERM 2017

THE STATE

vs.

WALLACE DEMERY JR.

ARREST WARRANT NUMBER

2016A1410100494

Indictment for

Murder

ACTION OF GRAND JURY

True Bill

Attest

Foreperson of Grand Jury

Date: *02-02-2017*

VERDICT

Ernest A. Finney III

ERNEST A. FINNEY, III, SOLICITOR

Foreperson of Petit Jury

Date:

CLARENDON COUNTY, SC
CLERK OF COURT
Ernest A. Finney III
DATE
OR ORIGINAL FILED IN THIS OFFICE
CERTIFIED TRUE COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

INDICTMENT FOR

Murder

At a Court of General Sessions convened on February 2, 2017, the Grand Jurors of CLARENDON County present upon their oath:

COUNT ONE - MURDER

That Wallace Demery Jr. did in Clarendon County, on or about August 19, 2016, willfully, feloniously, and intentionally kill the victim, Jeffrey Myron Caesar, with malice aforethought, either express or implied, by means of beating the victim with a blunt object, and the victim did die as a proximate result thereof on or about August 19, 2016 in Clarendon County, in violation of Section 16-03-0010, S. C. Code of Laws (1976, as amended).

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

Solicitor



**CERTIFIED TRUE COPY
OF ORIGINAL FILED IN THIS OFFICE**
DATE 6/20/2023
Paul S. Roberts
CLERK OF COURT
CLARENDON COUNTY, SC