

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to York County

Honorable J. Mark Hayes, Circuit Court Judge

JACKIE RAY CHILDERS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-001721

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF YORK) IN THE COURT OF GENERAL SESSIONS

3 The State,)
4 -vs-) TRANSCRIPT OF RECORD
5 Jackie Ray Childers, Jr.,) 2021-GS-46-03401;00833;00833A
6 Defendant.) 00834;00835;00837
7) February 22, 2022
8) York, South Carolina
9)

10 B E F O R E:

11 HONORABLE DANIEL D. HALL, JUDGE
12
13

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

15 MATTHEW SHELTON, ESQUIRE
16 Attorney for the State

17 GEOFF DUNN, ESQUIRE
18 Attorney for the Defendant
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20 Linda D. Moffitt
21 Circuit Court Reporter
22
23
24
25

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3

No sworn testimony.

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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
S-1	Plea waiver form		16

1 (Proceedings February 22, 2022)

2 MR. DUNN: May it please the Court, Your Honor.

3 Standing before you at this time is Jackie Ray
4 Childers, Jr. represented by Geoff Dunn of the York County
5 Bar who is appointed on this case.

6 It's my understanding Mr. Childers is here this
7 afternoon to plead guilty to a number of charges, those
8 charges being Indictments 2021-GS-46-00833, burglary first
9 degree; 833-A, possession of a weapon during the commission
10 of a violent crime; 834, armed robbery; 835, kidnapping;
11 837, criminal conspiracy; and 03401, voluntary manslaughter
12 that's being reduced from a charge of murder as indicted
13 per plea agreement.

14 This is coming to you as a negotiated resolution of 30
15 years concurrent on the charges that I've outlined.

16 The burglary, armed robbery, kidnapping and voluntary
17 manslaughter are all violent, most serious and no-parole
18 offenses.

19 I would ask the Court to make sure that Mr. Childers
20 is aware of that.

21 He is also by my count entitled to 394 days credit for
22 time served as of today, which is dating back to his arrest
23 date of January 24th of 2021.

24 And as to the kidnapping charge, I would ask Your
25 Honor to note on the sentencing sheet that sex offender

1 registry is not required in this because there's nothing in
2 the facts to suggest that it was overtly sexual in nature.

3 THE COURT: All right. Thank you.

4 Mr. Dunn, you represent Mr. Childers.

5 MR. DUNN: Yes, sir.

6 THE COURT: Have you gone over all of these charges
7 with him?

8 MR. DUNN: I have, Your Honor.

9 THE COURT: How does he plead?

10 MR. DUNN: Guilty, Your Honor, pursuant to North
11 Carolina vs. Alford.

12 THE COURT: Have you explained to him what an Alford
13 plea is?

14 MR. DUNN: I have, Your Honor.

15 THE COURT: Mr. Childers, if you don't mind, if you'll
16 pull your mask down just a minute and let me talk to you.

17 How old are you?

18 THE DEFENDANT: Thirty-nine.

19 THE COURT: How far did you go in school?

20 THE DEFENDANT: I didn't graduate but got my G.E.D.

21 THE COURT: Have you ever been treated for any mental
22 or emotional disability?

23 THE DEFENDANT: No, sir.

24 THE COURT: You need to answer up so the court
25 reporter --

1 THE DEFENDANT: No, sir.

2 THE COURT: Do you know what you're doing here today?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Has Mr. Dunn explained to you what an
5 Alford plea is?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Let me be sure you understand that.

8 what an Alford plea is, it means that you're willing
9 to come into court and you're going to accept the
10 punishment or the consequences of a guilty plea but you do
11 not have to say that you're guilty.

12 Two things have to take place. One, you have to
13 believe that you're receiving a benefit by entering a plea
14 today. In this particular case there are a number of
15 charges that could very well have, if you went to trial and
16 a jury found you guilty and if a judge saw fit, you could
17 receive a life-without-parole sentence if that were the
18 case.

19 Today it's being presented as a negotiated sentence of
20 30 years. And a negotiated sentence means that if I agree
21 with the negotiations that's the exact sentence you'll
22 receive. If I disagree with the sentence, you'd be allowed
23 to withdraw your plea and go in front of another judge at a
24 another time.

25 Do you believe that you're receiving a benefit by

1 entering this plea today?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Secondly, when we go through the facts of
4 the case -- and the solicitor is going to go over that in
5 some detail here in a little bit. When he finishes that I
6 will then ask you. I'll say, Mr. Childers, do you believe
7 that that evidence that the state presents here today and
8 any evidence that your lawyer and has shared with you the
9 state has given to them, that that evidence strongly
10 supports your guilt, even though you don't have to admit
11 your guilt, or, in other words, it's likely that a jury
12 would find you guilty based on that evidence.

13 So do you understand that second part of an Alford
14 plea and what I'll be asking you once they give me the
15 facts of the case? Do you understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: I have in front of me a plea waiver form.
18 This is a 7-page document that appears that Mr. Dunn has
19 gone over with you. In fact, it appears that your
20 signature and date is on there dating it yesterday, that
21 you have read or had read to you the form and initialed all
22 of the items in the case. You've discussed those with your
23 attorney, and that you understand and agree with each of
24 the items that are listed in this form.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And that you give those up. All of those
2 rights are outlined in this form in order to enter this
3 plea today. Did you do that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Is that your signature on this plea waiver
6 form?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Let me just briefly go over just your
9 basic jury-trial rights that -- and Mr. Dunn went into more
10 detail of those on the plea waiver form.

11 I need you to understand that you're not required to
12 plead guilty. Nobody can force you to plead guilty. You
13 can maintain your innocence or you can simply ask for a
14 jury trial.

15 If you do that, then the state would have to bring
16 their witnesses here in the courtroom, and you'd have a
17 right to see and hear every witness that the state brings
18 in here.

19 Your lawyer could cross-examine them and ask them
20 questions. That's called the constitutional right of
21 confrontation.

22 If you had a jury trial, you'd have a right to remain
23 silent. You wouldn't have to say anything about the case.
24 If you exercised that right the judge would tell the jury
25 to not hold that against you, that's your constitutional

1 right to remain silent, and that the burden is on the state
2 to prove your guilt beyond a reasonable doubt with their
3 evidence.

4 In fact, 12 jurors would have to all unanimously agree
5 that the state had proven their case beyond a reasonable
6 doubt on each one of these offenses before you could be
7 convicted.

8 Do you understand your basic jury-trial rights?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Let me go over these charges with you.

11 Indictment 2021-3401 is an indictment that alleges
12 that on or about December the 25th of 2020 you did
13 unlawfully and with malice aforethought, either expressed
14 or implied -- you're indicted for the murder or killing of
15 Sarah Childers by means of emotional trauma, and that
16 trauma resulted in her death.

17 The fact that that was the indictment for murder,
18 however the plea today is to voluntary manslaughter that
19 carries up to 30 years in jail. It, along with the
20 kidnapping and the armed robbery, are violent and most
21 serious offenses.

22 What that means is that your status in the department
23 of corrections is going to be determined by that
24 classification. Your parole eligibility is determined by
25 that classification.

1 We have the 3-strikes law in South Carolina. If
2 you're convicted of two most serious offenses, which is
3 what you will have today, you -- when you're released if
4 you are convicted of another most serious offense or two
5 more serious offenses, the state can seek a
6 life-without-parole sentence on whatever those charges are
7 because you have strikes on you under our 3-strikes law as
8 a result of this today. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Are you pleading under North Carolina vs.
11 Alford to voluntary manslaughter?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Indictment 2021-835 alleges that on or
14 about December the 25th of 2020 you did unlawfully seize,
15 confine, kidnap a Billy Ray Childers.

16 Kidnapping carries up to 30 years in jail. It is also
17 a violent and most serious offense.

18 Are you pleading under North Carolina vs. Alford to
19 that charge?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Indictment 2021-834 alleges that on or
22 about December the 25th of 2020 you, armed with a deadly
23 weapon or either reasonably believed to be armed with a
24 deadly weapon, you took property including a pistol, cash
25 box, 2012 Honda C.R.V. from the person or presence of Billy

1 Childers and/or Sarah Childers.

2 Again, that's an armed robbery. It carries up to 30
3 years in prison.

4 Are you pleading under North Carolina vs. Alford to
5 that charge?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Indictment 2021-833-A is the -- well,
8 let's do it this way. 2021-833 is an indictment for
9 burglary first degree. This has a 2-part indictment. This
10 part, count two, is possession of a weapon during the
11 commission of a violent crime.

12 That indictment alleges on December the 25th of 2020
13 you did enter the dwelling of Billy and Sarah Childers on
14 Smith Ford Road in Hickory Grove -- that's here in York
15 County -- without consent and with the intent to commit a
16 crime and you either caused physical injury and appeared to
17 be or reasonably believed to be -- appeared to be in
18 possession of a deadly weapon. It also occurred in the
19 nighttime hours.

20 Burglary first degree carries 15 years to life.
21 Possession of a weapon during the commission of a violent
22 crime carries five years.

23 Are you pleading under North Carolina vs. Alford to
24 both of those charges?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Indictment 2021-837 alleges that on or
2 about December the 25th of 2020 you did conspire with
3 Travis Baxter and/or Virginia Ratcliffe for the purpose of
4 committing the crime of burglary, armed robbery and/or
5 kidnapping. Conspiracy carries up to five years.

6 Are you pleading under North Carolina vs. Alford to
7 those, to that charge?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Again, you've been over your plea waiver
10 form with Mr. Dunn. It included all of your rights,
11 including your right to appeal within ten days if this
12 court makes an error or you disagree with the sentence.

13 You indicated that by your initials that you
14 understood what an Alford plea is and that you're pleading
15 under North Carolina vs. Alford and that you're pleading
16 freely, voluntarily, knowingly, intelligently.

17 Is all of that correct?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Let me talk to you a little bit about
20 Mr. Dunn's representation.

21 Has Mr. Dunn provided you with what some people call
22 their motion? That's where you looked at incident reports
23 and case summaries and giving you copies of documents that
24 have been provided him by the solicitor's office.

25 Have you been able to receive copies of those

1 documents?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Have you had plenty of time to meet with
4 Mr. Dunn and talk about the case?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you have any complaints about the way
7 he has represented you?

8 THE DEFENDANT: No, sir.

9 THE COURT: Again, are you entering your plea under
10 North Carolina vs. Alford to all of these charges of your
11 own free will? This is your decision.

12 THE DEFENDANT: Yes, sir.

13 THE COURT: This is, again, a negotiated 30-year
14 sentence.

15 Has there been anything else promised you? Have you
16 been threatened in any way in order to get you to plead
17 under North Carolina vs. Alford today?

18 THE DEFENDANT: No, sir.

19 THE COURT: I find the decision of this defendant to
20 enter his plea under North Carolina vs. Alford to these
21 charges to be freely, voluntarily, intelligently made with
22 the advice of a competent attorney with whom he says he's
23 satisfied.

24 And, again, Mr. Childers, it's been explained to you
25 that you have ten days from today's date in which to appeal

1 if I make an error, if you disagree with the sentence.

2 Normally, you would start that process by notifying
3 your attorney, but you have ten days to do that.

4 Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. Listen very carefully as the
7 state goes over the facts of the case.

8 MR. SHELTON: Your Honor, before I go into the facts
9 just a couple of housekeeping matters if it pleases the
10 Court.

11 Mr. Childers was on probation at the time of this
12 incident. I tried to call and find out the status of the
13 probation case and was unsuccessful on determining whether
14 that's still active or not. But to the extent that that
15 may be something that comes up down the line, I would ask
16 the Court to make sure that he understands that could --
17 these pleas could result in a probation violation and
18 whether or not that impacts his decision today.

19 THE COURT: Mr. Dunn, have you addressed any of that?

20 MR. DUNN: We talked about it, yes, sir, Your Honor.
21 My understanding is he's on probation out of Cherokee
22 County.

23 THE COURT: Okay. But we're not dealing with your
24 probation case here in York County.

25 what probation decides to do with your pending

1 probation case is entirely up to them. And in addition to
2 the sentence today, what the solicitor has indicated is
3 that probation could seek a violation of your probation and
4 whatever sentence you have could run consecutive to this.
5 That's a probation matter. Again, we're not dealing with
6 that.

7 Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. Solicitor.

10 MR. SHELTON: Your Honor, the last couple of
11 housekeepings, and I'll go over the facts, I promise.

12 will you please inquire as to the e-signatures on the
13 sentencing sheets since we're still in the COVID time? And
14 also are going to make the plea waiver a part of the
15 record?

16 THE COURT: Yes. The plea waiver will be. It will be
17 marked as Court's Exhibit 1. It has been executed by
18 Mr. Dunn and Mr. Childers, dated yesterday. And I'm
19 accepting his plea, and I've noted on the sentencing sheet
20 with my signature -- on the plea-waiver form, my signature
21 that I'm accepting it. And I'm entering my judicial code
22 and today's date.

23 Anything else housekeeping-wise?

24 MR. DUNN: Just the e-signatures on the sentencing
25 sheets.

1 (Plea waiver form marked State's Exhibit No. 1.)

2 THE COURT: Mr. Childers, I have the indictments
3 before me and they have your electronic signature on there.
4 In a non-COVID world you would have an opportunity to
5 physically sign those, but you understand that your
6 signature has been electronically signed to each of the
7 sentencing sheets.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. You don't have any objection
10 to that.

11 THE DEFENDANT: No, sir.

12 THE COURT: All right. Solicitor.

13 MR. DUNN: Thank you, Your Honor. May it please the
14 Court.

15 Your Honor, this incident occurred on December 25th of
16 2020 in the nighttime hours at the residence of Billy and
17 Sarah Childers on Smith Ford Road in Hickory Grove, York
18 County, South Carolina.

19 Jackie Childers and his two codefendants, Travis
20 Baxter and Virginia Ratcliffe, conspired to and did rob
21 Billy Childers and his wife, Sarah Childers, at their home
22 that Christmas night.

23 The plan was that Virginia drop the two men off a
24 little ways from the house. They walked through the woods
25 to the house while Virginia effectively lured Billy

1 Childers outside of the house. She went to the door,
2 knocked on the door and complained of having car trouble.

3 She asked for water to be put into the radiator.
4 Billy came outta the house with a jug of water in hopes of
5 being able to help Virginia when he was attacked from
6 behind by Travis Baxter and Jackie Childers.

7 They knocked him to the ground and tied him up. And
8 during the commotion Billy's wife, Sarah Childers, who was
9 inside the house during this -- this part of the
10 incident -- she came to the door to see what was happening.

11 Billy yelled for her to go inside and lock the door.

12 When she tried to do so, the evidence showed that
13 Travis Baxter then chased after her, crashed through the
14 glass door of the house and assaulted her. Sarah was made
15 to take off her robe and her hands were tied behind her
16 back.

17 The evidence shows that Travis Baxter was primarily
18 responsible for that part of the criminal activity as in
19 going after Ms. Sarah, having her disrobe and tying her up.

20 The evidence shows that Jackie Childers then brought
21 Billy inside the house with his hands tied behind the back,
22 tied behind his back, and put him on the floor next to
23 Sarah inside of their house while they began stealing the
24 things that they had come for.

25 The two men made Billy and Sarah lie face down on

1 their living room floor with their hands tied behind their
2 back and threatened to kill them and told them not to look
3 at them while they were taking what they wanted.

4 Jackie and Travis stole a cash box with approximately
5 \$300 in it, a .380 revolver and some jewelry from Billy and
6 Sarah. They also took the keys to their Honda C.R.V. which
7 they ultimately left in.

8 When they left the house Jackie and Travis got in the
9 Honda and drove it away from the crime scene.

10 A short time later they crossed paths with Virginia
11 Ratcliffe who had driven away from the house in the C.R.V.
12 In fact, as she was pulling outta the driveway, according
13 to her statement to the police, is when Baxter was crashing
14 through the door to the house after Sarah.

15 So Virginia never went in the house. She was part of
16 luring Billy outta the house. And as you'll see in a
17 moment, she did benefit from it as well.

18 Virginia was driving Jackie's vehicle which is -- was
19 his Explorer, and that's the vehicle they came to in the
20 house.

21 Travis Baxter was driving the C.R.V. that belonged to
22 Billy and Sarah. After the incident when Travis crossed
23 paths with Virginia, he flashed the lights as was their
24 plan to let her know that it was them.

25 He then pulled the C.R.V. over and abandoned it on the

1 side of the road. Travis and Jackie then got out of the
2 C.R.V., got into the Explorer with Virginia. Jackie got
3 into the driver's seat of his vehicle, and Virginia and
4 Travis rode with him as passengers.

5 They drove away, divided up the stolen property and
6 dropped Travis off a short distance away.

7 Sometime later Sarah Childers -- it was a short time
8 later -- it was determined that Sarah Childers had a heart
9 attack during the incident from the emotional trauma
10 inflicted by this awful ordeal. She was taken to the
11 hospital later that night and she ultimately died from the
12 trauma she suffered during the heart attack.

13 Dr. Batalis who is a pathologist at M.U.S.C. in
14 Charleston would have testified at trial that in his
15 opinion Sarah Childers died from a homicide by heart attack
16 brought on by the extreme stress and trauma of the incident
17 that Christmas night.

18 York County Sheriff's Office investigated this case
19 for over a month pursuing a number of leads until they
20 finally caught a break in the case.

21 They discovered that Jackie had tried to sell a gun to
22 a friend shortly after the incident, and they also found
23 that Virginia had pawned the stolen .380 at a pawn shop in
24 North Carolina. They were able to recover that weapon and
25 Billy was able to identify it as his gun.

1 warrants were obtained for Virginia and Jackie. They
2 were located in Paducah, Kentucky, where they had fled
3 shortly after the incident. They were caught by the
4 Paducah Police Department on or about January 24th of 2022.

5 Sheriff's detectives Wong and Gates who are present in
6 the courtroom went to Paducah and interviewed Virginia
7 Ratcliffe.

8 Virginia told detectives everything that had happened
9 and was very forthcoming with them. She implicated herself
10 as well as Travis and Jackie.

11 Virginia told detectives that Travis Baxter took a gun
12 to the robbery. It's also clear from the evidence Billy
13 Childers had told the police that he thought both men had a
14 gun, and clearly they stole a gun as well during this. So
15 there were two guns in play during this incident for sure,
16 but perhaps three.

17 And the fact that Travis had a gun and took a gun to
18 the robbery, Billy's account corroborated what Virginia
19 told.

20 There were a number of things during the investigation
21 that police were able to determine that Virginia's account
22 of what happened was consistent with everything they
23 discovered at the crime scene including being able to
24 identify Travis Baxter whose blood was left on the scene
25 and was identified through D.N.A.

1 Your Honor, if you're accepting the plea, I'll wait to
2 speak as to how we got to sentencing, or I can go into that
3 right now.

4 THE COURT: Let's go with that.

5 All right. Mr. Childers, you heard what the state has
6 alleged were the facts of the case. In fact, you, I'm
7 sure, have been provided a lot of other information through
8 your lawyer from the solicitor's office.

9 Do you believe that that evidence strongly supports
10 your guilt on each of these charges even though you do not
11 have to admit your guilt?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. I find his decision to enter a
14 plea under North Carolina vs. Alford to be freely and
15 voluntarily and intelligently made.

16 He's understood what our Supreme Court has indicated
17 are requirements of an Alford plea, and that is when the
18 accused intelligently concludes that his interests require
19 a guilty plea, and too the evidence strongly supports his
20 guilt of the offense charged.

21 He's understood both of those prongs of an Alford
22 plea, and so I will accept his plea under North Carolina
23 vs. Alford.

24 All right. I'll be glad to hear from Mr. Shelton.

25 MR. DUNN: May it please the Court, Your Honor.

1 I just wanted to note on the record kind of the -- how
2 we came to the 30-year negotiated sentence.

3 As you no doubt are aware, you took Travis Baxter's
4 plea a couple of terms ago. He pled under the same
5 parameters, essentially a North Carolina vs. Alford plea,
6 and the same charges for a range of 20 to 40 years. And
7 Your Honor sentenced him to 40 years.

8 I was just wanted to note there were some evidentiary
9 factual distinctions in that case. We had D.N.A. evidence
10 linking Baxter to the crime scene.

11 Also, the evidence shows that he was a substantially
12 like higher level of aggressor in this instance. Clearly,
13 I'm referencing him chasing after Sarah, making her disrobe
14 and tie her up.

15 He also, as the Court noted and as part of his record,
16 had a lot of disciplinary issues in the jail that I'm sure
17 Your Honor factored in.

18 The case against Jackie Childers was very strong, as
19 you heard. He sat this whole thing up. He planned the
20 whole thing. And Baxter would not have been there without
21 him. That's the way we view the evidence. It could have
22 been disputed at trial, but thankfully for all parties
23 involved, we're not at that point at this point.

24 He does have a rather lengthy criminal history.
25 There's been some disagreement as to some of the

1 convictions listed in there. I summarized them as best I
2 could based on my review of N.C.I.C. and our files, and
3 it's included in the plea waiver, so for whatever
4 consideration Your Honor may want to give that.

5 Dewayne Childers is here; Chris Childers is here; and
6 Billy Childers are here. I do not know if they want to
7 address the Court. They're shaking their head that they do
8 not.

9 Your Honor, you've heard from them a number of times
10 in the bond hearings and in Travis Baxter's sentencing.
11 You know what a toll this took on them.

12 Your Honor, I can tell you in my opinion they are
13 tired. This has been a horrible ordeal for their family.
14 I'm thankful that we have been able to get to this point
15 with a negotiated 30 years to spare them the agony of going
16 through a trial. And I would ask you to respectfully
17 accept the deal.

18 THE COURT: All right. Thank you.

19 Mr. Dunn, anything? I'll be glad to hear from you and
20 then your client.

21 MR. DUNN: Thank you, Your Honor. May it please the
22 Court.

23 As the solicitor has indicated, I was appointed to
24 represent Mr. Childers on this.

25 He's 39 years old. He has one daughter who is 11

1 years old. She lives with her mother. Mr. Childers is not
2 married.

3 Your Honor, he -- while he does have a record, I would
4 characterize his record as not a violent record. It is
5 mostly property crimes. And so the events that happened on
6 December 25th of 2020 were outside the normal, the kind of
7 trouble he's been in through the years with the law
8 enforcement.

9 He has been very adamant from the very beginning with
10 me meeting with him that things didn't go down the same way
11 that the state has -- the state's position is.

12 We have talked about that at length many times. And,
13 ultimately, that would be a jury call as to whether or not,
14 you know, whose side of the story they believed. But we
15 understand and -- and, you know, the facts as the state has
16 alleged them today is what would be presented and that went
17 into his consideration for this guilty plea.

18 Your Honor, just a couple of things I just want to
19 point out that -- just to show why this plea is less than
20 what Travis Baxter got.

21 When you listen to the -- the -- Mr. Childers and
22 Sarah Childers and Billy Childers when they're speaking
23 with Detective Wong the night of the incident, both of
24 them, but especially Ms. Childers, mentions that one of the
25 two persons is much more violent than the other one.

1 when you listen to Ms. Childers, she talks about how
2 the other one when they were in the house was telling her
3 that he was -- that they were not going to hurt her, that
4 they just -- as long as they just stay quiet and didn't do
5 anything that, you know, they would -- they would be out of
6 there.

7 In fact, she said words along the lines of he was kind
8 and polite. It's our position that this -- this person was
9 Mr. Childers.

10 Just talking with him, I think things went down
11 differently than they were supposed to go. But,
12 unfortunately for him, with our law, the hand of one, the
13 hand of all, he's being held accountable for the -- for the
14 actions of Travis Baxter, and that's why we're here.

15 But he wants the Court to know, and the family, that
16 he was not the one that was acting violent towards either
17 Billy or Sarah and he's very sorry that everything went
18 down the way it did. And he says if he could take it back,
19 he would, but, unfortunately, that's not how our life -- we
20 can't do that in life.

21 We would ask that -- and the last thing he was very
22 adamant about is he did not go into the house with a gun,
23 that Travis was the only one with a gun. And when they
24 left, there certainly was a gun that was stolen, but he did
25 not go in with a gun, which would -- which would be very

1 consistent with just his background and his record. But,
2 like I say, he's not a person that shows violence towards
3 others normally, has been a life of property crimes.

4 Your Honor, we would ask that you go -- you accept
5 these negotiations. As he and I have discussed, for all
6 practical purposes the 30 years is probably a life sentence
7 based on his age. But in as much as he can beat the
8 genetics, he does at least have a little bit of life at the
9 end of all of this assuming he can get through that 30-year
10 sentence, Your Honor.

11 THE COURT: Thank you.

12 Mr. Childers, anything you wish to say?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: I'll be glad to hear from you.

15 THE DEFENDANT: Yes, sir.

16 That night that happened on December the 25th was
17 never supposed to happen. If I could change what happened
18 that night, I would. If I could give my own life to bring
19 my Aunt Sarah back so my family could have her back, I
20 would.

21 I was the one that kept her telling that nobody was
22 going to hurt her. I was the one who loosened that dish
23 rag so she could get loose and call for help after we left.
24 That night was never supposed to happen. Never.

25 And I want to say to my family, whether they believe

1 me or not, that night was never supposed to happen and I am
2 truly sorry. Like I said, if I could give my life right
3 now to have her back so my family could have her back, I
4 would.

5 THE COURT: All right. Thank you.

6 I am going to follow the negotiations.

7 Sentence on Indictment 2021-GS-46-3401, Jackie Ray
8 Childers, Jr. having pled under North Carolina vs. Alford
9 to voluntary manslaughter, Sentence of the Court is he be
10 committed to the department of corrections for 30 years to
11 run concurrent. Credit for 394 days.

12 2021-GS-46-835, Jackie Ray Childers, having pled under
13 North Carolina vs. Alford to kidnapping, sentence is he be
14 committed to the department of corrections for 30 years
15 concurrent. Credit for 394 days.

16 I've noted on the sentencing sheet that this is not
17 sex related.

18 2021-834, Jackie Ray Childers having pled under North
19 Carolina vs. Alford to armed robbery, sentence, he be
20 committed to the department of corrections for a
21 determinant term of 30 years to run concurrent -- 394 days.

22 2021-GS-46-833, burglary first degree, he be committed
23 to the department of corrections for 30 years to run
24 concurrent. Credit for 394 days.

25 2021-833-A, possession of a weapon during the

1 commission of a violent crime, sentence, he be committed to
2 the department of corrections for five years concurrent.
3 Credit for 394 days.

4 2021-837, criminal conspiracy, sentence, he be
5 committed to the department of corrections for five years
6 concurrent. Credit for 394 days.

7 Thank you. That's the sentence of the Court.

8 END OF REQUESTED TRANSCRIPT OF RECORD

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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for York County, South Carolina, on the 22nd day of February 2022.

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

October 6, 2022

s/Linda D. Moffitt

Linda D. Moffitt
Circuit Court Reporter

FORM 5
FILED-RECEIVED

STATE OF SOUTH CAROLINA

2022 SEP -2 AM 9:05

IN THE COURT OF COMMON PLEAS

COUNTY OF

YORK

DAVID HAMILTON

C.C.O.P. & GS

JACKIE RAY CHILDERS JR. YORK COUNTY, SC

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

2022 CP4602666

v.

APPLICATION FOR

State of South Carolina

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 York County Detention Center
2. Name and location of Court which imposed sentence York County Courts SC
3. Name(s) of co-defendant(s) (if any) ~~Travis~~ Travis Baxter, Virginia Ratcliffe
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed: Kidnapping and Manslaughter
 - (a) 2021-GS-46-00833A POSSESSION OF A WEAPON
 - (b) 2021-GS-46-00833 Burglary 1st
 - (c) 2021-GS-46-00834 ARMED ROBBERY
 - (d) 2021-GS-46-00837 CRIMINAL CONSPIRACY
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 5 YEARS CONCURRENT
 - (b) 30 YEARS CONCURRENT
 - (c) 30 YEARS CONCURRENT

(d) 5 CONCURRENT

6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere ✓
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
 - i. _____ DIRECT Appeal
 - ii. _____ STATE of South CAROLINA
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____ DENIED
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. _____ APRIL 7, 22
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____ N/A
 - ii. _____
 - iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____ COUNTEL FAILED
 - (b) _____
 - (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) — Counsel failed to quash indictment
 (b) — the Courts sentencing illegal by law improper
 (c) — NO WEAPON to show Armed Robbery Attach page

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

- (a) — Attach pages
 (b) —
 (c) —

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

- (a) any petition in a State Court under South Carolina Law? "Direct Appeal"
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NONE
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO

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

(a) the specific nature thereof:

- i. —
 ii. —
 iii. —
 iv. —

N/A

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

- i. —
 ii. —
 iii. —
 iv. —

N/A

(c) the disposition thereof:

- i. —
 ii. —
 iii. —

N/A

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

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

No

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) _____

(b) _____

(c) _____

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

- (a) your arraignment and plea? _____
- (b) your trial, if any? /
- (c) your sentencing? /
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? / DIRECT
- (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. _____ GEOFFREY M. DUNN, LLC
- ii. _____ 223 EAST MAIN STREET Suite 405
- iii. _____ Rock Hill S.C. 803-327-3869 29731
- (b) the proceedings at which each such attorney represented you:
- i. _____ Bond Court And Trial
- ii. _____
- iii. _____

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

_____ VACATE, time Reduction, New trial

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

NO

STATE OF SOUTH CAROLINA

)

VERIFICATION

County of

)

)

I, _____, 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.

Jacki Child

SWORN to and subscribed before me this 25th
day of August, 2021.

Wonne A. Insdale (L.S.)
Notary Public

My Commission Expires: March 3, 2031

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

I, _____, 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.

Jackie Chubb
Applicant

SWORN or affirmed to and subscribed before me this

25th day of August, 2022.

Diana A. Luecke
Notary Public

My Commission Expires: March 3, 2031

Conflict of Interest

Past court transcripts where I've been in front of Judge Hall will show him asking about members of my family. The so called victims are members of my family and Judge Hall and Solicitor Shelton used a magistrate Judge as a speaker for the victims at my bond hearing who also works in the same building as Shelton and Hall and knows me and the victims and that magistrate is Ray Long, Attorney Dunn knew all of this and let it happen.

Ineffective Counsel

Attorney Dunn refused to present physical evidence in the case which violates my rights. He refused to present my statement into the case which violates my rights also denying to file a change of venue so I'd have a fair trial violates my rights. I have copies of the letters to Attorney Dunn's office to prove all this.

(2) Conflict of Interest

Whereforth Applicant contends that no Conflict of Interest Exist where forth the Same Judge Bond Court, WARRENTS, AND NOW AT TRIAL, ALSO Direct Appeal to MAKE SURE I WAS NOT GIVE A FAIRE CHANCE IN COURT the trial Counsel was informed of the Judge, AND the PROSECUTORS INTENTIONAL CONSPIRACY AGAINST ME AS A MATTER OF FACT the Judge AND the victim ARE FRIENDS..... I KNOW that MYSELF AND Judge Hall HAVE HAD PASS EVENTS WHICH WILL AND HAS ~~CAUSE~~ CAUSED HARM AGAINST ME... Judge Hall, Solicitor Shelton, ARE ALL IN CONSPIRACY TOGETHER WITH ~~(Matthews)~~ Dunn ← ~~(Matthews)~~.... And Magistrate Judge Ray long I REQUESTED A CHANGE OF VENUE OR ATLEAST CONTENDOUSE BE CAUSE OF THE EXISTENCE OF THE CONFLICT OF INTREST

(3) INEFFECTIVE COUNSEL WHEREFORTH COUNSEL REFUSE TO INVESTIGATE, the Autopsy where FOR THERE Report SAID THAT THE VICTIM DIED 24 DAYS AFTER THE CRIME the pathology SAID the victim ACTUALLY DIED OF A BROKEN HEART NATURAL CAUSES NO PHYSICAL INJURY CAUSE THE DEATH AND SHOULD NOT BE ANY MAND SLAUGHTER CHARGE IN THIS CASE COUNSEL FAILED TO EVEN PUT UP ARGUMENTS

page 3, (10) (C) Applicant Still Contend that he is BE Held unlawfully on the Armed Robbery, the 1st Degree Burglary, Conspiracy, AND WEAPON Charge

"(1)" (A) SUBJECT MATTER JURISDICTION WHERE THE ELEMENTS OF THE CHARGE WERE NOT MEET.

(B) ILLEGAL SENTENCING ACCORDING TO COURTS USUAL PRACTICE

(C) ARMED ROBBERY MUST HAVE THE SHOWING AN WEAPON, OR THE THREAT OF A WEAPON TO BE ARMED (I GOT A GUN OR STICK, ROCK, KNIFE...

(D) INEFFECTIVE TRIAL COUNSEL WHERE FORTH HE MIS INFORMED HIS CLIENT OF SENTENCE, THE FACT THAT NO EVIDENCE EXIST TO PROVE THE CRIME WAS COMMITTED BY ME WHICH IS A COMPLET VIOLATION OF 6 AMENDMENT THERE ALSO A VIOLATION OF RULE (3) A, B, C, AND D RULES OF CRIMINAL PROCEDURE, ALSO APPLICANT CONTENDS THAT A DIRECTIVE VERDICT SHOULD HAVE BEEN GRANTED, AND INVESTIGATION ON THE OFFICIAL INVOLVED IN THE CASE WERE NO EVIDENCE EXIST

ATTACH PAGE

A lot of my rights were violated and charges put on me that should've never been pushed on me. Judge Hall, Solicitor Shelton and Attorney Dunn worked together to make sure that I couldn't do anything to help myself. I was pushed into a Alford vs N.C. plea by Attorney Dunn. I had also filed a Bar complaint against Dunn and wanted a different Attorney, but was told by Dunn that I wouldn't be given another attorney. I want to be given a chance to be treated fair and clear my name please. I want everything that needs to be presented into the case to be showed and also the actions of the 3 names above and proof will be shown that shady dirty activities were done in order to send me to prison. Everything that I've stated in this paperwork I can prove 100%.

"Turn Over" Jackie Chiles

Once I'm able to talk to my new Attorney, I'll turn over every piece of paperwork proving everything that I've stated is true and a few other places are being sent the documents. I'm requesting a new trial and everything will be presented this time,

Jackie Childers

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF YORK) FOR THE SIXTEENTH JUDICIAL CIRCUIT
)

Jackie Ray Childers,) Case No.: 2022-CP-46-02666
SCDC No. 301213,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

RETURN
(Counsel Appointed)

FILED-RECEIVED
2024 JAN 30 AM 9:16
ANGIE M. BRYANT
C.C.P. & GS
YORK COUNTY, SC

In response to the application for post-conviction relief (“PCR”) filed by Applicant Jackie Ray Childers on September 2, 2022, Respondent the State of South Carolina would show this Court:

I. PROCEDURAL HISTORY

Applicant is presently incarcerated in the South Carolina Department of Corrections. Applicant was indicted at the June 2021 term of the York County Grand Jury for first-degree burglary and possession of a weapon during the commission of a violent crime (2021-GS-46-00833 and -00833A), armed robbery (2021-GS-46-00834), kidnapping (2021-GS-46-00835), criminal conspiracy (2021-GS-46-00837), and murder (2021-GS-46-03401). Applicant was represented by Geoffry M. Dunn, Esquire (“Counsel”). Senior Solicitor Matthew W. Shelton, of the Sixteenth Circuit Solicitor’s Office, prosecuted the case. On February 22, 2022, Applicant appeared before the Honorable Daniel D. Hall, circuit court judge, and pled guilty¹ as indicted to all charges except No. 2021-GS-46-03401, on which he pled guilty to the lesser included offense

¹ On all charges, Applicant pled guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970).

of voluntary manslaughter pursuant to a plea agreement. Following a thorough plea colloquy, Judge Hall sentenced Applicant in accordance with the plea agreement to a negotiated aggregate sentence of thirty years' imprisonment. Applicant filed a timely notice of appeal, and the court of appeals requested a written explanation of appealable issues pursuant to Rule 203(d)(1)(B)(iv), SCACR. Counsel replied that he could not identify any appealable issues. The court of appeals permitted Applicant to submit a *pro se* written explanation, which Applicant did. The court of appeals issued an order finding that Applicant's written explanation was insufficient and dismissing the appeal. The remittitur was sent on May 27, 2022.

Factual Summary

The following summary of the facts is taken from the solicitor's summation at Applicant's plea hearing:

This incident occurred on December 25th of 2020 in the nighttime hours at the residence of Billy and Sarah Childers on Smith Ford Road in Hickory Grove, York County, South Carolina. Jackie Childers and his two codefendants, Travis Baxter and Virginia Ratcliffe, conspired to and did rob Billy Childers and his wife, Sarah Childers, at their home that Christmas night. The plan was that Virginia drop the two men off a little ways from the house. They walked through the woods to the house while Virginia effectively lured Billy Childers outside of the house. She went to the door, knocked on the door and complained of having car trouble. She asked for water to be put into the radiator.

Billy came outta the house with a jug of water in hopes of being able to help Virginia when he was attacked from behind by Travis Baxter and Jackie Childers. They knocked him to the ground and tied him up. And during the commotion Billy's wife, Sarah Childers, who was inside the house during this -- this part of the incident -- she came to the door to see what was happening. Billy yelled for her to go inside and lock the door. When she tried to do so, the evidence showed that Travis Baxter then chased after her, crashed through the glass door of the house and assaulted her. Sarah was made to take off her robe and her hands were tied behind her back. The evidence shows that Travis Baxter was primarily responsible for that part of the criminal activity as in going after Ms. Sarah, having her disrobe and tying her up.

The evidence shows that Jackie Childers then brought Billy inside the house with his hands tied behind the back, tied behind his back, and put him on the floor next to Sarah inside of their house while they began stealing the things that they had come for. The two men made Billy and Sarah lie face down on their living room floor with their hands tied behind their back and threatened to kill them and told them not to look at them while they were taking what they wanted. Jackie and Travis stole a cash box with approximately \$300 in it, a .380 revolver and some jewelry from Billy and Sarah. They also took the keys to their Honda C.R.V. which they ultimately left in.

When they left the house Jackie and Travis got in the Honda and drove it away from the crime scene. A short time later they crossed paths with Virginia Ratcliffe who had driven away from the house in the C.R.V. In fact, as she was pulling outta the driveway, according to her statement to the police, is when Baxter was crashing through the door to the house after Sarah. So Virginia never went in the house. She was part of luring Billy outta the house. And as you'll see in a moment, she did benefit from it as well. Virginia was driving Jackie's vehicle which is -- was his Explorer, and that's the vehicle they came to in the house. Travis Baxter was driving the C.R.V. that belonged to Billy and Sarah. After the incident when Travis crossed paths with Virginia, he flashed the lights as was their plan to let her know that it was them. He then pulled the C.R.V. over and abandoned it on the side of the road. Travis and Jackie then got out of the C.R.V., got into the Explorer with Virginia. Jackie got into the driver's seat of his vehicle, and Virginia and Travis rode with him as passengers. They drove away, divided up the stolen property and dropped Travis off a short distance away.

Sometime later Sarah Childers -- it was a short time later -- it was determined that Sarah Childers had a heart attack during the incident from the emotional trauma inflicted by this awful ordeal. She was taken to the hospital later that night and she ultimately died from the trauma she suffered during the heart attack. Dr. Batalis who is a pathologist at M.U.S.C. in Charleston would have testified at trial that in his opinion Sarah Childers died from a homicide by heart attack brought on by the extreme stress and trauma of the incident that Christmas night.

York County Sheriff's Office investigated this case for over a month pursuing a number of leads until they finally caught a break in the case. They discovered that Jackie had tried to sell a gun to a friend shortly after the incident, and they also found that Virginia had pawned the stolen .380 at a pawn shop in North Carolina. They were able to recover that weapon and Billy was able to identify it as his gun.

Warrants were obtained for Virginia and Jackie. They were

located in Paducah, Kentucky, where they had fled shortly after the incident. They were caught by the Paducah Police Department on or about January 24th of 2022. Sheriff's detectives Wong and Gates who are present in the courtroom went to Paducah and interviewed Virginia Ratcliffe. Virginia told detectives everything that had happened and was very forthcoming with them. She implicated herself as well as Travis and Jackie. Virginia told detectives that Travis Baxter took a gun to the robbery. It's also clear from the evidence Billy Childers had told the police that he thought both men had a gun, and clearly they stole a gun as well during this. So there were two guns in play during this incident for sure, but perhaps three. And the fact that Travis had a gun and took a gun to the robbery, Billy's account corroborated what Virginia told. There were a number of things during the investigation that police were able to determine that Virginia's account of what happened was consistent with everything they discovered at the crime scene including being able to identify Travis Baxter whose blood was left on the scene and was identified through D.N.A.

(Plea Tr. pp.16–20).

II. CURRENT APPLICATION

In his PCR application, Applicant raises the following allegations:

1. Conflict of interest:
 - a. "Past court transcripts where I've been in front of Judge Hall will show him asking about members of my family. The so-called victims are members of my family and Judge Hall and Solicitor Shelton used a magistrate judge as a speaker for the victims at my bond hearing who also works in the same building as Shelton and Hall and knows me and the victims and that magistrate is Ray Long. Attorney Dunn knew all of this and let it happen."
2. Ineffective counsel:
 - a. Failed to move to quash indictments.
 - b. Refused to present physical evidence.
 - c. Refused to present Applicant's statement.
 - d. Refused to move for a change in venue.
 - e. Failed to investigate the autopsy report or to argue that the victim died of natural causes.
 - f. Misinformed Applicant of sentence.
3. Subject Matter Jurisdiction:
 - a. Elements of the crime were not met because there was no weapon.
4. Illegal sentence

As relief, Applicant requests "vacate, time reduction, new trial."

Attached to and incorporated herein are the records of the York County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the guilty plea transcript, Applicant's appellate records, and the application for relief. Respondent reserves the right to amend this Return upon receipt of relevant information.

III. RESPONSE TO ALLEGATIONS

Conflict of Interest

Applicant claims Judge Hall and Senior Solicitor Matthew Shelton had a conflict of interest because they knew people involved in his case and because Applicant had appeared in front of Judge Hall before. None of the facts alleged in Applicant's PCR application amount to a conflict of interest that would disqualify either Judge Hall or Solicitor Shelton. *See, e.g., State v. Hawes*, 423 S.C. 118, 141–44, 813 S.E.2d 513, 525–27 (Ct. App. 2018) (holding the mere fact that an assistant solicitor and her husband were fact witnesses and neighbors of the victim did not require disqualification of the Fifth Circuit Solicitor's Office or prejudice defendant's right to a fair trial); *Barry v. Sigler*, 373 F.3d 835, 836 (8th Cir. 1967) ("Merely because a trial judge is familiar with a party and his legal difficulties through prior judicial hearings . . . does not automatically or inferentially raise the issue of bias."); 16C C.J.S. *Constitutional Law* § 1706 ("The fact that the same judge presides over various phases of a criminal prosecution involving the same defendant, or hears both of two cases against the defendant, does not necessarily constitute a denial of due process.").

In addition, this issue would have been known to Applicant at the time he entered his guilty plea, and he could have raised the issue then. By not raising this claim prior to entering his guilty plea, Applicant has waived the issue. *See, e.g., Jamison v. State*, 410 S.C. 456, 468, 765 S.E.2d 123, 129 (2014) (holding a guilty plea constitutes a waiver of all nonjurisdictional defects and

claims of violations of constitutional rights).

Ineffective Assistance of Counsel

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to “assistance by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.” *Strickland v. Washington*, 466 U.S. 668 (1984). 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 PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Applicant must prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRPC. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel’s performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625

(quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”).

Second, counsel’s deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. A reasonable probability is “a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111–12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” *United*

States v. Basham, 789 F.3d 358, 371–72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

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, 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."). "Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea." *Garren v. State*, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); see *Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that "guilty plea[s] must be treated as final in the vast majority of cases" and instructing that caution must be exercised so as not to "undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea"). Statements made during a guilty plea should be considered conclusive unless an applicant presents valid reasons why he should be allowed to depart from the truth of his statements. *Dalton v. State*, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

Applicant's allegations of ineffective assistance of counsel are without merit. First, Applicant complains that Counsel did not move to quash the indictments; however, Applicant has not even asserted any defects in the indictments that would have justified a motion to quash.

Next, Applicant claims Counsel refused to present physical evidence or Applicant's

statement. Since Applicant pled guilty, there was never an opportunity for Counsel to attempt to introduce any evidence. Furthermore, Applicant has not described the evidence he claims Counsel should have presented, much less explained how Counsel's failure to present that evidence supposedly prejudiced him.

Applicant also complains that Counsel refused to move for a change in venue; however, Applicant has not explained what grounds would have justified a change in venue or how he was prejudiced by Counsel's alleged refusal.

Applicant further claims Counsel failed to investigate the autopsy report. He claims that the pathologist's report indicated that the victim "died of a broken heart," and he complains that Counsel should have argued the victim's death resulted from natural causes. During Applicant's plea hearing, the solicitor stated the pathologist gave the victim's cause of death as "homicide by heart attack brought on by the extreme stress and trauma of the incident." (Plea Tr. p.19, lines 13–17). To characterize this as a "natural" death from a "broken heart" would have been absurd, and Counsel cannot be deemed deficient for failing to make such an argument.

Finally, Applicant claims Counsel misinformed him of the sentence. Applicant does not explain what Counsel allegedly told him his sentence would be. However, the transcript of the plea proceeding clearly reflects that Applicant was correctly informed of the thirty-year total negotiated sentence before he entered his plea. (Plea Tr. p.6, lines 19–20).

Subject Matter Jurisdiction

Applicant appears to argue the plea court was without subject matter jurisdiction to convict him because "the elements of the charge were not met." Elsewhere in his application, he claims that there was "no weapon to show armed robbery." Whether the State could prove every element of the crime with which Applicant was charged has no bearing on the subject matter jurisdiction

of the circuit court to accept Applicant's guilty plea. *See State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005) (holding "[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.").

Illegal sentence

Applicant claims he was illegally sentenced "according to [the] court's normal practice." However, Applicant has not explained what was purportedly illegal about his sentence.

For these reasons, Respondent submits that all of Applicant's allegations are without merit. However, to the extent these allegations raise questions of fact not conclusively refuted by the record, Respondent requests an evidentiary hearing be held to fully resolve the issues.

IV. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

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

Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent, or in the alternative to continue the matter to permit adequate time to investigate and address the claims. *See Mangal v. State*, 421 S.C. 85, 805 S.E.2d 568 (2017) ("In most PCR cases, . . . we have refused to excuse the pleading and issue-

preservation requirements that apply in all civil cases.”); *Love v. State*, 428 S.C. 231, 242, 834 S.E.2d 196, 201 (2019) (“When analyzing the substance of a proposed amendment and any prejudice the State might suffer, a PCR court should consider all relevant circumstances, including, but not limited to, the timing of the motion, the complexity of the new issue, the degree of surprise to the State, the need for and availability of necessary witnesses to defend against the claim, and whether the substance of the proposed amendment is readily apparent from the underlying plea or trial record.”); *see also* Rules 15(a)–(b), SCRCPP (explaining how to amend a pleading).

Under section 17-27-150 of the South Carolina Code of Laws, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent well in advance of the evidentiary hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to Respondent.

V. GENERAL DENIAL

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

VI. CONCLUSION

WHEREFORE, Respondent respectfully requests that this Court convene an evidentiary hearing on Applicant's allegations.

Respectfully submitted,

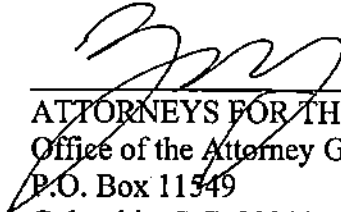
ALAN WILSON
Attorney General

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ZACHARY W. JONES
Assistant Attorney General

By:



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Office of the Attorney General
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Columbia, S.C. 29211

1/24, 2024

STATE OF SOUTH CAROLINA
COUNTY OF YORK

Jackie Ray Childers
SCDC No. 301213

Applicant,

v.

State of South Carolina

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SIXTEENTH JUDICIAL
CIRCUIT

Case No.: 2022-CP-46-02666

Certificate of Service by Mail

ANGIE H. BRYANT
C.C.P. & GS
YORK COUNTY, SC

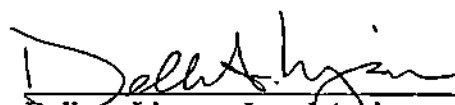
2024 JAN 30 AM 9:16

FILED-RECEIVED

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 for Post-Conviction Relief in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Shawana Burris, Esquire
The Law Offices of Shawana Burris, LLC
331 E. Main St., Ste. 200
Rock Hill, SC 29730

DATED this 25th day of January 2024.


Dellene Lizama, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA.

2 -----x

3 JACKIE RAY CHILDERS,

4 Petitioner,

5 Case No.

6 -against-

2022-DR-46-02666

7 State,

8 Respondent.

9 -----x

10 February 26, 2024

11 York, S.C.

12
13 B E F O R E:

14 HONORABLE J. MARK HAYES

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

17 SHAWANA BURRIS,

18 Attorney for the Petitioner

19
20 ZACHARY JONES,

21 Attorney for the State

22
23 Aileen Butler

24 Official Court Reporter

25

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
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(NO EXHIBITS RECEIVED)

1		<u>I N D E X</u>			
2	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Jackie Childers				
4	Ms. Burris	8		50	
5	Geoffry Dunn				
6	Mr. Jones	20			
7	Ms. Burris		29		
8	Matthew Shelton				
9	Mr. Jones	40			
10	Ms. Burris		44		
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1 THE COURT: Yes, sir, Mr. Attorney General.

2 MR. JONES: Thank you, Your Honor. May it
3 please the Court. This is the matter of Jackie
4 Ray Childers versus State of South Carolina.
5 Case number 2022-CP-46-02666.

6 My name is Zachary Jones for the State of
7 South Carolina. Mr. Childers is here as is his
8 attorney, Shawana Burris.

9 Mr. Childers was indicted by the June 21,
10 2021 term of the York County Grand Jury for
11 first degree Burglary, possession of a weapon
12 during the commission of a violent crime.
13 That's Indictment number 2021-GS- 46-833 and
14 833A. Armed robbery 2021-GS-46-834, kidnapping
15 -835, criminal conspiracy -837 and murder -
16 3401.

17 Mr. Childers was represented by Geoffry
18 Dunn and the case was prosecuted by senior
19 solicitor Matthew W. Shelton of the 16th Circuit
20 Solicitor's Office.

21 Mr. Childers appeared before the Honorable
22 Daniel D Hall, Circuit court judge and plead
23 guilty on February 22, 2022 as indicted to all
24 charges except for charge number 2021-GS-46-2401
25 in which he made plead guilty to the lesser

1 included offense of voluntary manslaughter
2 pursuant to a plea agreement.

3 Judge Hall sentenced Mr. Childers in
4 accordance with the plea agreement to a
5 negotiated aggregate sentence of 30 years in
6 imprisonment. Mr. Childers filed a timely
7 Notice of Appeal which was ultimately dismissed
8 by the Court of Appeals. The remittitur was
9 sent on May 27, 2022 and Mr. Childers filed this
10 post conviction relief application on September
11 2, 2020. With that I will turn it over to Miss
12 Burris.

13 THE COURT: Yes, ma'am, Miss Burris.

14 MS. BURRIS: Yes, Your Honor. I believe
15 that my client, Mr. Childers, he just has a
16 couple of questions. I think specifically in
17 regards to his plea that he took for the
18 burglary first degree, he questions the
19 explanation of the law in regards to the
20 nighttime component that the statute requires
21 for burglary first degree. He mentions that
22 when this took place it was around 5:30 p.m. and
23 I think it was it in December. Nevertheless he
24 said it was not dark outside and he questioned
25 that whether or not his counsel at the time

1 actually looked into that component and
2 mitigated based upon the fact that it wasn't
3 dark outside. He also questions the hand of
4 one, hands of all component. He says that some
5 of his co-defendants were not charged with the
6 same things in which he was charge, such as the
7 manslaughter, the voluntarily manslaughter
8 charge. He questions that, since it was I guess
9 the prosecution's main point to say hand of one
10 was the hand of all no matter his involvement
11 whether great or small that, you know, he was
12 still charged at the same level as the one that
13 was charged the most as opposed to the female.
14 She wasn't charged with a lot of same things
15 that the guys were.

16 There is also another factor that he
17 questions in regards to the hoodie that he was
18 wearing on the night of -- on the day of, Your
19 Honor. He would like to question his counsel
20 about.

21 THE COURT: Okay. Do you wish to call him
22 as a witness?

23 MS. BURRIS: Your Honor, he would also like
24 to question the transfer.

25 Yes, Your Honor, he would like to testify.

1 THE COURT: Okay. If you would, sir, just
2 come right up here and let the clerk of court
3 swear you in. This lady right in front of me if
4 you would.

5 THE CLERK: Do you solemnly swear the
6 testimony you are about to give this court to be
7 the truth, the whole truth and nothing but the
8 truth, so help you God?

9 THE WITNESS: Yes.

10 THE COURT: Be careful stepping up and have
11 a seat in the chair and I believe there is a
12 microphone over there. Try to speak in the
13 microphone. The young lady over to your left,
14 she is a court reporter. She's taking
15 everything that you say so speak up so that she
16 can hear you, I can hear you and all the lawyers
17 can hear you. Okay?

18 MR. CHILDERS: Yes.

19 THE COURT: If you can't hear any of the
20 questions just let us know and they will speak
21 up as well. All right?

22 MR. CHILDERS: Yes, sir.

23 Yes, ma'am.

24 MS. BURRIS: Yes, Your Honor.

25 DIRECT EXMINATION

1 BY MS. BURRIS:

2 Q. Mr. Childers, how are you?

3 A. I'm all right.

4 Q. So from my understanding you plead to a couple
5 of charges for an incident that occurred December 25,
6 2020?

7 A. Yes, ma'am.

8 Q. How many co-defendants did you have?

9 A. Two.

10 Q. Two co-defendants. And what were their names?

11 A. Travis Baxter and Virginia Radcliff.

12 Q. Okay. And then was everyone charged the same?

13 A. No, ma'am.

14 Q. Okay. What differed in those charges?

15 A. Virginia got charged with the lesser charges. I
16 think she ended up with non-violent charges, which you
17 know, the whole time they were screaming hand of one,
18 hand of all, but if it was hand of one, hand of all
19 everybody would have been charged with the exact same
20 thing just like when I was in court and Solicitor
21 Matthew Sheldon admitted knowing I was not armed and
22 tried to say the hand of one, hand of all. That's in
23 transcripts.

24 Q. Okay. Do you know Virginia's involvement in
25 this as opposed to your involvement in this and why she

1 may have been charged with less than you?

2 A. I don't know what all she told him. I never got
3 to see the whole motion of discovery from Mr. Dunn. A
4 lot of it I did not see.

5 Q. Okay, so we're alleging that you never received
6 your packet. Well, you did receive a packet?

7 A. A lot of the videos and recordings and stuff I
8 never got to see. Like the video interviews of her when
9 they interviewed her and a her statement on video that
10 Geoffrey Dunn said he had but he claimed his laptop was
11 messing up at the time.

12 Q. Did you received recordings of yourself?

13 A. No, ma'am.

14 Q. Is that something that you asked for?

15 A. Yes, ma'am.

16 Q. Okay. Tell me in regards to this pathologist
17 allegation. How do you think this would have changed
18 your case? You mentioned -- you have been mentioning
19 something about a pathologist and you had were refused a
20 pathologist and someone else was given a chance to have
21 a pathologist. Tell me about it.

22 A. Well, the whole time Geoffrey Dunn was my
23 attorney I asked him for a pathologist as well as a
24 polygraph and he kept saying, well, not now. We'll get
25 to that later. Well, it never came to that.

1 After I got sent to prison Geoffry Dunn sent me a
2 letter when I filed my first appeal stating he had
3 consulted with a pathologist by the name of Dr. Ward out
4 of Greenville. Why would you consult a pathologist you
5 claim after I have been sent to prison when the whole
6 time I was here in the county I tried to get him to do
7 so. It was like a polygraph. I tried to get him to do
8 a polygraph the whole entire time. He said it's not
9 submissible (sic). There were several people that were
10 interviewed and interrogated during the course of that
11 investigation that were polygraphed. It was submissible
12 enough for them why not me. Just like the white hoodie
13 that I was wearing that night of that Travis Baxter when
14 he tried to shove property into my hands. Got his blood
15 all over which I kept and was wearing when I was
16 arrested. Begged and begged and I got copies of the
17 letters to Geoffry Dunn when I asked him to put --
18 present that to the courts. He refused to. Just like
19 when I tried to reach out to FBI. They blocked my mail
20 going out to the FBI. So I wanted everybody to know the
21 truth what really happened that night. Nobody would
22 listen.

23 Q. So in regards to this polygraph, tell the Court
24 -- let the Court know how that would have mitigated your
25 case in any type of way?

1 A. It would have cleared my involvement where it
2 was claiming that I had planned the whole thing and all
3 that. It would have cleared me from that because it was
4 never planned period. Never. That was never suppose to
5 happen. Ever. The only reason I even got out just like
6 I told you and like I told Geoffry Dunn and like I had
7 say in my written statement that he refused to present
8 to the court also. Our families fell apart after my
9 grandfather passed. That's back in 2003. My uncle
10 that's sitting over right there I haven't seen him since
11 then. Have not talked to him. Anything.

12 When the whole thing fell apart nobody really
13 talked to nobody. That's the only reason Ginny went up
14 and knocked on the door because the vehicle was really
15 running hot because the thermostat was sticking. I
16 didn't want no conflict. I didn't want nobody get upset
17 or anything like that. And the only reason I was even
18 in the area is my mom and my dad are buried on the same
19 exact road where my uncle lives. About a mile up the
20 road. That's the only reason I was even in the area.
21 None of that was planned. I had no mask on. I had a
22 white hoodie. I was not dressed in black and the whole
23 thing of where the sheriff's department put all over the
24 internet that the victims were beaten and all this. No
25 they wasn't. Where were the pictures of them beaten.

1 Where's the medical reports of them beaten. None of
2 that was done. They made this case look more worse then
3 it actually was just so they could get a conviction.
4 That's all it is.

5 Q. Okay. So, the State's assumption that you
6 actually set up everything was just simply not true?

7 A. No, it was not.

8 Q. So who set it up?

9 A. Travis.

10 Q. How did this come about?

11 A. When we pulled up in the driveway -- at the top
12 of the driveway it goes down a hill. I grew up on that
13 property. My grandparents use to have their house there
14 before. It was torn down before this place. Me and
15 Travis got out at the top of the driveway and Ginny went
16 on down there and knocked on the door to get the water
17 and everything, and Travis said he had to pee. So I
18 told him I said go over in the bushes. You got bushes
19 off to the right and off to the left side of driveway.
20 The next think I know he is running up towards the house
21 with a gun so I go running up behind him, you know.
22 Freakin' out by what he's doing. He told my uncle get
23 down on the ground which he did. He got down on the
24 ground. I'm the one that helped him up. Travis went
25 inside. He told me to come inside to. I stood right

1 there in the threshold and I didn't want nothing to do
2 with none of that. He's screaming. He's yelling. He's
3 bleeding all over the place. He's trying to shove
4 things in my hand. I told him I don't want nothing to
5 do with none of it. So he's like, okay, I got
6 everything I want. We leave.

7 Now, he had tied both of them. Before I -- I let
8 him walk out of that threshold before I do. I turned
9 around and I pull the hand towel where he had tied her
10 so she could get loose to call for help.

11 I never wanted that to happen. I've never been a
12 violent person. Yeah, I got a little criminal
13 background, but I've never been a violent person.
14 Never. I've never had anything against them and still
15 don't. I hold no grudge against them.

16 Q. Okay. So back when you took the plea with
17 attorney Dunn serving as your counsel did you let him
18 know that, you know, you tried to untie your uncle and
19 you really didn't want this to happen?

20 A. I sent Mr. Dunn my written statement which I
21 have a copy of in that envelope right there beside you
22 that I brought with me. I sent him that and begged him
23 to send that to the courts of my statement of what
24 really happened that night which I think is like 13
25 pages there.

1 Q. Okay. So how are you sure that attorney Dunn
2 did not speak with the solicitor in regards to your
3 written statement?

4 A. He -- Geoffry Dunn kept telling me if I
5 presented a statement the only thing it would do is hurt
6 me worse and I told him I wanted everybody to know what
7 really happened, but he would not enter it. Just like
8 the white hoodie that had someone else's blood on it
9 proving I was not dressed in black and planning this
10 crime.

11 Q. Okay. This is a question that I believe that
12 the Court would ask so I'll go ahead and ask you. Why
13 -- why did you accept the plea as opposed to taking your
14 case to trial?

15 A. Considering the attorney that I had and
16 Geoffry's Dunn performance and I had already filed a
17 complaint against Geoffry Dunn while he was my attorney
18 with the Department of Disciplinary counsel. I did not
19 get any kind of result back from them until right before
20 I went to court.

21 Geoffry Dunn flat out told me to my face you either
22 take this or you're going to get life. That's the only
23 option you're going to get. Done deal. That's all you
24 are going to get. So I knew then being the lawyer he
25 was and not even doing anything I asked him to do the

1 whole entire time as my lawyer there was no way I was
2 going to put my life in his hands.

3 Q. Okay. So you never moved to relieve him as
4 counsel?

5 A. I wanted to. He flat out told me you're not
6 going to get another attorney because I had fired one --
7 I had fired one to get rid of him. I got him. The
8 judge, Judge Hall, who knows my entire family I tried to
9 file for a change of venue because conflict of interest
10 with that. He was still over the case and there's past
11 court transcripts that back up to what I'm saying.
12 Judge Hall back in 2018 I had a charge that was
13 dismissed. He said, oh yeah, I knew your daddy. I know
14 your uncle. I know your other uncle that works up here
15 that works at Lakeview Memory Gardens. That's a
16 conflict of interest if you know both parties. And I
17 tried to pressure Dunn to get a change of venue done.
18 Getting Hall to recuse himself from it. He wouldn't do
19 nothing for me. I mean it was like a losing game. I
20 mean I couldn't help myself at all.

21 Q. Okay. Did he explain to you why he wouldn't
22 move to change venue?

23 A. He claimed it was not available for me to do so.
24 That's what he kept telling me, which he knew better but
25 ...

1 Q. And so I think that the Court would also ask,
2 you know, Judge Hall just mentioning that he knows your
3 family, like what other prejudice do you think that
4 Judge Hall had against you or any members of your
5 family?

6 A. I know him and my daddy could not stand each
7 other. They disliked each other greatly. In fact when
8 Judge Hall use to be a prosecutor.

9 Q. Okay. Back when what happened?

10 A. Judge Hall use to be a prosecutor. He and my
11 dad disliked each other. They grew up together.
12 They've known each other their whole life. And then,
13 you know, when I had my first -- no, my second bond
14 hearing they tried to pad my file with charges of my
15 daddy's charges that I've never even heard of back in
16 the early eighties -- late eighties and early nineties
17 that I sent you a copy of. Charges I never even heard
18 of because I'm a junior. I have the same name as my
19 daddy. They tried to pad my file to make myself -- make
20 me look worse then what it was. My criminal background
21 look worse then what it actually was. I brought that up
22 to Dunn. He did nothing about it.

23 Q. Okay. Do you -- do you just so happen to have
24 the same name as your father?

25 A. I'm a Jackie Ray Childers Jr. My daddy is Sr.

1 He passed away though.

2 Q. Okay. So possibly it could have been a mistake?

3 A. I brought it up but nobody ever tried to change
4 it so the prosecution was of course going with it to
5 make things look worse. They wanted to make it look
6 worse all together. You know with everything that's put
7 out there to the public, the newspapers, all over
8 Facebook, any potential juror that would have been on
9 the jury pool here in York County automatically have in
10 their head guilty because of what the prosecution was
11 putting out there and the sheriff's department was
12 putting out there to the public.

13 Q. Did you ever have a chance to look at your rap
14 sheet during the time when you went over discovery with
15 attorney Dunn and did you see any inconsistencies on the
16 rap sheet for something that you just know that you
17 weren't convicted of?

18 A. Yes, ma'am. They are in that paperwork I had
19 sent to your office. In that first packet I wrote down
20 all the charges. That was actually a copy that I had
21 sent to Dunn himself asking him like, get this cleared
22 up because I've never been convicted of none of this.

23 Q. So perhaps it was your father?

24 A. It had to be.

25 Q. All right. I think that in and of itself that's

1 a huge issue because I think that -- you know, whenever
2 we look to make offers and things like that I think we
3 take the rap sheet into consideration?

4 A. Yes, ma'am.

5 Q. So do you know in particular what crimes you
6 weren't convicted of in that rap sheet? Anything that
7 stood out?

8 A. There was prescription drugs by fraud. I think
9 a couple counts. Something to do with an airport.
10 Something to do with threatening or bombing or something
11 like that. It was like six or seven all together.
12 That's the ones I remember off the top of my head.

13 Q. Here in York County?

14 A. Yes, ma'am, and I begged Dunn to get my booking
15 sheet report from downstairs and he claimed he couldn't
16 do so. Which I know you can. You're an attorney. You
17 can get things like that. I guess he thought I was just
18 honestly dumb enough to believe him and fall for it but
19 I'm not. I've been studying in the law library ever
20 since I've been in in prison. I know a lot of legal
21 things that were done to me. That's why I'm back here
22 now.

23 Q. Okay. And one last question, just for the
24 record. After you were sentence -- well, after you
25 accepted the plea, one, the judge, you know, he says if

1 you want to appeal my decision you have ten days to do
2 so. Did you file that appeal?

3 A. I did.

4 Q. And what was the outcome of that appeal?

5 A. I sent the notification to Geoffry Dunn. He
6 sent me a copy where he filed the motion. Of course the
7 main complaint is against him. He told me it was up to
8 me to contact the courts. That I'm out. He was done
9 with it. I wrote him several times. Never heard
10 anything back until finally I think it was in June or
11 July of '22 I finally called his office and I was told
12 the case was dismissed, the appeal case.

13 Q. So you did follow up on everything that you
14 needed to do on your end?

15 A. Yes, ma'am. That's the first thing I did as
16 soon as I got sentenced I filed that appeal.

17 Q. And you did receive correspondence from the
18 Court of Appeals?

19 A. No, ma'am. I never even seen anything from them
20 telling me my appeal had been dismissed. Geoffry Dunn's
21 office sent me a paper stating so. I never -- because I
22 kept writing the Court of Appeals asking them if they
23 received my legal packet I've sent them. Please
24 acknowledge if you have received this or not so I can
25 re-send it to you. I never received anything from them.

1 Q. Is there anything further that you would like to
2 put on the record in regards to your PCR?

3 A. Not that I can think of right now.

4 Q. All right. Please answer any requests the
5 attorney general may have for you.

6 MR. JONES: I beg the Court's indulgence a
7 few moments. I don't have any questions for you
8 Mr. Childers. Thank you.

9 THE COURT: Watch your step as you are
10 stepping down sir.
11 Does the applicant have any other witnesses to
12 call?

13 MS. BURRIS: No further witnesses, Your
14 Honor.

15 THE COURT: Yes, sir, Mr. Attorney General.

16 MR. JONES: Thank you, Your Honor. The
17 State would call Geoffry Dunn.

18 GEOFFRY DUNN, called as a witness, was
19 sworn by the clerk and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. JONES:

22 Q. Thank you, Mr. Dunn. Can you explain how you
23 became involved in Mr. Childers's case?

24 A. I was appointed to represent Mr. Childers by
25 Judge Hall on September 23, 2021.

1 Q. And were you his first attorney?

2 A. I was not.

3 Q. Can you explain the nature of the evidence the
4 State had against Mr. Childers and what his charges
5 ultimately were?

6 A. His charges ultimately were murder, burglary
7 first, armed robbery, kidnapping. Some gun charges.

8 The nature of the evidence was primarily
9 co-defendant's statements. I don't remember the
10 female's name, but there was Mr. Childers, a man named
11 Travis somebody or another and a female, and I think the
12 female is the one that sort of started the ball rolling.
13 She implicated all three of them.

14 Q. Does Virginia Radcliff sound about right?

15 A. That sounds about right. And then I believe
16 Travis also implicated himself. I can't remember if Mr.
17 Childers's implicated himself directly or not. I don't
18 remember if there was DNA evidence. I don't remember.
19 But the victim -- the two victims were his uncle and his
20 aunt and I believe that -- I don't think they ever
21 identified him either.

22 Q. We heard Mr. Childers mention something about a
23 written statement. Does that ring a bell? Do you
24 recall that?

25 A. I don't remember. It's been a couple of years.

1 Q. Okay. The -- can you explain the plea
2 negotiation process in this case?

3 A. Like most cases, the solicitor and I go back and
4 forth trying to get a plea negotiation. Mr. Childers
5 was never happy with any of the number that were thrown
6 out. When I first talked to Mr. Sheldon in this matter
7 it was made clear to me that this was one of those cases
8 that was going to be treated very serious due to the
9 fact his aunt had died. Due to the fact it was a family
10 member. It was a home invasion of elderly folks at
11 night time. They got tied up. There was weapons used.
12 I mean, in twenty years I'm not sure if it was the worst
13 home invasion case I had, but it was certainly top five
14 worse home invasion cases just from a fact pattern. The
15 solicitor and I had that conversation. It was going to
16 be treated as that kind of case.

17 I know at times Mr. Childers wanted -- in typical
18 defendant's fashion -- wanted nonviolent time. Wanted
19 -- you know, low numbers. Wanted low numbers in the 10
20 to 15 year range. That kind of thing. All those were
21 rejected. Ultimately the best I could get was a
22 negotiated 30. Travis got a negotiated 40. He plead
23 first. I went to his hearing. I made it very clear to
24 Jackie afterwards that it wasn't going to go well for
25 him if he went to trial and lost. Just the nature of

1 the facts were very bad. I think ultimately the girl
2 got a lot better she was the cooperating witness and so
3 I think she got that benefit. But there was a lot of
4 back and forth emails as well a telephone calls as well
5 as just personal interaction between Mr. Shelton and
6 myself.

7 Q. Do you recall Mr. Childers brought up that he
8 filed a complaint against you? Do you recall the
9 circumstances of that?

10 A. Yes, I do.

11 Q. All right. What ultimately happened in that?

12 A. I filed a response with the Office of
13 Disciplinary Counsel and then ultimately the complaint
14 was dismissed. He and I had a conversation about it
15 just because whenever clients from the jail file a
16 complaint against me I tend to talk to them about it.
17 If it's something where we have a relationship that
18 can't be fixed then I tend to move to get off. Some of
19 the judges will allow it. Some of the judges won't. It
20 just depends on the judge. I did not file a motion to
21 be relieved in this case because I did not believe his
22 and I relationship was irreparably damaged. If I
23 remember correctly he told me he was scared and didn't
24 want to go to prison. I certainly get that. Nobody
25 wants to go to prison for the rest of their life. I

1 filed a response the February 10th of 2022. Sometime
2 thereafter it was dismissed.

3 Q. All right. Thank you. Do you recall anything
4 about a pathologist? That Mr. Childers was requesting a
5 pathologist.

6 A. So I talked to two pathologists in this matter.
7 One was Dr. Ward and I actually referenced me talking to
8 Dr. Ward in my letter to ODC because that was one of the
9 complaints so I addressed that in that complaint letter
10 and I addressed it with Mr. Childers afterwards. I also
11 talked to a doctor -- it was a doctor up in Charlotte.
12 I talked to Doctor Ward on February the 4th. I talked
13 to doctor -- I also talked to Doctor Ward on January the
14 12th. Both of those are 2022. I talked to Doctor
15 Owens -- he's out of Charlotte -- on November the 30th
16 of 2021. Basically -- do you want me to tell you the
17 conversation.

18 Q. Yes, if you don't mind.

19 Q. So the novel issue in all this had to do with
20 whether or not Jackie -- or really any of the defendants
21 -- could be guilty of killing his Aunt since none of
22 them actually did anything to her. She didn't die as a
23 result of being physically struck. She didn't die as a
24 result of being attacked. She ended up having a heart
25 attack because she was so scared by the experience that

1 after everybody left it was just her and his uncle of
2 the house, she ended up -- actually you can almost watch
3 the video. When the cops show up and she's talking she
4 was just so upset that she basically had an experience
5 and I think she ultimately had a heart attack later that
6 day. Ended up in the hospital and died like two weeks
7 later or three weeks later. And so the conversation I
8 had with both pathologists is whether or not you could
9 basically scare somebody to death. That's ultimately
10 how we characterized it. Both of their opinions were
11 yes, you could. A trauma of that event could trigger
12 somebody who had -- you know, especially an elderly
13 person who was predisposed to that could have an
14 experience where they ended up having a cardiac
15 experience. I told that to Jackie. Jackie and I had
16 that conversation. I don't know if he completely
17 understood it. The medical part of it. But he
18 certainly didn't like what I had to tell him. It was
19 their opinion -- it was both their opinions that the
20 literature supported it as well, that you could scare
21 somebody to death.

22 Q. And I think you just sort of off hand mentioned
23 they hadn't done anything to the victim. Do you mean
24 they hadn't physically injured her?

25 A. I can't remember. I think it was the uncle that

1 got tied up or maybe they both got tied up. I'm not
2 saying they weren't touched. But it wasn't like
3 somebody was shot or hit or beat on. It was the trauma
4 of the experience. I know they both might have been
5 tied up. In fact I know she was because in our plea
6 colloquy we talked about how Jackie actually admitted to
7 having untied her or losing her bonds so she could get
8 free once the defendants left. So I know she was tied
9 up. So I don't mean it that way. I just mean from a
10 physical assault.

11 Q. I was just clarifying.

12 Do you recall anything about Mr. Childers requesting
13 a polygraph examination?

14 A. I think he did and I told him polygraphs weren't
15 admissible and we don't do polygraphs.

16 Q. All right. The --

17 A. His issue had to do with the fact that the
18 things didn't go down the way that they -- kind of like
19 he testified today, did the things go down the way they
20 said it went down. And I kept explaining to him that I
21 don't think it mattered. The problem with the hand of
22 one, hand of all is the intent doesn't necessarily
23 matter once you get into the matter you know, the
24 defendant -- if Travis turned it into an armed robbery
25 and he participates it doesn't mean matter that you

1 didn't go there with the intent to commit an armed
2 robbery. But even -- even if that conversation had not
3 been had polygraphs are not admissible. Twenty years
4 I've never had a client do a polygraph for that purpose.
5 If we are going to do a polygraph it's for other
6 reasons.

7 Q. And do you remember where Mr. Childers was
8 ultimately arrested?

9 A. I want to say he got arrested in Kentucky. Him
10 and Miss Radcliff I believe got arrested together in
11 Kentucky.

12 Q. Do you recall their being any evidence in the
13 discovery or anything you discussed with the solicitor
14 about Mr. Childers trying to sell a gun to someone he
15 knew shortly after the incident.

16 A. There was discovery about a gun being sold or
17 trying to be sold. I believe it was to somebody he
18 knew. I can't remember if there was a video of Miss
19 Radcliff going into a pawn shop and selling it. I can't
20 remember if that was a gun. I remember there being a
21 video of her going into a store to try and sell
22 something. I think it was a pawn shop and I think it
23 was the weapon.

24 Q. And so ultimately did you discuss the pros and
25 cons of proceeding to trial versus accepting the State's

1 guilty plea with Mr. Childers?

2 A. I did.

3 Q. And what was your advise to him?

4 A. My advise to him was to take the plea because I
5 thought this was a case that was going to get a life
6 sentence after a trial and I don't think the evidence
7 was going to go in his favor.

8 Q. And ultimately whose is decision was it to take
9 the plea?

10 A. It's his decision.

11 Q. Do you recall anything about the rap sheet
12 having incorrect charges on it?

13 A. It might have. I mean if it was brought up at a
14 bond hearing it might have. Him and his daddy did have
15 the same name. It wouldn't have changed the outcome of
16 the bond hearing. This is a murder charge, it's an
17 armed robbery, home invasion of elderly folks. Whether
18 or not there was erroneous drug charge or property
19 charges wasn't going to change the judge's decision in
20 my opinion at a bond hearing.

21 Q. And did Mr. Childers ask you to file a Notice of
22 Appeal?

23 A. I'm sure he had to because I filed one. I
24 wouldn't have done that without him telling me to.

25 Q. All right. And then when you file a Notice of

1 Appeal for a client what's your general practice?

2 A. I send a copy to the Court of Appeal. I send a
3 -- I send the original to the Court of Appeals. I send
4 a copy to the clerk of court. I send a copy to Mr.
5 Dudek down at OID. I send a copy to Mr. Shelton. I
6 sent a copy to Mr. Childers. Because this was a guilty
7 plea off of a -- or an appeal off a guilty plea there is
8 special language that has to be included for an Ander's
9 brief. I filed that as well.

10 At some point the Court of Appeals made me aware
11 that they needed specific facts. I sent that to Mr.
12 Childers and told him that was his responsibility.

13 Q. All right. Mr. Dunn I think that is all
14 questions I have for you. Thank you.

15 A. Thank you.

16 THE COURT: Yes, ma'am.

17 CROSS EXAMINATION

18 BY MS. BURRIS:

19 Q. Hello Mr. Dunn.

20 A. Good afternoon.

21 Q. Did Mr. Childers ever ask you or inquire about a
22 change of venue?

23 A. He did.

24 Q. Okay, and so what was your response to that?

25 A. I did some research on it. We talked about it.

1 Ultimately it doesn't matter if you plead guilty to have
2 a change of venue. If we would have gone to trial it
3 would have been a motion I would have raised at trial.

4 Q. Okay. Did you at any point you ever discourage
5 him from making a motion for you to be relieved as his
6 counsel like towards the end?

7 A. I never try to talk clients out of relieving me.
8 If they want to fire me that's between them and judge.
9 Sometimes the judge grants it. Sometimes the judge
10 doesn't. I know in his case he was warned he would not
11 get any more lawyers.

12 Q. He would not?

13 A. He would not. My understanding I might have
14 been his third attorney. Certainly second attorney if
15 not the third attorney.

16 Q. Okay. So in regards to Doctor Ward, the
17 pathologist, was Mr. Childers ever aware of your
18 conversation with the pathologist and the conclusion
19 that the pathologist came up with?

20 A. The short answer is yes. I am trying to find my
21 notes to give you the long answer.

22 February the 7, 2022 I met with Mr. Childers. We
23 were in the I-block. I related to him that the offer
24 was still pending. I related to him Doctor Ward's
25 opinion that Sarah's death was caused by the events of

1 that night. We then talked about some other stuff, but
2 yes to answer your question we talked about it on
3 February 7, 2022.

4 Q. Okay. Did you in your communication with the
5 solicitor did you ever mitigate at any point with the
6 fact that Mr. Childers never had a gun and did you
7 communicate to the solicitor that you know, he indicated
8 that he hadn't set up any of this?

9 A. February the 3rd of 2022 at 2:55 I sent an
10 e-mail to Matthew Sheldon. It was about -- a pretty
11 long e-mail by my standards -- setting forth mitigation.
12 I can read you the e-mail. The short answer on all that
13 is yes. I did that on February 3, 2022.

14 Q. Well, I think Mr. Childers would like it if you
15 kind of summarized the e-mail a little bit. What you
16 included in that e-mail.

17 A. "Matt, I wanted to put down in writing what we
18 talked today. Based on our prior conversations it is my
19 understanding that the 20 and 25 years were not offers
20 that would be accepted by the State. I discussed the
21 matter with Jackie. He indicated he would accept 27.
22 He's 39 years old. His father died in his mid-fifties.
23 It's my understanding his mother also died at a young
24 age. Jackie believes that his genes will also effect
25 his own lifespan and as such a 25 or 30 year sentence is

1 effectively a life sentence. It is important to note
2 that while Jackie has a criminal record it is not a
3 violent record. His record is property crimes. I think
4 it is clear from listening to Sarah and Billy's
5 conversation with Detective Long that the two males were
6 a tale of two stories in how they acted. One was very
7 belligerent and violent based on the victim's
8 statements. That one cut himself and bled everywhere.
9 That one is Travis. When I went back and listened to
10 Sarah's interview at 33:59 mark she said the one,
11 Travis, I'm not going to hurt you. In fact she said he
12 was sort of polite. She went on to say he said just do
13 what we say and we're not going to hurt you. The other
14 one was violent and cursed at him and threatened him on
15 numerous occasions.

16 One of the things the State raised last week at
17 Travis's plea was how much trouble he has been in since
18 he's been arrested. My understanding he's been written
19 up documented dozens of times breaking the rules and
20 causing problems. Jackie on the other hand has no
21 write-ups. He keeps to himself and doesn't give anybody
22 any trouble. He has expressed concern for his family
23 about having to go through the ordeal of a trial which
24 is one of the reasons why he is willing to negotiate a
25 plea. Anything over 20 years is probably a life

1 sentence but if it is under thirty years he would at
2 least have a little hope to have a little time of his
3 life left outside of prison. I know the family probably
4 doesn't care about that but it is something for Jackie
5 to consider in agreeing to a plea in this matter."

6 So I didn't talk about the gun. We did talk about
7 the violence and the charges and that sort of thing.

8 Q. Okay. And I do understand that you did not
9 represent Virginia, you represented Jackie Childers.
10 Nevertheless, he is very concerned about the difference
11 in sentencing and why Virginia's sentence was able to be
12 mitigated and his was so -- you know, substantial?

13 A. That maybe a question you need to ask the
14 solicitor.

15 Q. Okay. Do you know how Jackie's involvement
16 differed from Virginia's involvement just from looking
17 through the discovery and all that?

18 A. It has been a while. My understanding is that
19 the two men are the ones that approached the house. It
20 was two men that went inside the house and tied up the
21 aunt and the uncle. My understanding is the female was
22 the setup person maybe. Made the initial contact. Said
23 that they were out of water for radiator. Something
24 along those lines. And that's when his uncle went to
25 get some water to help fix that problem. I don't

1 remember this ever being any allegations that she had a
2 gun. There were allegations the men had guns, but I
3 think ultimately she was the one that talked to the
4 police and was willing to name names and give statements
5 and help herself out and that's probably why her
6 sentence is better. But again, that would be a better
7 question for Mr. Shelton than Geoff Dunn.

8 Q. Absolutely. In regards to the burglary first
9 degree that Mr. Childers questions whether his incident
10 actually occurred during the night. Is that something
11 that was brought up to you and is that something that
12 you actually looked into?

13 A. My understanding was that it happened late at
14 night happened when it was dark. It was December. I
15 don't remember the exact time, but it would not have
16 mattered. Burglary first also allows for weapons to be
17 used to make it a burglary first. It also allows for
18 aggravating circumstances which I think the kidnapping
19 and -- I think the kidnapping would have raised it to
20 the level of burglary first. I don't know even if it
21 was daylight hours I don't think it would have mattered.
22 But I don't remember this ever being a discussion that
23 there was an issue with the timing of the burglary
24 first.

25 Q. Okay. In regards to the white hoodie that Mr.

1 Childers is very adamant about where there was no blood
2 on it. Was that ever mentioned in mitigation at any
3 point? Did you ever see that element substantial enough
4 to even bring it up to the solicitor that there was a
5 white hoodie. He wasn't dressed in all black as the
6 statement said. I think initially I think Virginia
7 might have said he was dress in all black.

8 (WHEREUPON, Ms. Burris has a conversation
9 with Mr. Childers.)

10 Q. At any point did you --

11 A. We had discussions about that hoodie a number of
12 times. The problem is from my understanding of it --
13 and this was addressed at the O.D.C. level as well --
14 the problem is the hoodie doesn't disprove that he
15 wasn't guilty. All it proves is they got the color
16 wrong.

17 The problem is if we do a test of the hoodie and it
18 has Travis's blood on it and DNA on it and he got the
19 blood there because he got cut during the struggle with
20 the uncle all we have done is established that in fact
21 Jackie Childers was present during an armed robbery. We
22 haven't disproved anything. To me there wasn't any
23 reason to get it tested. It would have been if I wanted
24 to raise it as an issue at trial what I would have done
25 is I would have argued to the jury that the police did

1 such a shoddy job of their investigation. They didn't
2 even bother to try and disprove or to eliminate that
3 hoodie as piece of evidence. To me it would have worked
4 better that route then it would have worked as me going
5 out and proving the State's for them. I didn't want to
6 put Jackie at an armed robbery.

7 So, the answer is we talked about it and I did not
8 get it tested.

9 Q. So in short form, are you saying because this
10 was a plea it didn't go as far as testing it but had
11 this case gone to trial this would have been something
12 that was tested?

13 A. No, I was never going to test that hoodie.

14 Q. Okay, so you never intended to?

15 A. Again, I would have rather argued to the jury we
16 -- Jackie telling me that Travis's blood is on the
17 hoodie isn't helping Jackie not being guilty of the
18 armed robbery and murder and the other things. That's
19 basically giving evidence to the state that he was
20 present at an armed robbery that he says he wasn't
21 present at. So I'm not doing the State's job for them.

22 I would rather argue to the jury that the State
23 should have done it and they didn't. I think it would
24 have been a more effective piece of evidence from a
25 defense lawyer's perceptive to argue the neglect and not

1 argue the positive.

2 Q. Okay. So let's talk about the rap sheet and
3 whether you actually had a chance to review the rap
4 sheet and if you saw any inconsistencies were Jackie
5 pointed out any inconsistencies of some crimes that he
6 was not guilty of but they appeared on his rap sheet.
7 Whether there was some confusion amongst him or his
8 father or whoever it was, because, you know, as defense
9 attorneys we know that the rap sheet can effect our
10 sentencing negotiations. Did you notice any
11 inconsistencies on the rap sheet?

12 A. I don't remember. I remember there being
13 discussion after a bond hearing about maybe things on
14 there that weren't his. Yeah, I don't think his rap
15 sheet had any influence at all on the solicitor's
16 decision to do a negotiated 30. Certainly I tried to
17 get Mr. Childers's offer lower than 30.

18 Q. Okay, so he didn't point out any particular
19 crimes that were on the rap sheet that shouldn't have
20 been there?

21 A. Point out to whom and when.

22 Q. I guess pointed it out to you for you to address
23 with the solicitor that hey, this wasn't my guy. He
24 wasn't convicted of all this stuff.

25 A. Again, his rap sheet had nothing to do with the

1 outcome of the negotiations in this case. The sentence
2 that we had had to do with the severity of the charges
3 and the allegations. And so I don't remember if Mr.
4 Shelton and I had conversations about the rap sheet
5 maybe containing things on it that shouldn't have been
6 on it. We very well could have had the conversation. I
7 don't remember. In my opinion it did not change the
8 outcome of Mr. Childers's case one iota.

9 Q. Okay. I think just one last question. In
10 regards to at the end of the crime when they wrapped it
11 all up and Mr. Childers he tells me that he actually
12 untied the uncle. He never wanted any of this to
13 happen. Is this something that you and the solicitor
14 talked about?

15 A. It was something I told the judge at his plea.
16 Either I did or Jackie did. In fact I'm pretty sure Mr.
17 Shelton and I had that conversation that Jackie offered
18 -- I don't want to say solace to his aunt, but was
19 certainly nicer to her than the other person was. And
20 I'll will point out his offer was 30. His sentence was
21 30 and Travis's was 40, so...

22 Q. Okay. In regards to his personal statement
23 which he presented to me -- several personal statements
24 -- was there at any point where he summarized that to
25 relay the message to the State or -- you know, or

1 actually give them a copy of the statement?

2 A. To basically say that he wasn't as involved as
3 the State says he was, yes, Mr. Shelton and I had that
4 conversation. Mr. Shelton didn't believe it.

5 Quite frankly, our conversation between me and Mr.
6 Childers, Mr. Childers didn't like what I had to tell
7 him about that.

8 Q. We have no further questions.

9 THE COURT: Any reply from the Attorney
10 General?

11 MR. JONES: Just very briefly. Actually I
12 think we covered everything Mr. Dunn. Thank you
13 so much.

14 THE COURT: Thank you. You may step down.
15 Does the Attorney General have any further
16 witnesses?

17 MR. JONES: Yes, Your Honor. The State
18 would like to call Matthew Shelton.

19 THE COURT: Come right up here appear let
20 the clerk of court swear you in.

21 MR. SHELTON: Is it okay if I bring my
22 computer up?

23 THE COURT: Yes, sir.

24 MATTHEW SHELTON, called as a witness, was
25 sworn by the clerk and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. JONES:

3 Q. Thank you Mr. Shelton. Can you just briefly
4 describe the State's theory in the case in this matter?

5 A. I think Mr. Dunn did a pretty good job
6 summarizing it earlier.

7 This was on Christmas evening of 2020. Virginia
8 Radcliff, who I believe was in a relationship with Mr.
9 Childers, went to the residence, the front door of Billy
10 and Sarah Childers saying they were having car trouble.
11 Billy came out to help her. He got jumped as he
12 described it to the police. Kind of blind sided. Two
13 men came at him from either side from behind. Knocked
14 him to the ground. Tied him up. One of them then
15 charged into the house after he hollered for Sarah to go
16 in and lock the door one of them charged through their
17 glass door and ended up tying us Miss Sarah. She was
18 disrobed in the process. For some reason they took her
19 nightgown off and basically hogtied her in the middle of
20 the floor. Brought Mr. Childers in next to her. He was
21 tied up. When I say hogtied bound behind their back,
22 face down on the floor while the two men went through
23 the house and stole a number of things to include
24 jewelry, a fire arm and I think some change. Some rolls
25 of coins.

1 As Mr. Childers told the police the female didn't
2 come inside. She stayed outside. They got away that
3 night. Sheriff's office was searching for information
4 for several weeks. The community was rocked pretty hard
5 by this whole thing. This being Christmas night with an
6 elderly family. So they were trying to see if anybody
7 knew anything about anything. Following a bunch of
8 leads. Almost all of them turned up a dead end until
9 they found a pawn ticket in North Carolina where
10 Virginia had pawned a gun that match the gun that was
11 stolen. They got the FBI involved. Were able to track
12 their cellphones. Found them together in Kentucky.
13 They got DNA evidence from the other guy. His blood
14 came back.

15 Virgiana Radcliff -- she was the first one to tell
16 the full accounting of what had happened. It was
17 consistent with what Mr. Childers and his wife had told
18 the police had happened. So she was very quickly
19 identified as someone who that I could potentially flip
20 as the common parlance is. Her being the lesser
21 culpable of the three and the one who appeared to be
22 giving a complete and truthful accounting of what had
23 happened that night and the rest just went from there.

24 Q. All right. Can you describe your plea
25 negotiations with Mr. Dunn regarding Mr. Childers's

1 case?

2 A. Yeah. I think for the longest time I wasn't
3 making him an offer. Strategically we decided to go to
4 Baxter first because we had DNA against him. His case
5 was set for trial. Public defenders represented him. He
6 ended up pleading. Got 40 years. We were trying to see
7 if he would cooperate and testify against Jackie. He
8 had implicated himself as well. He had named Jackie as
9 being part of it all I believe. It has been a minute
10 since I looked at his statements. But he ultimately
11 wouldn't budge and so he took his lumps and got 40
12 years. Then I turned my attention to Jackie setting his
13 case for trial and as we normally do with these big
14 cases we set them far enough out so if there's a chance
15 to work out a plea agreement after digging into the case
16 and getting closer to a trial that's when if there's a
17 chance to work it out in my experience that's when we
18 tend to find some common ground if there is any to be
19 had.

20 Geoff came with I think 10 or 15. No parole. I
21 wasn't interested in that. Ultimately he had him up to
22 20 or 25. He got him up to a 27 year mark. That was
23 enough for me to have a conversation with the family
24 again. We agreed that thirty was bottom line. I took
25 that back to Geoff and then the case plead.

1 Q. All right. So do you recall Geoff talking with
2 you about any mitigating factors in support of his
3 argument that it should be 20 or 25 or less than that?

4 A. Yeah, he did. He did the best he could with it.
5 This was one of the top five cases on my docket. At
6 that point in time I was putting a lot of resources and
7 energy in this case. Like I said, there was a huge
8 community outcry. This was a very aggravated case. An
9 elderly woman had been killed during this incident. So
10 this was top priority. I wasn't very interested in
11 mitigation in this case.

12 Q. And you said the floor that you gave to Geoff
13 was 30.

14 A. I think I had him at 40 at one point because
15 that's what Travis got. I ultimately talking with the
16 family after receiving a counter of 27 we agreed that 30
17 was our bottom line. That's what I took back in
18 response to 27 counteroffer and that's what we agreed
19 on. And I will say we -- I think we put everything in a
20 plea waiver in this case so I think it was all spelled
21 out very plainly and clearly as part the record.

22 Q. Do you -- excuse me. Do you recall the
23 application of hand of one, hand of all doctrine? The
24 State's theory in this matter.

25 A. Sure. I mean in general there was a home

1 invasion and everybody that was involved is just as
2 guilty as each other. So Virginia Radcliff, Travis
3 Baxter and Jackie Childers was all indicted for the same
4 thing. Virginia Radcliff got a reduction in her charges
5 after the two guys charges were dealt with because she
6 was a cooperating co-defendant and I found her to be the
7 lesser culpable of the three and she was willing to
8 testify if called to do so.

9 Q. All right. I think that's all the questions I
10 have for you Mr. Shelton.

11 A. Thank you.

12 CROSS EXAMINATION

13 BY MS. BURRIS:

14 Q. Hello Mr. Shelton. How are you?

15 A. I'm good. How are you?

16 Q. Good. So, just briefly. You already gave us a
17 summary so I will not ask you to do that again.

18 Was there ever a point where attorney Dunn came to
19 you and tried to mitigate with the fact that Mr.
20 Childers didn't have a gun?

21 A. So I remember that being discussed. I also
22 remember Mr. Childers, Billy Childers the victim,
23 believed that both men had a gun. They also became
24 armed during the home invasion. It was a home invasion,
25 burglary during the commission of an armed robbery and

1 kidnapping. It didn't really matter to me especially
2 with the hand of one, hand of all theory. It didn't
3 matter to me if he actually had a gun or not, but I do
4 believe Billy Childers would have testified that both
5 men had guns based on his recollection.

6 Q. Okay, and how did you distinguish Jackie's
7 involvement from Virginia's involvement?

8 A. Based on what Billy Childers said. Based on
9 what Sarah told the police the night of before she
10 passed away and based on the account that she gave. I
11 actually met with Virginia in person. She was
12 consistent after several months of the case being
13 pending. I believed her.

14 Q. So I guess that would be the reasoning for the
15 difference in sentence offers?

16 A. Sure. It's a big factor.

17 THE COURT: Mr. Childers if you would have
18 your discussion with your lawyer. Okay. Thank
19 you.

20 Q. Okay, in regard to -- in regard to manslaughter
21 versus voluntarily manslaughter versus involuntary
22 manslaughter, just tell me why you sought voluntarily
23 manslaughter opposed to involuntary manslaughter when
24 Mr. Childers claims that it wasn't intentional.

25 A. They were indicted for murder and that carries

1 30 years to life. So during plea negotiations I agreed
2 to lower it to voluntarily manslaughter. I felt that
3 based on the theory of that particular charge which the
4 pathologist referred to as homicide by heart attack. It
5 was during the commission of a violent crime. I believe
6 that it would have went to sufficient intent, sufficient
7 criminal element to where it wasn't some neglect like
8 you would see in involuntarily manslaughter. I think
9 there were intentional actions done by the parties
10 involved. That would have been a question for the jury.
11 Mr. Childers ultimately entered a plea acknowledging --
12 I believe it was an Alford plea, but he's acknowledging
13 that there was sufficient evidence where the jury could
14 have found him guilty or would have likely found him
15 guilty to that charge just like the other ones.

16 Q. In regards to the first degree burglary charge,
17 did you actually look at the elements and actually make
18 sure the incident line-upped with that charge, such as,
19 you know, Mr. Childers is very adamant that it didn't
20 happen during the night time hours.

21 Did you actually review those elements to make sure
22 that charge fit the fact pattern?

23 A. I always review the elements of every case
24 before I send it to the Grand Jury. This was no
25 exception.

1 If you give me just a second I'm actually going to
2 pull up a copy of the Indictment. I believe there were
3 multiple grounds for it being a first degree alleged in
4 the Indictment. "Defendant in effecting entry and/or
5 while being in the dwelling caused physical injury to a
6 person who is not participate in the crime and/or
7 displayed what is or appeared to be knife, pistol,
8 revolver, rifle, shotgun, machine gun or other firearm
9 and/or used or threatened use of a dangerous instrument,
10 and/or was armed with a deadly weapon, the defendant
11 entered or remained in the residence in the nighttime
12 hours. So I believe that this was in the evening. I
13 believe that Billy Childers would testify that it was
14 dark which was part of the reason he thinks the guys got
15 a jump on him, but I don't think it really would have
16 mattered to be quite frank. I alleged multiple
17 different reasons why this is first degree, so I would
18 have had multiple ways to prove it.

19 Q. At any point do you ever recall admitting that
20 Mr. Childers -- at any point during the court proceeding
21 do you ever recall admitting that Mr. Childers was not
22 armed during this incident?

23 A. I don't specially recall. It appears Mr.
24 Childers thinks I did, but I believe the evidence would
25 have shown that there were weapons involved and they

1 also stole a weapon. So there was sufficient evidence
2 to support the allegation that weapons were involved.

3 Q. So just to wrap it up in a nutshell. The
4 reasoning for the offer that you gave, the 30 year
5 flat-line offer would be due to just the factual basis
6 of what happened on that night? You did not take into
7 consideration like rap sheet or anything like that?

8 A. I mean, he has a rap sheet. That didn't -- that
9 was no factor for me.

10 Q. At any point was it brought to your attention
11 that the rap sheet included some crimes that maybe he
12 didn't commit?

13 A. I do believe something like that was brought up
14 at some point. Maybe it was during a bond hearing. I
15 did my best to summarize in his plea waiver the
16 convictions and the sentences that went with them and he
17 acknowledged the accuracy of that waiver. So I don't
18 know if there's any of those on there that he's
19 referencing, but again, that was not a material factor
20 for me in coming up with the 30-year flat line as you
21 described it.

22 Q. Okay. Just one more time, just to reiterate.
23 Can you please just to summarize what made you come up
24 with the 30-year flat line so that my client can have a
25 good understanding?

1 Q. I'm not going to go over the facts again because
2 we've talked about it multiple times.

3 Q. Just highlights?

4 A. This was Christmas night. Elderly victims.
5 Home invasion. A woman died. And the community outrage
6 was a factor to, but that's to be expected.

7 MS. BURRIS: I think that is all.

8 THE COURT: Any reply limited to what she
9 went into.

10 MR. JONES: Nothing more from the State.

11 THE COURT: Thank you, sir. You may step
12 down. State have any further witness?

13 MR. JONES: No, Your Honor. The State
14 rests.

15 THE COURT: Applicant have anything in
16 reply?

17 Applicant intend to call any further
18 witness in reply?

19 MS. BURRIS Yes, Your Honor.

20 THE COURT: You need to put on the record
21 who you are calling.

22 MS. BURRIS: We would like to call Jackie
23 Childers back to the stand.

24 THE COURT: Sir, I need to remind you you
25 remain under oath. Do you understand that?

1 MR. CHILDERS: Yes.

2 THE COURT: Please retake the stand and please
3 speak into the microphone so that the court
4 reporter and I and everybody else can hear you.
5 And this is limited to any issue that was just
6 brought up by the State. No new issues.

7 REDIRECT EXAMINATION

8 BY MS. CHILDERS:

9 Q. Hello Mr. Childers.

10 A. Hello.

11 Q. In regards to the burglary first degree that
12 we've been constantly mentioning, did you effectively
13 communicate that to your counsel during the legal
14 process that you did not commit this crime during the
15 nighttime hours?

16 A. Yes, ma'am. In my written statement because on
17 that date of because it was Christmas I was on my way to
18 visit my dad and mom's grave, you know, so why would I
19 want to do that nighttime. It's only like a mile up the
20 road to where my uncle lives. I wouldn't want to go to
21 a graveyard at nighttime to put flowers on it. It was
22 not night time hours and as Shelton had admitted in
23 court right before my sentencing he said, we know Mr.
24 Childers was not armed, but then he tried to back
25 himself with the hand of one, hand of all. So he's

1 still trying he's still charging me with armed robbery
2 and possession of with weapon and all this knowing --
3 knowing I was not armed.

4 I don't like guns. I've never liked guns. My baby
5 brother committed suicide back in 2019. He shot
6 himself. Killed himself. Twenty-one years old. I hate
7 guns, period. As far as being violent, no. I've never
8 had a violent charge in my life. I've never had a drug
9 charge. Alcohol charge. None of that. I never wanted
10 this to happen and just as I stated in the courtroom
11 that day of my sentencing, if I could give -- I'll still
12 say this to that day that if I could still give my life
13 right now for them to have Sarah back I would because I
14 never wanted that to happen. That was never planned.
15 That's why I'm still sitting here right now trying to
16 make sure everybody knows the truth because they believe
17 what they want to believe. They don't want to believe
18 the truth. They want to believe what they want to just
19 so they could get a conviction.

20 Q. Okay, just to refresh the Court, whose idea was
21 this?

22 A. It was Travis Baxter's.

23 Q. So why did you choose to accept a plea and not
24 be heard at trial and have your day in court?

25 A. Like I stated earlier, Geoffry Dunn kept pushing

1 me. You know, this is the only deal you're going to
2 get. You're going to get life. This is it. You're not
3 going to get another attorney. As he eluded they were
4 not going to give me another attorney. All this stuff I
5 asked him; the motions I ask him to file in the case,
6 the polygraphs, the physical evidence, everything he
7 refused to do there was no way I was trusting going to
8 trial with that man.

9 I have a copies of every letter I ever sent to his
10 office asking him to do many, many things in my case
11 which he refused.

12 Q. Is there anything additional that you would like
13 to -- for the Court to know within the scope of what
14 we've already discussed?

15 A. I just want a chance for the truth to really
16 come out. That's what I want. The real true to finally
17 come out is what I want.

18 Q. Nothing further.

19 MR. JONES: No questions.

20 THE COURT: You may step down much.

21 THE COURT: I will let you know. Thank
22 you, very much.

23 MR. JONES: Thank you, Your Honor.

24 (END OF TRANSCRIPT).
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C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Family Court for York County, South Carolina, on the 26th day of February, 2024.

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

November 14, 2024

Aileen Butler

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STATE OF SOUTH CAROLINA
COUNTY OF YORK

Jackie Ray Childers, #301213,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE SIXTEENTH JUDICIAL CIRCUIT

Case No.: 2022-CP-46-02666

ORDER OF DISMISSAL

ANGIE M. BRYANT
C.C.P. & GS
YORK COUNTY, SC

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FILED-RECEIVED

This matter comes before the Court by way of an application for post-conviction relief (“PCR”) filed by Jackie Ray Childers (“Applicant”) on September 2, 2022. The Court convened an evidentiary hearing into the matter on February 26, 2024, at the Moss Justice Center in York, South Carolina. Applicant was present at the hearing and was represented by Shawana Burris, Esquire. Assistant Attorney General Zachary W. Jones, of the South Carolina Attorney General’s Office, represented Respondent.

After reviewing all records and evidence before the Court, this Court finds Applicant cannot meet his requisite burden of proof of establishing he is entitled to post-conviction relief and denies and dismisses this application with prejudice. The Court finds as follows:

I. Procedural History

Applicant is presently incarcerated in the South Carolina Department of Corrections. Applicant was indicted at the June 2021 term of the York County Grand Jury for first-degree burglary and possession of a weapon during the commission of a violent crime (2021-GS-46-00833 and -00833A), armed robbery (2021-GS-46-00834), kidnapping (2021-GS-46-00835), criminal conspiracy (2021-GS-46-00837), and murder (2021-GS-46-03401). Applicant was represented by Geoffry M. Dunn, Esquire (“Counsel”). Senior Solicitor Matthew W. Shelton, of

the Sixteenth Circuit Solicitor's Office, prosecuted the case. On February 22, 2022, Applicant appeared before the Honorable Daniel D. Hall, circuit court judge, and pled guilty¹ as indicted to all charges except No. 2021-GS-46-03401, on which he pled guilty to the lesser included offense of voluntary manslaughter pursuant to a plea agreement. Following a thorough plea colloquy, Judge Hall sentenced Applicant in accordance with the plea agreement to a negotiated aggregate sentence of thirty years' imprisonment. Applicant filed a timely notice of appeal, and the court of appeals requested a written explanation of appealable issues pursuant to Rule 203(d)(1)(B)(iv), SCACR. Counsel replied that he could not identify any appealable issues. The court of appeals permitted Applicant to submit a *pro se* written explanation, which Applicant did. The court of appeals issued an order finding that Applicant's written explanation was insufficient and dismissing the appeal. The remittitur was sent on May 27, 2022.

II. Facts Giving Rise to the Conviction

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

This incident occurred on December 25th of 2020 in the nighttime hours at the residence of Billy and Sarah Childers on Smith Ford Road in Hickory Grove, York County, South Carolina. Jackie Childers and his two codefendants, Travis Baxter and Virginia Ratcliffe, conspired to and did rob Billy Childers and his wife, Sarah Childers, at their home that Christmas night. The plan was that Virginia drop the two men off a little ways from the house. They walked through the woods to the house while Virginia effectively lured Billy Childers outside of the house. She went to the door, knocked on the door and complained of having car trouble. She asked for water to be put into the radiator.

Billy came outta the house with a jug of water in hopes of being able to help Virginia when he was attacked from behind by Travis Baxter and Jackie Childers. They knocked him to the ground and tied him up. And during the commotion Billy's wife, Sarah Childers, who was inside the house during this -- this part of the

¹ On all charges, Applicant pled guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970).

incident -- she came to the door to see what was happening. Billy yelled for her to go inside and lock the door. When she tried to do so, the evidence showed that Travis Baxter then chased after her, crashed through the glass door of the house and assaulted her. Sarah was made to take off her robe and her hands were tied behind her back. The evidence shows that Travis Baxter was primarily responsible for that part of the criminal activity as in going after Ms. Sarah, having her disrobe and tying her up.

The evidence shows that Jackie Childers then brought Billy inside the house with his hands tied behind the back, tied behind his back, and put him on the floor next to Sarah inside of their house while they began stealing the things that they had come for. The two men made Billy and Sarah lie face down on their living room floor with their hands tied behind their back and threatened to kill them and told them not to look at them while they were taking what they wanted. Jackie and Travis stole a cash box with approximately \$300 in it, a .380 revolver and some jewelry from Billy and Sarah. They also took the keys to their Honda C.R.V. which they ultimately left in.

When they left the house Jackie and Travis got in the Honda and drove it away from the crime scene. A short time later they crossed paths with Virginia Ratcliffe who had driven away from the house in the C.R.V. In fact, as she was pulling outta the driveway, according to her statement to the police, is when Baxter was crashing through the door to the house after Sarah. So Virginia never went in the house. She was part of luring Billy outta the house. And as you'll see in a moment, she did benefit from it as well. Virginia was driving Jackie's vehicle which is -- was his Explorer, and that's the vehicle they came to in the house. Travis Baxter was driving the C.R.V. that belonged to Billy and Sarah. After the incident when Travis crossed paths with Virginia, he flashed the lights as was their plan to let her know that it was them. He then pulled the C.R.V. over and abandoned it on the side of the road. Travis and Jackie then got out of the C.R.V., got into the Explorer with Virginia. Jackie got into the driver's seat of his vehicle, and Virginia and Travis rode with him as passengers. They drove away, divided up the stolen property and dropped Travis off a short distance away.

Sometime later Sarah Childers -- it was a short time later -- it was determined that Sarah Childers had a heart attack during the incident from the emotional trauma inflicted by this awful ordeal. She was taken to the hospital later that night and she ultimately died from the trauma she suffered during the heart attack. Dr. Batalis who is a pathologist at M.U.S.C. in Charleston would have testified at trial that in his opinion Sarah Childers died from a homicide by heart attack brought on by the extreme stress and trauma of the incident that Christmas night.



York County Sheriff's Office investigated this case for over a month pursuing a number of leads until they finally caught a break in the case. They discovered that Jackie had tried to sell a gun to a friend shortly after the incident, and they also found that Virginia had pawned the stolen .380 at a pawn shop in North Carolina. They were able to recover that weapon and Billy was able to identify it as his gun.

Warrants were obtained for Virginia and Jackie. They were located in Paducah, Kentucky, where they had fled shortly after the incident. They were caught by the Paducah Police Department on or about January 24th of 2022. Sheriff's detectives Wong and Gates who are present in the courtroom went to Paducah and interviewed Virginia Ratcliffe. Virginia told detectives everything that had happened and was very forthcoming with them. She implicated herself as well as Travis and Jackie. Virginia told detectives that Travis Baxter took a gun to the robbery. It's also clear from the evidence Billy Childers had told the police that he thought both men had a gun, and clearly they stole a gun as well during this. So there were two guns in play during this incident for sure, but perhaps three. And the fact that Travis had a gun and took a gun to the robbery, Billy's account corroborated what Virginia told. There were a number of things during the investigation that police were able to determine that Virginia's account of what happened was consistent with everything they discovered at the crime scene including being able to identify Travis Baxter whose blood was left on the scene and was identified through D.N.A.

(Plea Tr. pp.16–20).

III. Current Application

In his PCR application, Applicant raises the following allegations:

1. Conflict of interest:
 - a. "Past court transcripts where I've been in front of Judge Hall will show him asking about members of my family. The so-called victims are members of my family and Judge Hall and Solicitor Shelton used a magistrate judge as a speaker for the victims at my bond hearing who also works in the same building as Shelton and Hall and knows me and the victims and that magistrate is Ray Long. Attorney Dunn knew all of this and let it happen."
2. Ineffective counsel:
 - a. Failed to move to quash indictments.
 - b. Refused to present physical evidence.
 - c. Refused to present Applicant's statement.
 - d. Refused to move for a change in venue.
 - e. Failed to investigate the autopsy report or to argue that the victim died of natural



- causes.
- f. Misinformed Applicant of sentence.
- 3. Subject Matter Jurisdiction:
 - a. Elements of the crime were not met because there was no weapon.
- 4. Illegal sentence

As relief, Applicant requests “vacate, time reduction, new trial.”

IV. Findings of Fact and Conclusions of Law

This Court has reviewed the testimony presented at the evidentiary hearing, observed the witnesses presented at the hearing, and weighed the testimony accordingly. Before the Court are Applicant’s records from the South Carolina Department of Corrections, the transcript of Applicant’s plea proceeding, the records of the York County Clerk of Court regarding the subject convictions, and the application for post-conviction relief. This Court has reviewed the records submitted to it by the parties, the legal arguments made by Applicant and Respondent, and the pleadings. Pursuant to S.C. Code Ann. § 17-27-80, this Court makes the following findings based upon all of the probative evidence presented:

1. Conflict of Interest

In his PCR application, Applicant claims Judge Hall and Senior Solicitor Matthew Shelton had a conflict of interest because they knew people involved in his case and because Applicant had appeared in front of Judge Hall before. At the evidentiary hearing, Applicant testified that Judge Hall claimed to know Applicant’s uncle, the surviving victim of the crime. Applicant also testified that he believed Judge Hall hated Applicant’s father because of the crimes his father was charged with while Judge Hall was a solicitor.

In a PCR action, Applicant bears the burden of proving the allegations in his application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Applicant must prove his factual allegations by a preponderance of the evidence. Rule 71.1(e), SCRCP.



The Court finds Applicant has failed to meet his burden of proving that a “conflict of interest” existed. None of these alleged facts amount to a conflict of interest that would disqualify either Judge Hall or Solicitor Shelton. *See, e.g., State v. Hawes*, 423 S.C. 118, 141–44, 813 S.E.2d 513, 525–27 (Ct. App. 2018) (holding the mere fact that an assistant solicitor and her husband were fact witnesses and neighbors of the victim did not require disqualification of the Fifth Circuit Solicitor’s Office or prejudice defendant’s right to a fair trial); *Barry v. Sigler*, 373 F.3d 835, 836 (8th Cir. 1967) (“Merely because a trial judge is familiar with a party and his legal difficulties through prior judicial hearings . . . does not automatically or inferentially raise the issue of bias.”); *Withrow v. Larkin*, 421 U.S. 35, 47 (1975) (holding a party claiming an unconstitutional risk of bias carries a “difficult burden of persuasion” and “must overcome a presumption of honesty and integrity in those serving as adjudicators”); 16C C.J.S. *Constitutional Law* § 1706 (“The fact that the same judge presides over various phases of a criminal prosecution involving the same defendant, or hears both of two cases against the defendant, does not necessarily constitute a denial of due process.”).

The mere fact that Solicitor Shelton, in the course of his prosecution of Applicant, became acquainted with the surviving victim and the victims’ family is neither surprising nor disqualifying. There is no evidence that Solicitor Shelton’s familiarity with the victims caused him to develop an improper bias against Applicant or to compromise any of Applicant’s rights.

Likewise, there is nothing in the record to substantiate Applicant’s self-serving speculation that Judge Hall was biased against him, whether because of Judge Hall’s purported knowledge of the victims or because of past crimes committed by Applicant’s father. Neither alleged fact suffices to overcome the presumption of judicial honesty and integrity, as is required to prove an unconstitutional risk of bias. *Withrow*, 421 U.S. at 47. Moreover, it is not clear how any purported



bias could have affected Applicant's conviction or sentence in this case: Applicant entered an *Alford* plea and received a negotiated sentence. There was no dispute, either as to guilt or as to punishment, for Judge Hall to adjudicate.

In addition, by Applicant's own admission, this issue was known to Applicant at the time he entered his guilty plea, and he could have raised the issue then. By not raising this claim prior to entering his guilty plea, Applicant has waived the issue. *See, e.g., Jamison v. State*, 410 S.C. 456, 468, 765 S.E.2d 123, 129 (2014) (holding a guilty plea constitutes a waiver of all nonjurisdictional defects and claims of violations of constitutional rights); S.C. Code Ann. § 17-27-90 (providing that "[a]ny ground [for post-conviction relief] . . . knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence . . . may not be the basis for a subsequent [PCR] application . . ."). Accordingly, the Court finds this allegation must be denied and dismissed with prejudice.

2. Ineffective Assistance of Counsel

Applicant's allegations of ineffective assistance of counsel are similarly without merit. Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel's performance was deficient. *Strickland*, 466 U.S. at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney's performance by its "reasonableness under prevailing professional norms." *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625



(quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also* *Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”).

Second, counsel's deficient performance must have prejudiced Applicant such that “there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625. A reasonable probability is “a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111–12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112. “The prejudice analysis requires the court deciding the ineffectiveness claim to consider the totality of the evidence before the judge or jury.” *United*



States v. Basham, 789 F.3d 358, 371–72 (4th Cir. 2015) (quoting *Elmore v. Ozmint*, 661 F.3d 783, 858 (4th Cir. 2011)).

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*, 466 U.S. 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.” *Id.* 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.*

In the context of a guilty plea, the applicant must show there is a reasonable probability that, but for ineffective assistance of counsel, he or she would not have pled guilty but, instead, 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, 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.”). “Indeed, where a thorough colloquy is conducted, courts must exercise caution in setting aside the guilty plea.” *Garren v. State*, 423 S.C. 1, 12, 813 S.E.2d 704, 712 (2018); *see Jamison v. State*, 410 S.C. 456, 469–71, 765 S.E.2d 123, 129–30 (2014) (observing that “guilty plea[s] must be treated as final in the vast majority of cases” and instructing that



caution must be exercised so as not to “undermine the solemn nature of a guilty plea and the finality that generally attaches to a guilty plea”). Absent valid reasons why the applicant is entitled to depart from previous judicial admissions made at the plea hearing, statements made during the original proceeding remain conclusive. *Dalton v. State*, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

The transcript of the plea proceeding reflects that Applicant repeatedly stated under oath that he was freely entering his *Alford* plea knowingly, voluntarily, and intelligently. (Plea Tr. p.12, lines 13–18; p.13, lines 9–18). Applicant also signed a plea waiver form indicating that he had discussed with Counsel all of the rights he would be giving up by entering the plea, that he understood those rights, and that he agreed to give them up in exchange for the negotiated plea. (Plea Tr. pp.7–8). Applicant affirmed that he had been given a copy of the discovery by Counsel, that he had plenty of time to discuss the case with Counsel, and that he had no complaints about Counsel’s representation. (Plea Tr. p.12, line 19–p.13, line 8).

Applicant’s sworn statements during the plea colloquy clearly establish that Counsel provided adequate representation and that Applicant’s decision to enter the *Alford* plea was his own informed and voluntary decision, rather than the result of any deficient performance by Counsel. These statements are entitled to a “strong presumption of verity.” *Blackledge*, 431 U.S. at 74. The Court must deem such statements “conclusive, unless [Applicant] presents valid reasons why he should be allowed to depart from the truth of his statements.” *Dalton*, 376 S.C. at 137–38, 654 S.E.2d at 874. With this in mind, the Court now considers Applicant’s specific allegations of ineffective assistance:

A. Failure to Quash Indictments

In his application, Applicant claims Counsel was ineffective for failing to move to quash



the indictments. However, Applicant has never proved, or even asserted, any defect in the indictments that would have justified a motion to quash, either in his initial application or in his testimony at the evidentiary hearing. Therefore, the Court finds Applicant has abandoned this issue.

B. Refusal to Present Physical Evidence

Applicant alleges Counsel was ineffective for refusing to present physical evidence that would have established his innocence.² At the evidentiary hearing, Applicant specified that the evidence in question was the white hoodie that he was wearing at the time of the break-in.

At the evidentiary hearing, Applicant did not deny that he entered the victim's home with his codefendant, Travis Baxter, and was present when Baxter forced the victims onto the ground and tied them up. However, he insisted that the robbery was not planned; rather, it was a spontaneous decision by Baxter, and Applicant was merely following Baxter's lead. Applicant claimed he deliberately loosened the knot with which Baxter had tied up one of the victims so that

² Since Applicant entered an *Alford* plea, he waived his right to present evidence in his defense. Therefore, Counsel never had an opportunity to introduce any physical evidence on Applicant's behalf, and his failure to do so could not be deficient.

However, at the evidentiary hearing, Applicant clarified that Counsel's disagreements with him about evidentiary issues induced Applicant to plead guilty, rather than go to trial, because he lacked confidence in Counsel's willingness to obey Applicant's instructions. Therefore, the Court construes this as an allegation that Applicant's *Alford* plea was rendered involuntary by Counsel's conduct. The Court notes, however, that just because a defendant's decision to plead guilty was based on his own subjective dissatisfaction with his attorney's tactical choices does not mean his guilty plea was involuntary. *See, e.g., U.S. v. Bowen*, 492 Fed. Appx. 401, 403–04 (4th Cir. 2012) (holding the district court did not “coerce” a defendant into pleading guilty by refusing his request for substitution of counsel, where defendant's conflict with his appointed counsel stemmed from his own obstinacy); *U.S. v. Smith*, 640 F.3d 580, 594 (4th Cir. 2011) (holding a defendant's fears that his attorney was angry with him and might “sabotage” his defense do not, by themselves, render his guilty plea involuntary); *U.S. v. Rodriguez-DeMaya*, 674 F.2d 1122, 1128–29 (5th Cir. 1982) (a defendant's mere assertion that she believed her attorney would not defend her vigorously at trial does not permit her to withdraw her guilty plea).

the victim could get free and call for help after Applicant and Baxter were gone. Applicant also denied having a gun during the incident and denied that it occurred during the nighttime. Applicant testified the white hoodie would have been helpful to his case because it would have proved he was not wearing black, as the victim stated.

The Court finds this allegation is without merit. Applicant failed to introduce the hoodie in question at the evidentiary hearing. Therefore, Applicant has not met his burden of proving he was prejudiced by Counsel's decision. *See, e.g., Garren v. State*, 423 S.C. 1, 13–14, 813 S.E.2d 704, 711 (2018) (holding trial counsel's failure to procure and present evidence cannot be deemed prejudicial unless the omitted evidence is presented at the PCR hearing).

Furthermore, Counsel testified at the evidentiary hearing that he was reluctant to rely on the hoodie for a defense because all it proved was that the victim mistook the color of Applicant's clothes, which was not an important part of the State's case. Furthermore, in order to use the white hoodie to impeach the victim's statement, the defense would have to admit that Applicant was present during the crime. In addition, there was blood on the hoodie that Applicant acknowledged belonged to his co-defendant Baxter when Baxter accidentally cut himself during the robbery. Therefore, Counsel believed the hoodie would likely do more harm than good if Applicant proceeded to trial because it proved Applicant was with Baxter at the scene of the crime. Since neither victim was able to identify Applicant as one of the attackers, Counsel testified that he would have preferred to keep out any physical evidence that would have tied Applicant to the crime scene if the case ever proceeded to trial.

The Court finds Counsel has articulated a valid strategic reason for his pessimistic appraisal of the white hoodie's impact on Applicant's defense; therefore, Applicant has not met his burden of proving Counsel's performance on this issue was deficient. Since Applicant has failed to prove



both prejudice and deficiency, the court finds this allegation must be denied and dismissed with prejudice.

C. Refusal to Present Applicant's Statement

Applicant alleges Counsel was ineffective for refusing to present his written statement concerning Applicant's version of the incident. At the evidentiary hearing, Applicant also complained that Counsel was not willing to let him take a polygraph test. Again, the Court finds Applicant has not met his burden of proving prejudice as to this allegation because he failed to introduce either the written statement or any polygraph test results at the evidentiary hearing. *Garren*, 423 S.C. at 13–14, 813 S.E.2d at 711.

When asked about the polygraph issue, Counsel explained that polygraph tests were not admissible in South Carolina. Counsel knew that Applicant's version of the story differed from the State's version, but he told Applicant it didn't matter because Applicant could still be found guilty under the "hand of one, hand of all" doctrine. However, he did explain Applicant's side of the story to the solicitor in an attempt to mitigate the negotiated sentence. The Court notes that Applicant received a lesser sentence than his co-defendant Baxter, who was sentenced to forty years' imprisonment.

"Generally, the results of polygraph examinations are inadmissible because the reliability of the polygraph is questionable." *State v. Wright*, 322 S.C. 253, 255, 471 S.E.2d 700, 701 (1996). "The general rule is that no mention of a polygraph test should be placed before the jury." *State v. Johnson*, 376 S.C. 8, 11, 654 S.E.2d 835, 836 (2007). The Court finds Counsel correctly determined that a polygraph examination would not be admissible if Applicant's case were to go to trial, and Counsel advised his client accordingly. In addition, assuming Applicant's written statement was consistent with the version of the story he gave at the evidentiary hearing, the Court



finds Counsel correctly advised his client that his statement would not be helpful to the defense. The Court finds Applicant's self-serving story, in which he attempts to minimize his involvement in the planning and execution of the robbery, is not credible. However, even if the Court were to believe Applicant's claim that the crime was not planned ahead of time, Applicant did not deny that he participated in the home invasion and robbery. Therefore, his story was not exculpatory. Finally, as discussed above, Counsel explained that his defense strategy at trial would have been to deny that Applicant was present at the scene of the crime; obviously, the introduction of Applicant's statement *admitting* to being at the crime scene would have ruined that valid trial strategy.

For these reasons, the Court finds Applicant has failed to prove that Counsel's performance as to this allegation was either deficient or prejudicial. Accordingly, this allegation is denied and dismissed with prejudice.

D. Failure to Move for a Change of Venue

Applicant alleges Counsel was ineffective for failing to move for a change of venue on the ground that Judge Hall was prejudiced against him. The Court finds this allegation is without merit. As already discussed, Applicant has not met his burden of rebutting the presumption of Judge Hall's honesty and integrity, nor has he shown that there was an unconstitutional risk of bias in proceeding before Judge Hall. In addition, at the evidentiary hearing, Counsel testified he would have pursued a change of venue if the case had gone to trial, but he did not believe it mattered for the purpose of a negotiated plea proceeding. The Court finds Applicant has failed to prove either deficiency or prejudice as to Counsel's performance on this issue.

E. Failure to Investigate Victim's Cause of Death

Applicant alleges Counsel was ineffective for failing to investigate the cause of death of



the victim who died following the break-in. In his application for post-conviction relief, Applicant claims that the pathologist's report indicated that the victim "died of a broken heart," and he complains that Counsel should have argued the victim's death resulted from natural causes. The Court finds this allegation is meritless.

During Applicant's plea hearing, the solicitor stated the pathologist gave the victim's cause of death as "homicide by heart attack brought on by the extreme stress and trauma of the incident." (Plea Tr. p.19, lines 13–17). Counsel credibly testified that he spoke to two pathology experts while investigating the case: Dr. Ward and Dr. Owens. Counsel explained that the victim had suffered a heart attack, and he wanted their opinions on whether any of the defendants could be convicted of her murder under the State's theory that the heart attack was caused by the trauma of the home invasion. Ultimately, both experts told Counsel that traumatic experiences could lead to cardiac arrest, and the literature also supported that conclusion.

The Court finds Counsel appropriately consulted with experts to investigate the plausibility of the State's theory that the home invasion caused the victim to suffer a fatal heart attack, which exposed Applicant to a charge of murder. Therefore, the Court finds Applicant has failed to prove this allegation of ineffective assistance.

F. Misinformed Applicant of Sentence

Applicant alleges Counsel misinformed him of his sentence. Applicant did not substantiate this allegation in his application for post-conviction relief or in his testimony at the evidentiary hearing. Therefore, the Court finds Applicant has abandoned this issue. In addition, the transcript of the plea proceeding clearly reflects that Applicant was correctly informed of the thirty-year total negotiated sentence before he entered his plea. (Plea Tr. p.6, lines 19–20). Accordingly, this allegation is denied and dismissed with prejudice.



3. Subject Matter Jurisdiction

In his application for post-conviction relief, Applicant appears to argue the plea court was without subject matter jurisdiction to convict him because “the elements of the charge were not met.” Elsewhere in his application, he claims that there was “no weapon to show armed robbery.” At the evidentiary hearing, Applicant testified that he did not have a gun and that the robbery did not occur in the nighttime, so he could not have been convicted of armed robbery or first-degree burglary as a matter of law.

The Court finds this allegation is without merit. Whether the State could prove every element of the crime with which Applicant was charged has no bearing on the subject matter jurisdiction of the circuit court to accept Applicant’s guilty plea. *See State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005) (holding “[c]ircuit courts obviously have subject matter jurisdiction to try criminal matters.”).

Furthermore, the testimony at the evidentiary hearing clearly established that there was evidence to support the first-degree burglary charge. Solicitor Shelton credibly testified that the crime occurred in the evening hours on Christmas day, one of the darkest days of the year, and that he believed it was certainly dark enough to qualify as “nighttime” for the purposes of first-degree burglary. In addition, he pointed out that the burglary charge could have been proved in multiple ways, even apart from the “nighttime” element: the surviving victim maintained that both attackers were armed with guns; a gun was stolen from the house during the robbery, which Applicant later pawned; and Applicant admitted that his co-defendant had a gun, which meant Applicant could be charged with first-degree burglary under the “hand of one, hand of all” doctrine. For the same reason, the charge of armed robbery was also supported by the evidence, notwithstanding Applicant’s claim that he did not bring a gun.



Therefore, the Court finds that this allegation must be denied and dismissed with prejudice.

4. Illegal sentence

Applicant claims he was illegally sentenced “according to [the] court’s normal practice.” At the evidentiary hearing, Applicant complained that he received a harsher sentence than his co-defendant, Virginia Ratcliffe. He also claimed that there were numerous charges on his “rap sheet” that he did not commit, which caused the solicitor to give him a worse plea offer. The Court finds this allegation is without merit.

Solicitor Shelton credibly testified that Virginia Ratcliffe received a better plea offer primarily because she cooperated with the State and was willing to identify Applicant and Baxter as the two men who entered the victims’ house. He also explained that, although she was guilty of participating in the conspiracy by luring one of the victims out of the house so that Applicant and Baxter could get in, she did not enter the house or attack either of the victims, so her lesser sentence reflected her limited involvement. Solicitor Shelton explained that there was a dispute prior to Applicant’s guilty plea about whether some of the charges on Applicant’s “rap sheet” were committed by Applicant or by Applicant’s father, who had the same name. He explained that issue to the plea court at the time Applicant entered the guilty plea. (Plea Tr. p.22, line 24–p.23, line 4). Solicitor Shelton credibly testified that he did not take the disputed criminal history into account when calculating the negotiated sentence. Rather, he testified that the severity of Applicant’s sentence was based on the shocking facts of the case: Applicant had attacked and robbed his own elderly relatives during a home invasion on Christmas night, causing one of them to die from a heart attack. Counsel agreed that the disputed charges in Applicant’s criminal history did not change the outcome of the plea proceeding “one iota” because the sentence was based on the gravity of the crime, which Counsel characterized as one of the worst home invasions he had ever



been involved with as a criminal lawyer.

The Court finds Applicant has failed to prove this allegation as well. Therefore, this allegation is denied and dismissed with prejudice.

V. Conclusion

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

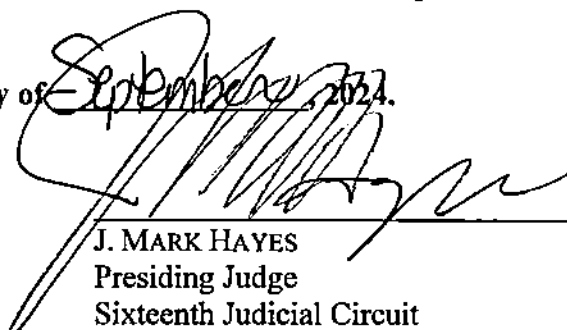
This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant's attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief be denied and dismissed with prejudice; and
2. That Applicant be remanded to the custody of the South Carolina Department of Corrections.

AND IT IS SO ORDERED this 24th day of September, 2021.

York, South Carolina


J. MARK HAYES
Presiding Judge
Sixteenth Judicial Circuit

WITNESSES

YCSO

Witnessing Officer: *Wong*

ARREST WARRANT NUMBER

COUNT ONE 2021A4610100060
COUNT TWO 2021A4610200261

ACTION OF GRAND JURY

Monty J. Butler
Foreperson of Grand Jury
Date: *6/17/2021*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2021-GS-46-00833
2021-GS-46-00833A

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 17, TERM 2021

THE STATE

VS.

JACKIE RAY CHILDERS, JR

INDICTMENT FOR

**COUNT ONE - BURGLARY, FIRST
DEGREE**

SC Code: § 16-11-0311
CDR Code: 0079

**COUNT TWO - POSSESSION OF A
WEAPON DURING THE COMMISSION OF
A VIOLENT CRIME**

SC Code: § 16-23-0490
CDR Code: 0549

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

128

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

CERTIFIED TRUE COPY

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INDICTMENT

DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

At a Court of General Sessions, convened on June 17, 2021, the Grand Jurors of York County present upon their oath:

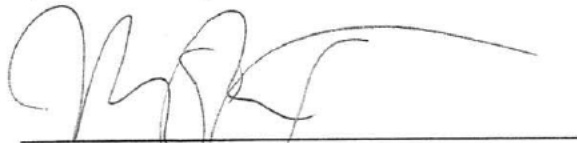
COUNT ONE - BURGLARY, FIRST DEGREE

The Defendant, Jackie Ray Childers Jr, did on or about December 25, 2020, in York County, South Carolina, enter a dwelling belonging to Billy Childers and Sarah Childers, located at [REDACTED] Smithford Road in Hickory Grove, South Carolina, without consent and with intent to commit a crime therein. The Defendant in effecting entry and/or while in the dwelling caused physical injury to a person who is not a participant in the crime and/or displayed what is or appeared to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm and/or used or threatened use of a dangerous instrument and/or was armed with a deadly weapon. The Defendant entered or remained in the residence in the nighttime hours. All in violation of 16-11-0311, Code of Laws of South Carolina (1976, as amended).

COUNT TWO - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

The Defendant, Jackie Ray Childers Jr, did on or about December 25, 2020, in York County, South Carolina, while committing the violent crime of Burglary 1st Degree, possess a firearm. All in violation of 16-23-0490, *South Carolina Code of Laws* (1976, as amended).

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


MATTHEW W. SHELTON
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: *Wong*

ARREST WARRANT NUMBER

2021A4610100061

ACTION OF GRAND JURY

Quintay J. Boulder
Foreperson of Grand Jury
Date: *6/17/2021*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2021-GS-46-00834

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 17, TERM 2021

THE STATE

VS.

JACKIE RAY CHILDERS, JR

INDICTMENT FOR

ARMED ROBBERY

SC Code: § 16-11-0330(A)
CDR Code: 0139

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

130

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on June 17, 2021, the Grand Jurors of York County present upon their oath:

ARMED ROBBERY

The Defendant, Jackie Ray Childers Jr, did on or about December 25, 2020, in York County, South Carolina, while alleging either by action or words that the Defendant was armed with a deadly weapon and/or while armed with a deadly weapon or while displaying what a person present during the robbery would reasonably believe to be a deadly weapon, take by means of force, threats, or intimidation, goods or monies described as a .32 caliber revolver, a metal cash box containing U.S. currency, various items of jewelry, a wallet, the keys to a 2012 Honda CRV, and the victims' 2012 Honda CRV, from the person or presence of Billy Childers and/or Sarah Childers. All in violation of 16-11-0330(A) of the *South Carolina Code of Laws* (1976, as amended).

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


MATTHEW W. SHELTON
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: *Wong*

ARREST WARRANT NUMBER

2021A4610100062

ACTION OF GRAND JURY

Anthony J. Boulton
Foreperson of Grand Jury
Date: *6/17/2021*

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2021-GS-46-00835

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 17, TERM 2021

THE STATE

VS.

JACKIE RAY CHILDERS, JR

INDICTMENT FOR

KIDNAPPING

SC Code: § 16-03-0910
CDR Code: 0095

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

132

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

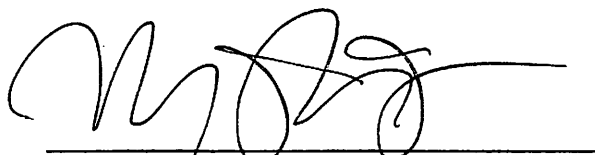
INDICTMENT

At a Court of General Sessions, convened on June 17, 2021, the Grand Jurors of York County present upon their oath:

KIDNAPPING

The Defendant, Jackie Ray Childers Jr, did in York County, South Carolina, on or about December 25, 2020, unlawfully seize, confine, inveigle, decoy, kidnap, abduct, or carry away Billy Childers, by any means whatsoever, without the authority of law. All in violation of 16-03-0910 *Code of Laws of South Carolina* (1976, as amended).

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


MATTHEW W. SHELTON
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: Wong

ARREST WARRANT NUMBER

2021A4610200262

ACTION OF GRAND JURY

Chantay A. Bowler
Foreperson of Grand Jury
Date: 6/17/2021

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2021-GS-46-00837

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 17, TERM 2021

THE STATE

VS.

JACKIE RAY CHILDERS, JR

INDICTMENT FOR

CRIMINAL CONSPIRACY

SC Code: § 16-17-0410
CDR Code: 0049

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

134

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

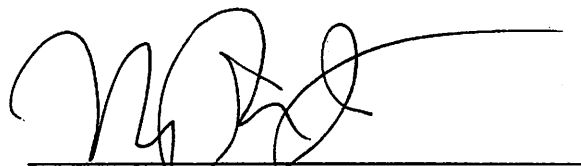
INDICTMENT

At a Court of General Sessions, convened on June 17, 2021, the Grand Jurors of York County present upon their oath:

CRIMINAL CONSPIRACY

The Defendant, Jackie Ray Childers Jr, did on or about December 25, 2020, in York County, South Carolina, willfully, knowingly, and feloniously unite, combine, conspire, confederate, agree, or have tacit understanding with Travis Randell Baxter and/or Virginia Darlene Ratcliffe for the purpose of committing the crime(s) of Burglary 1st Degree, Armed Robbery, and/or Kidnapping. All in violation of Section 16-17-0410, Code of Laws of South Carolina (1976, amended).

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


MATTHEW W. SHELTON
ASSISTANT SOLICITOR

WITNESSES

YCSO

Witnessing Officer: *Wong*

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

Quintan J. Boudin
Foreperson of Grand Jury
Date: *6/17/2021*

VERDICT

Foreperson of Petit Jury
Date:

**DIRECT INDICTMENT
DOCKET NO. 2021-GS-46-03401**

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

JUNE 17, TERM 2021

THE STATE

VS.

JACKIE RAY CHILDERS, JR

INDICTMENT FOR

MURDER

SC Code: § 16-03-0010
CDR Code: 0116

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

136

Defendant

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

Defendant

Witness:

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

STATE OF SOUTH CAROLINA
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on June 17, 2021, the Grand Jurors of York County present upon their oath:

MURDER

The Defendant, Jackie Ray Childers Jr, did in York County, on or about December 25, 2020, unlawfully and with malice aforethought, either express or implied, kill Sarah Childers by means of emotional trauma experienced during a home invasion wherein she was tied up at gun point, robbed, and made to disrobe, resulting in complications of a myocardial infarction due to hypertensive and atherosclerotic cardiovascular disease exacerbated by the emotional trauma she experienced, and the victim died as a proximate result thereof, all in violation of Section 16-3-10, *Code of Laws of South Carolina* (1976, as amended).

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



MATTHEW W. SHELTON
ASSISTANT SOLICITOR