

RECEIVED

Jul 18 2025

S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Laurens County

Honorable J. Derham Cole, Circuit Court Judge

WILLIE RUTH BYRD,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000130

APPENDIX

KATHRINE H. HUDGINS
Senior Appellate Defender

ALAN WILSON
Attorney General

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

T. CRUISE MITCHELL
Assistant Attorney General
PO Box 11549
Columbia, SC 29201-1549

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX i

GUILTY PLEA TRANSCRIPT DATED SEPTEMBER 30, 2020.....1

INDICTMENT AND SENTENCE SHEET13

APPLICATION FOR POST-CONVICTION RELIEF16

RETURN.....23

AMENDED APPLICATION FOR POST-CONVICTION RELIEF31

POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED AUGUST 19, 2024.....33

ORDER OF DISMISSAL.....64

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF SOUTH CAROLINA	)	IN THE COURT OF
	)	GENERAL SESSIONS
COUNTY OF LAURENS	)	OF THE EIGHTH
	)	JUDICIAL CIRCUIT
)	
THE STATE OF SOUTH CAROLINA,)	
Plaintiff,	)	TRANSCRIPT OF RECORD
vs.	)	2016-GS-30-1000
	)	2016-GS-30-1001
WILLIE RUTH BYRD,)	
)	
Defendant.)	
)	

September 30, 2020
Laurens, South Carolina

B E F O R E:

HONORABLE J. CORDELL MADDOX, JR., Judge.

A P P E A R A N C E S

JULIE KATE, ASSISTANT SOLICITOR
For The State

CHELSEA MCNEILL, ESQUIRE
For Defendant

Julie A. Cendroski,
Circuit Court Reporter III
Seventh Judicial Circuit

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

<u>WITNESS</u>	<u>PAGE</u>
PLEA QUALIFICATION By The Court	4
ACCEPTANCE OF PLEA	8
STATEMENT OF FACTS By Solicitor Kate	8
STATEMENT FOR DEFENDANT By Ms. McNeill	9
ORDER OF THE COURT	11
CERTIFICATE OF COURT REPORTER	12

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

MARKED ENTERED

NO EXHIBITS PROFFERED

1 THE STATE OF SOUTH CAROLINA VS. WILLIE RUTH BYRD

2 THE COURT: What's the negotiation on this?

3 SOLICITOR KATE: Twenty Years.

4 THE COURT: Twenty?

5 SOLICITOR KATE: Yes, sir.

6 THE COURT: Okay. Ms. Byrd, if you would, raise
7 your right hand. (Complies.)

8 Do you swear to tell the truth? Do you swear to
9 tell the truth, the whole truth, and nothing but the
10 truth so help you God?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Okay. I need to ask you some
13 questions. First, do you have any objection to doing
14 this plea by video?

15 THE DEFENDANT: No, sir.

16 THE COURT: Okay. Do you understand there's a
17 negotiated sentence of 20 years? There's a difference
18 between a negotiated sentence and a recommendation,
19 which is fairly normal? In a negotiated sentence, I
20 can't change the sentence, I can only, if I don't agree
21 with it, allow you to withdraw your plea. Do you
22 understand that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And it looks like y'all negotiated a
25 sentence of 20 years.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay. All right. Have you had any
3 illegal drugs or alcohol in the last 24 hours?

4 THE DEFENDANT: No, sir.

5 THE COURT: Are you taking any kind of
6 prescription medicine that would prevent you from
7 understanding what's going on here today?

8 THE DEFENDANT: No, sir.

9 THE COURT: Have you ever had any mental health
10 counseling or treatment?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: What kind?

13 THE DEFENDANT: Depression, anxiety, suicidal.

14 MS. MCNEILL: Were you able to hear that, Your
15 Honor? Were you able to hear her? She's actually very
16 soft spoken.

17 THE COURT: Yeah. I can hear pretty good because
18 she's closer. So you had depression and anxiety and
19 suicidal ideation. Was this after this incident or
20 prior to that?

21 THE DEFENDANT: Before.

22 THE COURT: Okay. And are you taking any kind of
23 prescription medicine to treat those conditions?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: What are you taking?

1 THE DEFENDANT: Zoloft, Tramadol, Seroquel. I
2 forgot the others.

3 THE COURT: Well, the only one of those that
4 worries me, I mean, I guess they all could have an
5 effect, but the Tramadol could make you sort of foggy.
6 Do you understand what's going on here today?

7 THE DEFENDANT: Yes.

8 THE COURT: You are pleading guilty to ---

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. In order to plead guilty
11 you have to waive your constitutional rights. Do you
12 understand that?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And are you waiving your right to a
15 jury trial?

16 THE DEFENDANT: No, sir.

17 (Conversation occurred off the record between
18 attorney and defendant.)

19 THE DEFENDANT: I do.

20 THE COURT: Yeah, you have to give up the right.

21 THE DEFENDANT: Plead.

22 THE COURT: Okay. So you're giving up your right
23 to a jury trial?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. Are you giving up your right

1 to remain silent?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Are you giving up your right to put
4 up a defense to this charge?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And are you giving up your right to
7 confront any witnesses that would come and testify
8 against you?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Have you had plenty of
11 time to speak with your lawyer?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And has she done everything you've
14 asked her to do?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Has she refused to do anything that
17 you wanted her to do?

18 THE DEFENDANT: No, sir.

19 THE COURT: And have you had plenty of time to
20 speak with your client? Do you think she understands
21 the elements of this charge and her waiver of
22 constitutional rights?

23 THE DEFENDANT: Yes, sir. We have spoken on
24 numerous occasions. She's been out on bond since she
25 bonded out. She has 283 days jail credit, and so we've

1 been meeting throughout the years, and I do believe she
2 understands.

3 THE COURT: Okay. Ms. Byrd, do you want to plead
4 guilty to voluntary manslaughter?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And are you guilty?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. I'll accept this please
9 and find it freely and voluntarily made based upon the
10 advice of counsel and find that she's waived her
11 constitutional rights knowingly and voluntarily.

12 Listen carefully to what the solicitor says, and
13 then I'm gonna ask you if you agree with it, okay?

14 SOLICITOR KATE: Thank you, Your Honor. This
15 incident occurred on May 8th, 2016, in Lauren's County.
16 Law enforcement responded to an address in Clinton.
17 They found the victim in this case, Alfred Lindsay. He
18 was dead. He was 74 years old. He had what appeared to
19 be stab wounds on him. He was given an autopsy. He had
20 a total of 21 stab wounds.

21 They developed Ms. Byrd as a suspect and
22 interviewed her. She gave several stories. The first
23 story was basically she didn't do anything. Eventually
24 she said that she had taken some drugs and blacked out
25 and woke up to something in her private part, assuming

1 she was trying to say some type of sexual assault had
2 occurred. And then she said that there was an argument
3 and she did admit eventually to stabbing him.

4 It did not appear from the toxicology of the
5 victim that the victim had any drugs in his system. He
6 just had a BAC of .012. They did a search warrant of
7 the defendant's home and found a grocery bag with bloody
8 clothes and shoes. And they found some knives at her
9 house.

10 The victim's family is here. I met with them
11 before the pandemic had hit and we had discussed this
12 plea. They're in agreement with the 20 years and do not
13 want to be heard.

14 THE COURT: Okay. All right. Ms. Byrd, do you
15 agree with those facts?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. Yes, ma'am, I'll be happy to
18 hear anything.

19 MS. MCNEILL: Yes, sir. Briefly, Judge. I know
20 that you can't see how much family support she has in
21 here, but she's got about 15 people of her family
22 members. Her mom, her sisters, her cousins, her friends
23 and family are all here. I'm actually quite touched.
24 And I told them all that, you know, normally in my
25 profession I very rarely have people show up in support

1 of my client, and here she has a great unit of family
2 support.

3 I hate this for Ms. Byrd. She has been out on
4 bond. As I stated, she has 283 days of jail credit that
5 she's entitled to. She is 52 years of age. Judge,
6 she's just really ready to get this behind her.

7 I am asking Your Honor to sentence her, fashion a
8 sentence in a way where she could receive some mental
9 health counseling and also drug counseling, and any
10 other counseling services that Your Honor thinks that
11 SCDC would provide. I think that would be very
12 beneficial for her. And we'd ask that you go along with
13 the sentence. Thank you, Judge.

14 THE COURT: Thank you.

15 MS. MCNEILL: And very briefly, Judge, I did want
16 to say, Ms. Byrd had asked, she's very nervous right now
17 and she did want me to say a few words on her behalf to
18 the family. She is extremely sorry and she's very
19 remorseful. If she had the ability to communicate right
20 now, she would be saying to y'all and herself, but she
21 is very, very sorry that this happened.

22 THE COURT: Okay. Yeah, I assume she couldn't
23 talk to the family during the pending of the plea, so
24 that's a problem. Okay.

25 MS. MCNEILL: Correct.

1 THE COURT: Okay. Well, I've accepted the plea
2 and I'll continue to accept it. The sentence is 20
3 years. Giver her credit for 283 days. I'm ordering
4 that while incarcerated she receive two things. Number
5 one, is mental health counseling. And number two, drug
6 counseling and any treatment available in the system.

7 And you might have to check on that to make sure
8 she's getting that. If she doesn't get it, let me know
9 and I'll be happy to do a stronger order.

10 MS. MCNEILL: Thank you, Judge. I appreciate
11 that.

12 THE COURT: Good luck to you.

13 (Hearing concluded at 11:51 a.m.)

14

15 --- THIS ENDS REQUESTED TRANSCRIPT ---

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COURT REPORTER CERTIFICATE

I, the undersigned Julie A. Cendroski, Court Reporter for the Seventh Judicial Circuit Court of the State of South Carolina, do hereby certify that to the best of my ability the foregoing is a true, accurate, and complete transcript of record of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Court of General Sessions for Laurens County, South Carolina, on the 30th day of September, 2020.

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

s/Julie A. Cendroski
Julie A. Cendroski
Circuit Court Reporter III
Seventh Judicial Circuit

WITNESSES

Tyrone Goggins
Clinton Police Department

WARRANT NUMBER

2016A3020100249

True Bill

Louis Chitt

Foreman of the Grand Jury

Date: *7/22/16*

VERDICT

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

July Term, 2016

Indictment # 16GS30-1000

THE STATE

vs.

Willie Ruth Byrd

INDICTMENT FOR

Murder
§16-03-0010

CDR: 0116

Laurens County CCFP & GS
K. Michelle Simmons

A TRUE COPY OF ORIGINAL

THE STATE OF SOUTH CAROLINA

INDICTMENT FOR

COUNTY OF LAURENS

Murder
§16-03-0010

At a Court of General Sessions, convened on the 22nd day of July, 2016, the Grand Jurors of Laurens County present upon their oath:

That Willie Ruth Byrd did, on or about May 8, 2016, in Laurens County, willfully, feloniously, and with malice aforethought kill one Alfred Lindsay by means of stabbing him, and that the said Alfred Lindsay did die in Laurens County as a proximate result thereof on or about May 8, 2016, in violation of Section 16-3-10 of the South Carolina Code of Laws, 1976, as amended.

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

O. Warren Young Jr.
Deputy Solicitor

A TRUE COPY OF ORIGINAL
K. Michelle Simmons
K. Michelle Simmons
Laurens County CCCP & GS

20-30 years

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF LAURENS

STATE VS.

WILLIE RUTH BYRD

AKA:
Race: Black Sex: F Age: 52
DOB:
SS#:
Address: Kingsborough Circle
City, State, Zip: Clinton, SC 29325
DL# SID#

INDICTMENT/CASE#: 16GS30-1060
A/W: 2016A3020100249
Date of Offense: 05/08/2016
S.C. Code §: 16-03-0010
CDR Code #: 0116

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

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

CONVICTED OF or PLEADS

TO: Voluntary Manslaughter

In violation of § 16-03-0050 of the S.C. Code of Laws, bearing CDR Code # 0217

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, Negotiated Sentence, Recommendation by the State.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
Michelle Keeney 100145 SC Bar #
Julie Ruth Byrd
Chadwick A. Hill 78940 SC Bar #
Life Kate Keeney, Assistant Solicitor Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections or County Detention Center, for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and or payment of \$; plus costs and assessments as applicable; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. 283 days
The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered PTUP
Total: \$ plus 20% fee: \$ days/hours Public Service Employment
Payment Terms: Obtain GED

Set by SCDPPPS

Attend Voc. Rehab. Or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ Beginning \$ Paid to Public Defender Fund

Table with 3 columns: Description, Amount, Total. Includes PD App Fee \$40.00, various assessments, and a total of \$169.95.

Other: While incarcerated
Mental Health Court
2) Drug court
Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: Dixon S Bellamy
Court Reporter: Julie Cendroski

Presiding Judge:
Judge Code:
Sentence Date: 9/30/20

SCCA217 (07/2016)

Laurens County CCCR & GS
K. Michelle Simmons
K. Michelle Simmons

FORM 5

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

County of Laurens)

Willie Ruth Byrd #38379Z)

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

v.)

State of South Carolina)

2021-CP-30-481

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Gamille Graham Correctional - SCDC
2. Name and location of Court which imposed sentence Laurens County - General Sessions
3. Name(s) of co-defendant(s) (if any) n/a
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 106530-1000 ; voluntary manslaughter
 - (b) _____

LAURENS COUNTY CLERK OF COURT

2021 MAY 21 2:14

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) September 30, 2020 - 20 years sentence
 - (b) _____
 - (c) _____
- 6. Check whether a finding of guilty was made:
 - (a) after a plea of guilty ✓
 - (b) after a plea of not guilty _____
 - (c) after a plea of nolo contendere _____
- 7. Did you appeal from the judgment of conviction or the imposition of sentence?

no
- 8. If you answered "yes" to (7), list:
 - (a) the name of each Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (b) the result in each such Court to which you appealed:
 - i. _____
 - ii. _____
 - iii. _____
 - (c) the date of each such result:
 - i. _____
 - ii. _____
 - iii. _____
 - (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. _____
 - ii. _____
 - iii. _____
- 9. If you answered "no" to (7), state your reasons for not so appealing:
 - (a) No appealable grounds due to guilty plea
 - (b) _____

(c) _____

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

(a) ineffective assistance of counsel

(b) involuntary guilty plea

(c) _____

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

(a) failed to raise a ^{still} defense theory

(b) based on the advice given by counsel

(c) _____

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

(a) any petition in a State Court under South Carolina Law? no

(b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no

(c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no

(d) any other petitions, motions or applications in this or any other Court? no

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

(a) the specific nature thereof:

i. _____

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

no _____

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) This is the first application for PCR.
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? _____
- (c) your sentencing? _____
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?

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. Ghelsea McNeil
Public Defenders Office - Laurens County
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. plea/sentencing
 - ii. _____
 - iii. _____

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

new trial / any relief deemed
appropriate

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

no

STATE OF SOUTH CAROLINA)
County of Laurens)

VERIFICATION

I, Willie Ruth Byrd, 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.

Willie Ruth Byrd

SWORN to and subscribed before me this 18th day of May 2011.

Cristina Gaus (L.S.)
Notary Public

My Commission Expires: July 22nd, 2016

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

I, Willie Ruth Byrd, 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.

Willie R. Byrd
Applicant

SWORN or affirmed to and subscribed before me this

18th day of May 2006.

Cynthia Jones
Notary Public

My Commission Expires: July 2nd, 2006

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS	
	)	FOR THE EIGHTH JUDICIAL CIRCUIT	
COUNTY OF LAURENS)		
Willie Ruth Byrd,	)	Case No.: 2021-CP-30-00481	
)		
Applicant,)		
v.	)	RETURN	
	)	(Counsel Appointed)	
State of South Carolina,)		
)		
Respondent.)		
<hr/>			

K. MICHELLE SIMMONS
 2023 JUN 26 A 11: 08
 LAURENS COUNTY
 CLERK OF COURT

In response to the application for post-conviction relief filed by Applicant Willie Ruth Byrd on May 21, 2021, 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 July 2016 term of the Laurens County Grand Jury for murder (2016-GS-30-1000) and possession of a weapon during the commission of a violent crime (2016-GS-30-01001). Applicant was represented by Chelsea McNeill, Esquire (“Counsel”). Assistant Solicitor Julie Kate, of the Eighth Circuit Solicitor’s Office, prosecuted the case. On September 30, 2020, Applicant appeared before the Honorable J. Cordell Maddox, Jr., circuit court judge, and pled guilty to voluntary manslaughter. Pursuant to the negotiated plea agreement, Judge Maddox sentenced Applicant to imprisonment for twenty years. Applicant did not appeal her conviction or sentence.

II. CURRENT APPLICATION

In her post-conviction relief application, Applicant alleges she is being held unlawfully for the following reasons:

- 10. (a) ineffective assistance of counsel
- (b) involuntary guilty plea
- 11. (a) failed to raise a self-defense theory
- (b) based on the advice given by counsel

As relief, Applicant requests “new trial/any relief deemed appropriate.”

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

III. RESPONSE TO ALLEGATIONS

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 her application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). Applicant must prove her 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. “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, she would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant’s right to contest the validity of such a plea is usually, but not invariably, foreclosed. *See Blackledge v. Allison*, 431 U.S. 63, 73–74 (1977) (“Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”). “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 she should be allowed to depart from the truth of

her 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 allegation that Counsel failed to pursue a defense of self-defense is without merit. The transcript of the plea proceeding reflects that Applicant elected to waive the right to put up a defense and plead guilty. (Plea Tr. p.7, lines 3–6). Respondent submits that Applicant can neither satisfy the two-pronged *Strickland* test nor show a reasonable probability that, but for counsel's alleged errors, she would not have pleaded guilty but would have insisted on going to trial.

Similarly, Applicant's claim that her guilty plea was involuntarily entered is without merit. The record fully supports the knowing and voluntary nature of Applicant's plea. Applicant indicated she understood the terms of the negotiated sentence. (Plea Tr. p.4, line 16–p.5, line 1). Applicant indicated that her medication did not impair her understanding of the guilty plea proceeding. (Plea Tr. p.5, line 2–p.6, line 7). Applicant acknowledged she wished to waive the right to a jury trial, to remain silent, to put up a defense, and to confront the witnesses against her. (Plea Tr. p.6, line 10–p.7, line 9). Applicant also told the plea court that she had plenty of time to speak with Counsel and that Counsel had done everything she requested. (Plea Tr. p.7, lines 10–18). Counsel also informed the court that she had spoken to Applicant numerous times and was satisfied that Applicant understood the elements of the charge and her waiver of constitutional rights. (Plea Tr. p.7, line 19–p.8, line 2). This record conclusively refutes Applicant's allegation that her plea was involuntary.

However, to the extent Applicant's allegations raise questions of fact that are not conclusively refuted by the record, Respondent requests an evidentiary hearing be held to fully resolve those issues.

IV. ASSERTION OF RIGHTS TO NOTICE OF AMENDMENTS, EXPERTS

Applicant must specify any claims she 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), SCRCP (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

W. JEFFREY YOUNG
Chief Deputy Attorney General

DON J. ZELENKA
Deputy Attorney General

ZACHARY W. JONES
Assistant Attorney General

By:



ATTORNEYS FOR THE STATE
Office of the Attorney General
P.O. Box 11549
Columbia, S.C. 29211

June 21, 2023

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LAURENS)
)
 Willie R. Byrd, #383792)
)
 Applicant,)
)
 vs)
)
 State of South Carolina,)
)
 Respondent,)
 _____)

IN THE COURT OF COMMON PLEAS

2021-CP-30-481

CERTIFICATE OF SERVICE BY MAIL

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

K. MICHELE SIMONS
 2023 JUN 26 A 11 09
 LAURENS COUNTY
 CLERK OF COURT

Ms. Sarah M. Henry, Esquire
Sarah Henry Law
406 Pettigru Street
Greenville, South Carolina 29601

DATED this the 21st day of June 2023.



 William Corbett, Jr., Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	FOR THE 8 th JUDICIAL CIRCUIT
COUNTY OF LAURENS	)	Case No.: 2021-CP-30-481
Willie R. Byrd #383792)	
)	
Applicant,	)	AMENDED POST-CONVICTION
	)	RELIEF APPLICATION
v.)	
)	
State of South Carolina.)	
_____)	

The Applicant, by and through his undersigned attorney, hereby amends his PCR application filed on May 21, 2021, to add the following allegations:

1. Ineffective Assistance of Counsel Chelsea B. McNeil –
 - a. Failed to discuss possible defenses to the case such as the fact the Applicant was sexually assaulted by the victim and the victim also cut the Applicant
 - b. Due to the mental health medication Applicant was on, she was not able to understand that she was being charged with murder nor was she clear headed for her guilty plea.
 - c. Counsel coerced the Applicant into taking the plea deal and instructed the Applicant what to say in court the day of the guilty plea.

Furthermore, the Applicant requests that he be permitted to amend his PCR application to conform to the evidence presented at the PCR hearing should any new or unaddressed issues arise during the course of the hearing that have not been specifically addressed in the Application. See Simpson v. Moore, 367 S.C. 587, 627 S.E.2d 701 (2006).

Respectfully submitted,

ASHLEY A. MCMAHAN
MCMAHAN LAW.LLC
 PO Box 50536
 Columbia, SC 29250
 803-219-1110
 ashley@mcmahanlawsc.com
 SC Bar No. 71676
 ATTORNEY FOR APPLICANT

August 12, 2024
Columbia, South Carolina

CERTIFICATE OF SERVICE

I certify that I have served this document via email to:

Zachary W. Jones
Assistant Attorney General
zacharyjones@scag.gov

This 12th Day of August, 2024.


ASHLEY A. MCMAHAN
Attorney for Applicant

STATE OF SOUTH CAROLINA
COUNTY OF LAURENS

EIGHTH JUDICIAL CIRCUIT
IN THE COURT OF COMMON PLEAS

Willie Ruth Byrd,)
Applicant,)
)
 v)
)
State of South Carolina,)
Respondent.)
_____)

2021-CP-30-00481
TRANSCRIPT OF RECORD

August 19, 2024
Laurens, South Carolina

B E F O R E:

The Honorable J. Derham Cole, Judge

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

ATTORNEY FOR APPLICANT:
Ashley A. McMahan, Esquire

ATTORNEY FOR DEFENDANT:
Travis Cruise Mitchell, Assistant Attorney General

Tara T. Scott, CVR
Official Court Reporter

INDEX

<u>WITNESS</u>	<u>PAGE NO.</u>
Willie Ruth Byrd	
Direct Examination by Ms. McMahan.....	4
Cross-Examination by Mr. Mitchell.....	11
Frances Tribble	
Direct Examination by Ms. McMahan.....	12
Chelsie Carter	
Direct Examination by Ms. McMahan.....	14
Chelsea McNeill	
Direct Examination by Mr. Mitchell.....	16
Cross-Examination by Ms. McMahan.....	25
Certificate of Court Reporter.....	31

(NO EXHIBITS INTRODUCED DURING THIS HEARING)

Willie Ruth Byrd-Direct Examination

3

1 MR. MITCHELL: May it please the Court. Your Honor,
2 this is the post conviction relief matter of Willie R. Byrd
3 v State, case number 2021-CP-30-0481 out of Laurens County.
4 I'm Cruise Mitchell on behalf of the State of South
5 Carolina. Applicant is present and represented by counsel,
6 Ashley McMahan. Applicant was indicted at the July 2016
7 term of the Laurens County Grand Jury for murder and
8 possession of a weapon during the commission of a violent
9 crime. Applicant was represented by Chelsea McNeill,
10 Esquire. Assistant Solicitor, Julie Kate Keeney of the
11 Eighth Circuit Solicitor's Office prosecuted the case. On
12 September 30, 2020, Applicant appear before the Honorable J.
13 Cordell Maddox, Jr. and pled guilty to the lesser included
14 offense of voluntary manslaughter. Pursuant to the
15 negotiated plea agreement, Judge Maddox sentenced Applicant
16 to imprisonment for 20 years. Applicant did not appeal her
17 conviction or sentence. And with that, I'll turn it over to
18 Ms. McMahan.

19 THE COURT: Ms. McMahan.

20 MS. MCMAHAN: Judge, there is an amended application.
21 I just want to make sure you got it.

22 THE COURT: I don't. Please state for the record the
23 allegations on which Ms. Byrd intends to proceed.

24 MS. MCMAHAN: Judge, the ones listed in the allegation.
25 I believe it's mental health medication, discuss possible

1 defenses regarding sexual assault, and I gave you my only
2 copy. I apologize.

3 MS. MCMAHAN: Coerced the applicant into taking a plea
4 deal. All of those.

5 THE COURT: All right. These three?

6 MS. MCMAHAN: Yes, Your Honor.

7 THE COURT: Okay. Are you ready to proceed?

8 MS. MCMAHAN: Yes, Your Honor. At this time, the
9 Applicant calls Ms. Byrd.

10 WHEREUPON, Willie Byrd, having
11 first been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. MCMAHAN:

14 Q Ms. Byrd, did you file this PCR application?

15 A Yes, sir. Yes, ma'am.

16 Q And do you wish to go forward with your PCR application
17 today?

18 A Yes, ma'am.

19 Q And who was your attorney that represented you?

20 A Chelsea McNeill.

21 Q And were you in the Detention Center the whole time, or
22 were you out on bond?

23 A I was out on bond.

24 Q And how long were you out on bond before this plea?

25 A Three years.

Willie Ruth Byrd-Direct Examination

5

1 Q And the day that you decided to do this plea, were you
2 set for a trial or anything?

3 A No, ma'am.

4 Q How many times do you think you met with Ms. McNeill
5 during those three years?

6 A About five. Five times.

7 Q Do you remember how long you met her for?

8 A The first time she called me up there, and she said
9 that they had ten years on the table. And she told me to go
10 home and think about it. And I wasn't ready to go to
11 prison, so I didn't let her know anything till a month
12 later.

13 Q What happened a month later?

14 A Yes, ma'am.

15 Q What happened that month later?

16 A After that, she called me back up there and she said
17 they got 20 on the table, because of the stabbing part.

18 Q So, the first time you met with Ms. McNeill, did you
19 guys go over the evidence or anything?

20 A Yes, ma'am. We went over the evidence.

21 Q Did she tell you how many years you were facing and
22 that kind of thing?

23 A At first she said that it can be 30 to life, you know,
24 but then she told me, you know, about the 10 at first.

25 Q So, when you guys were talking about the 10 years, was

1 there a time limit she said you had to get back with her
2 about it?

3 A She told me just go home and think about it, but I
4 didn't. I didn't let her know nothing until a month later.

5 Q So, did you contact her a month later, or did she
6 contact you a month later?

7 A She called me. She called me and told me, and my mom
8 went up there, you know.

9 Q About the 20 years?

10 A Yes, ma'am.

11 Q So she called you back up to come meet with her?

12 A Yes, ma'am.

13 Q Okay. And then the offer was 20 years?

14 A Yes, ma'am.

15 Q And then -- so what happened after that?

16 A So, I went back home, and that was that. I went back
17 home.

18 Q But did you tell her yes or no to the 10 or the 20?

19 A No, I didn't say anything. She just told me to let her
20 know what I decided to do, you know.

21 Q So you never told her either way, one way or another
22 about the 10 or the 20?

23 A No, ma'am.

24 Q Okay. Did you meet with her again after that?

25 A Until court time.

Willie Ruth Byrd-Direct Examination

7

1 Q Okay, you met her in court?

2 A Yes, ma'am.

3 Q Was that for your guilty plea or was that for something
4 else?

5 A That was for the guilty plea.

6 Q And what was that guilty plea to?

7 A She said plea to 20, and I'll do 17 out of that, and
8 that's a way for me to get out.

9 Q When you were talking to Ms. McNeill, did you ever want
10 a trial or did you always want a guilty plea deal?

11 A I really didn't want a trial. I didn't want a trial,
12 because she had told me it'd be thirty to life.

13 Q So the whole time you were trying to get some sort of
14 plea deal out of it?

15 A Yes, ma'am.

16 Q Okay. And the night before your guilty plea, did you
17 go out, or party, or do anything?

18 A Yes, ma'am.

19 Q What did you do?

20 A I drunk and did drugs all that night. It's just like,
21 I had so much on my mind. I didn't want to live. And she
22 called me the next morning, told me that we got to be in
23 court, you know? And so she said, get up here fast. Cause
24 I think it was about 10:30. I had to been there at 10. So,
25 when I got there, she told me, just do what I say. I said,

1 I hadn't even been to sleep. I said, I've been up all night
2 drinking. She said, if I had to do the time you gone do, I
3 would have did the same thing. And so, when I was up there
4 talking to the judge, I saw his mouth moving, but I couldn't
5 hear him. And she said, say yes, sir. Say, no, sir. And
6 that's what I did. But then after I got in prison and came
7 to my senses through the ATU program, went to drug and
8 alcohol program, and I read the transcript, I said, I can't
9 believe I said all of this. I pleaded to this. And I said,
10 this is my life, you know?

11 Q So, you don't remember. You didn't remember anything
12 really, from that day, until you read about it in the
13 transcript?

14 A Yes, ma'am.

15 Q And did you have any discussions with Ms. McNeill about
16 any defenses, like regarding the fact that there was a
17 sexual assault going on at the same time?

18 A I told her. I told her what happened, and she said,
19 things happen, you know. That's the only thing she told me.

20 Q What did you tell her happened?

21 A I told her that I was drugged and raped, and I defended
22 myself, but the thing was, I didn't ask for that. And she
23 was like, they got you for the stabbing part, you know,
24 based on how many times he was stabbed.

25 Q Okay. And did you ever have any discussions about your

Willie Ruth Byrd-Direct Examination

9

1 mental health or anything with Ms. McNeill?

2 A Yes, ma'am. I told her. I told her that I was in and
3 out of mental health just about all my life, you know, and
4 I've been fighting this disease for a long time. I have.

5 Q And that disease is what?

6 A Crack cocaine.

7 Q It's addiction?

8 A Yes, ma'am. Addiction.

9 Q So, you've been battling addiction your whole life?

10 A Yes, ma'am.

11 Q And were you on any sort of mental health medications
12 at the time?

13 A Yes, ma'am, I was on Tranzodone.

14 Q Were you on Seroquel?

15 A Seroquel. Yes, ma'am. And I think Risperdol. I was
16 on a lot of sleeping medication, too. And Zoloft. I was on
17 that as well.

18 Q Did you have a discussion with Ms. McNeill about self
19 defense being a defense?

20 A Yes, ma'am, I had. I told her what happened.

21 Q What did she tell you about self defense?

22 A She told me that she was going to look into it, or what
23 not, but we didn't discuss nothing else after that.

24 Q Did you ever end up going to the ER after this incident
25 or anything like that?

1 A No, ma'am.

2 Q Did you talk to Ms. McNeill about the facts of the case
3 and what happened from your point of view?

4 A I did. I told her, and she was like, you know, things
5 happen, you know, and she said, but what we trying to figure
6 out is about the drugs or something about the drugs in the
7 house. And that forensic didn't find nothing. Mostly
8 that's what she was based on talking about. She wasn't
9 trying to, like, hear about what I was trying to tell her
10 what happened, you know?

11 Q And what did happen, in your words?

12 A I told her when I went over there, you know, it was
13 drugs there. You know, it was drugs there. And, you know,
14 and I smoked it, and whatever he gave me in that drink,
15 that's what -- that's when I blanked out. Crack cocaine
16 don't blank you out. It's when I drunk the alcohol. When I
17 drunk that, that's the only thing I know. I would --
18 defensively. Knife around my neck. And I pushed back, and
19 we fought over the knife. And I don't know, after that. I
20 snapped. I don't know what happened.

21 Q And were there any discussions with Ms. McNeill about
22 how that would affect your case?

23 A Ma'am?

24 Q Did you have any discussions with Ms. McNeill about how
25 your point of view and your facts would affect your case and

Willie Ruth Byrd-Cross-Examination

11

1 the outcome of it?

2 A No, ma'am.

3 Q Is there anything else you want the Court to know today
4 about your PCR?

5 A It's just that I didn't deserve this much time. I
6 didn't. I didn't even ask for this. And this, my family.
7 I mean, this is my family. And this -- and he took
8 advantage of that.

9 Q Okay. Answer any questions the Attorney General may
10 have.

11 CROSS EXAMINATION

12 BY MR. MITCHELL:

13 Q Ms. Byrd, you pleaded guilty in this case, correct?

14 A Yes, sir.

15 Q This was a negotiated sentence of 20 years?

16 A Yes, sir.

17 Q And at the guilty plea hearing, you told the judge that
18 you had no drugs or alcohol within the past 24 hours?

19 A Yes, that's what Ms. McNeill told me to say. No, sir.
20 Yes, sir. That's what she told.

21 Q So, you told the judge you did not have -- you were not
22 under the influence of drugs or alcohol?

23 A Yes, sir.

24 Q So you lied under oath?

25 A I was lying. I was saying what she told me to say,

1 sir. That's what she was telling me. And I didn't know I
2 said those things until I read the transcript.

3 Q And you also told the judge that you were completely
4 satisfied with the services of Ms. McNeill. '

5 A I read that, too. Yes, sir, I said that.

6 Q And you just testified that you never really wanted to
7 go to trial before?

8 A I didn't want to go to no trial, because she told me if
9 I did go to trial, it would've been 30 to life. That's why
10 I didn't want to go. I didn't even want to take no kind of
11 plea to come to prison, because I never been to prison. I
12 never been. Never thought I'd end up talking about prison.

13 Q I have no further questions for you. "

14 A Yes, sir.

15 MS. MCMAHAN: I have no further questions, Judge.

16 THE COURT: Step down.

17 MS. MCMAHAN: Judge, at this time, the Applicant calls
18 Francine Tribble.

19 WHEREUPON, Francine Tribble,
20 having first been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. MCMAHAN:

23 Q Would you state your name for the record, please?

24 A Francine Tribble.

25 Q And spell your last name.

Francine Tribble-Direct Examination

13

1 A T-R-I-B-B-L-E.

2 Q And how are you related to Ms. Byrd?

3 A That's my sister.

4 Q And were you around her or with her the night before
5 her guilty plea?

6 A Yes.

7 Q And what did you observe about her that night, that
8 evening?

9 A That she was high, had been drinking and smoking.

10 Q Was she out of it a little bit?

11 A Yes.

12 Q Do you recall, like, how long she'd been doing that the
13 night before? Was it all night?

14 A All night.

15 Q Did you see her that morning when she got up and went
16 to court?

17 A Yes.

18 Q And how did she appear that day?

19 A High. Because she had told -- I mean, she said I had
20 to get my last high in before I go in.

21 Q So, she had indicated to you she had to get in ---

22 A Yes.

23 Q Please answer any questions the Attorney General may
24 have.

25 MR. MITCHELL: No questions.

1 THE COURT: Step down.

2 MS. MCMAHAN: Judge, the Applicant calls Chelsea Carter.

3 WHEREUPON, Chelsie Carter,

4 having first been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MS. MCMAHAN:

7 Q How do you spell your first name?

8 A C-H-E-L-S-I-E.

9 Q And Carter is just the normal way?

10 A Yes.

11 Q And how are you related to Ms. Byrd?

12 A That's my mother.

13 Q And did you see her the night before her guilty plea?

14 A She came by.

15 Q And what do you remember what time, approximately she

16 came by?

17 A About 4:00 a.m.

18 Q So, she came by really early in the morning?

19 A Yeah, it was early in the morning. She came by, and I

20 could smell the alcohol on her. She was just stating of how

21 much she loved me and, you know, just stating of how she

22 wanted me to do good in life because she was afraid. And,

23 of course, we had conversations, you know, of me telling

24 her, you know, to stay encouraged, but she definitely was

25 drunk.

Chelsea McNeill-Direct Examination

15

1 Q And were you at court that day, too?

2 A Yes.

3 Q And did she appear to be intoxicated when you guys were
4 in the courthouse?

5 A Yes.

6 Q Were you worried about her taking the guilty plea that
7 day?

8 A I was actually. The family and I, outside before
9 proceeding and going into the courtroom, because I didn't --
10 Miss Chelsea, she was there, and she stated to my mom that,
11 you know, she had done some investigation on the family.
12 And it seemed like that everyone in our family lived up to
13 80 years old and, you know, hopefully, like, my mom would
14 still have some time after she, you know, live up to that.
15 And my response to that was, you know, you don't determine
16 of how long someone lives. You know, that's up to God.

17 Q Were you having a hard time talking to your mom that
18 morning?

19 A I was, because she was fighting back, because she felt
20 like she had to take the plea. I didn't actually come in
21 the courtroom. I left after the conversation with Miss
22 Chelsea.

23 Q Please answer any questions the Attorney General may
24 have.

25 MR. MITCHELL: No questions for this witness, Your

1 Honor.

2 THE COURT: Step down.

3 MS. MCMAHAN: Judge, the Applicant rests.

4 MR. MITCHELL: Your Honor, the State calls Ms. Chelsea
5 McNeill.

6 WHEREUPON, Chelsea McNeill, having
7 first been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. MITCHELL:

10 Q Good afternoon, Ms. McNeill.

11 A Good afternoon.

12 Q Where are you currently employed?

13 A I am the Eighth Circuit Judicial Public Defender, so I
14 cover Laurens, Greenwood, Newberry, and Abbeville Counties.

15 Q And were you with the Public Defender's Office during
16 the representation of Ms. Byrd?

17 A Yes. I began in the Laurens County Public Defender's
18 office full time in September of 2012, and before that I was
19 a public defender in the Fourth Judicial Circuit, which is
20 Dillon, Darlington, Marlborough and Chesterfield. And then
21 before that, I was a public defender in Charleston. And
22 before that, I was a clinical addictions counselor for the
23 Charleston Center.

24 Q And you were appointed to represent Mrs. Byrd?

25 A Yes.

1 Q And do you know how many times you met with Ms. Byrd
2 prior to her guilty plea?

3 A I haven't reviewed that, but I'm looking.

4 Q Several times?

5 A Probably. I met with her. I went out to the crime
6 scene. Mr. Tom Aducci, who's in private practice now in
7 Greenville, he was employed with the Laurens Public
8 Defender's Office, so he helped me on this case. So, we --
9 I met with her the day after she was arrested. She was
10 arrested on a Sunday. I met her Monday morning. I went out
11 to her daughter Chelsea's house and collected photographs
12 that she had said that she had in a storage unit. I went to
13 the crime scene with the Prosecutor, law enforcement, Mr.
14 Aducci, and myself. I went out to her place of residence,
15 and then I got her out on bond, and we had multiple office
16 appointments. So, I probably would say I met with her at
17 least 15 times, minimum, and it was over the course of
18 years. Her case was a very important one for me.

19 Q And during those meetings, did you discuss all the
20 discovery and the State's evidence?

21 A Numerous times, yes.

22 Q And can you briefly go over what the State would have
23 shown at trial?

24 A Sure. So, on May 16, 2016, I noted client was arrested
25 for murder last week on Monday, May 9, 2016, for an incident

1 that apparently occurred on Mother's Day, Sunday, May 8,
2 '16. I went to the jail Monday, May 9, spoke with the
3 client. Immediately signed her up as a public defender
4 client at her request, as she did need a lawyer. She did
5 give statements to law enforcement admitting that she did
6 kill the victim by stabbing. She is about 47. The victim
7 was a 67-year-old black male. She said she was doing
8 cocaine and drinking alcohol in excess. Passed out there.
9 What they were going to say was that she -- I think it --
10 Well, she stated, and I think their theory was also, that
11 this man that died, first of all, he had a bad heart, so he
12 wasn't going to live very long. But two, that she, I guess,
13 was sleeping with him in exchange for drugs and money. And
14 on this particular day she, I guess, performed sex with him
15 and then he didn't give her the money that she needed to pay
16 her rent. And so, the State's theory was that she got
17 really furious and picked up a knife and started stabbing
18 him multiple times. I can't remember how many times. It
19 was probably, like 20. And then she tried to clean up some
20 in the kitchen. It was a mess. When I went to the crime
21 scene with the Solicitor and law enforcement, they had not
22 cleaned it up yet. So, I got to see, like, everything and
23 take pictures.

24 Q And did you discuss possible defenses with Ms. Byrd?

25 A I did. I discussed the possible defense of self

Chelsea McNeill-Direct Examination

19

1 defense, because she did state that -- so, she said that she
2 was doing cocaine and drinking alcohol in excess and passed
3 out at the victim's kitchen table. When she woke up, she
4 says one of her legs was out of her pants and the victim was
5 inserting something, an unidentified object, into her
6 vagina. She said she resisted him and he grabbed a knife
7 from the kitchen and held it to her throat and said he
8 wasn't done with her. She said she resisted further and
9 they scuffled. She said she got the knife from him and
10 stabbed him twice and then pulled her shirt up around -- he
11 then pulled her shirt up around her throat, choking her.
12 She kept resisting. She said they were in a standing
13 position and she said she kept swinging the knife back and
14 forth trying to fight him off. She said there's no way she
15 stabbed him 16 times, and that's what the autopsy did show,
16 but that she left her bra and underwear on. And I also have
17 a note that I also had her evaluated by Dr. Donna Schwartz-
18 Watts for possible victim of domestic violence, for PTSD
19 purposes, to make it a parolable offense if it was
20 considered voluntary manslaughter. But, unfortunately, Dr.
21 Maddox didn't find that she was eligible for that sort of
22 defense. And we talked about self defense as well, and also
23 voluntary manslaughter, the difference between that and
24 murder.

25 Q And will you explain the plea negotiations in this

1 case?

2 A Yes. They quite often change. So, she was working --
3 Ms. Byrd was working as a confidential informant for law
4 enforcement here in Laurens County. And so, she had had
5 John Bishop representing her on some charges that I found
6 out about. And I called him, and he said that those cases
7 got dismissed because she worked them off through being a
8 CI. And then -- I'm sorry, I just got off track. What was
9 your question?

10 Q Plea negotiations.

11 A Oh, plea negotiations, right. So, I talked to Officer
12 Tyrone Goggins in this case, who was very familiar with Ms.
13 Willie Ruth Byrd, and he -- I asked him if he would
14 consider, because of her age, a 10-year-sentence based on
15 what she said. So, I was trying to use what her side of the
16 story was as mitigation to try to negotiate lesser time. He
17 said if the family was fine with it, then he would go with
18 that. Apparently, the family was not fine with it. And
19 then at one point, Julie Kate Keeney, who's now a Solicitor
20 in Beaufort, or Hilton Head, somewhere around there, she
21 said that she was going to talk to the family about 15
22 years. I did communicate that with her. And then she said
23 the family was not good, so they would do a negotiated 20
24 years and that's what the final offer was. But I did, I
25 obviously have a duty to keep contact with her and like tell

1 her about her plea offers and stuff like that. But I made
2 sure she knew that that was never a firm offer. It's just
3 like what we were hoping to get, because I would never
4 mislead somebody into thinking it was a firm offer if, in
5 fact, it could change.

6 Q But the 20-year-offer did end up being a firm offer.

7 A It was negotiated 20 years. Yes, sir. And it was in
8 front of Judge Maddox that took it.

9 Q And did Ms. Byrd want a guilty plea throughout the
10 whole time or would she ever show a willingness to go to
11 trial?

12 A She always wanted to accept responsibility. And she
13 had, you know, I put up a good case for acceptance of
14 responsibility even though, you know, it was negotiated.
15 But the reason -- I heard her daughter Chelsea say about her
16 health and living until 80. So, I had encouraged her to go
17 get a physical done at her doctor's office. And I have
18 numerous notes in here where I called her and tried to get
19 her to go and have a physical. And the reason I did that
20 was because I have a policy that I don't recommend people to
21 plead guilty if the equivalent of their sentence that
22 they're going to receive is life or the equivalent of life.
23 You might as well try the case. And so, that's kind of my
24 attitude. And so -- but she constantly would not get a
25 physical, and so that never happened. And then I did ask,

1 well, where did your -- how long are your family members
2 living? However, I did say, you know, because she has such
3 a long history of drug use and alcohol use, you know, that I
4 don't know if she could survive a 20-year-sentence. But
5 ultimately she did not. She's a very timid person and soft
6 spoken person, and she did not want to go to trial.

7 Q And on the day of the plea, you obviously had
8 interactions with Ms. Byrd.

9 A Yeah, I did.

10 Q And was there any indication that she was under the
11 influence of alcohol or drugs at the time?

12 A So, no. I do remember her being tired, and I asked her
13 if she was under the influence. She told me that she was
14 not. I didn't smell anything on her either. I don't know
15 if she had taken a shower after being at Chelsea's house at
16 4:00 in the morning, because that's the first time I'm
17 hearing that. But I never noticed any sort of scent of
18 alcohol or looked at her for drug use. And I was a clinical
19 addictions counselor for three years prior to becoming a
20 lawyer. Now, I did notice that she was tired, but I had
21 been putting off her plea until the last minute to let her
22 stay out as long as possible before she had to go to prison.
23 And also, I think the judges that I regularly practice in
24 front of anyway, they're really good about identifying if a
25 defendant is wavering on a plea due to drug use or alcohol

1 use or being tired or under any sort of undue stress that
2 would prevent them from making an intelligent decision that
3 day.

4 Q And do you believe Ms. Byrd understood everything that
5 was going on during the guilty plea?

6 A Yeah, I do. I would have -- I didn't put many notes on
7 the guilty plea. So, I mean, that goes to show me that it
8 went through smoothly. Normally, I'll say, like, you know,
9 the plea almost didn't go forward because of client's
10 reactions, or verbal responses to the judge's questions.
11 And I don't have any of that here, and that's something I
12 methodically do.

13 Q And did you tell Ms. Byrd what to say to the judge at
14 the guilty plea?

15 A No, I don't ever tell -- now, if the client stops me
16 during a plea and says, I'm confused about something, then I
17 will say, beg the Court's indulgence, take them to the side.
18 And Judge Maddox is a very patient person. So, I mean, I
19 would have taken her to the side, asked her what questions
20 she had. I would have answered them, and we would have
21 moved forward. But no, I don't, I don't ever tell a person
22 what to say.

23 Q And did she ever indicate to you that she was confused
24 about any aspect of the guilty plea?

25 A I don't recall that. I didn't make a note of that, but

1 -- so, I don't recall. It would have been in the transcript
2 though.

3 Q And had you noticed that Ms. Byrd was under the
4 influence, would you have allowed her to proceed at the
5 guilty plea?

6 A No, I would have -- this has happened a couple of
7 times. So, if I do have a client that comes in high or
8 under the influence of anything, and I feel like they are
9 not going to be able to get through the plea because of them
10 being under the influence, what I usually do is talk to the
11 prosecutor and say, hey, they're not in any shape to plea
12 today. Now, if it's the last day possible for the plea to
13 go through, then what has typically happened, in the Eighth
14 Circuit anyway, is the judge would have them taken into
15 custody and then dry them out, you know, and then move
16 forward with the plea at the next possible time.

17 Q But that was obviously not your impression in this
18 case?

19 A She wasn't taken into custody and to dry out, so no,
20 sir.

21 Q And the decision to plead guilty was ultimately Ms.
22 Byrd's?

23 A Yes, it was ultimately hers. I mean, you know, and
24 being under -- and I told her at the beginning, because she
25 kept telling me that, you know, she had smoked crack and

1 done all that alcohol and that's like what drove her to stab
2 this man because he refused to give her the money to pay her
3 rent. But unfortunately, you know, for her, that's not a
4 defense in South Carolina as being under intoxication. So
5 we did talk about self defense and the difference between
6 voluntary and murder. The goal is always to get out of that
7 murder charge.

8 Q And she did end up pleading guilty to a voluntary
9 manslaughter, correct?

10 A For 20 years. Yes, sir. And she had credit for 200
11 something days in the jail before I got her out on it. I
12 think she got out on a \$75,000 surety bond eventually, yeah.

13 Q I think that's all I have for you, Ms. McNeill. Thank
14 you.

15 CROSS-EXAMINATION

16 BY MS. MCMAHAN:

17 Q Earlier you said this case was important for you. Why
18 is that?

19 A Because it was a murder case.

20 Q Do you handle all the murder cases?

21 A Currently I do. Well, currently I think I have 17
22 murders, and I also do most all of the rape cases. My
23 current caseload. Back then, I would have been the chief
24 public defender of Laurens County, just Laurens. And so,
25 yeah, I would have taken the majority, probably 90 percent

1 of the murders.

2 Q And did you talk to her about any of her mental health
3 issues or anything like that, or how that made plan?

4 A I did. And I had contacted Dr. Donna Schwartz-Watts
5 Maddox, or whatever she goes by today. Dr. Maddox. And she
6 did an evaluation on her.

7 Q And that was where you alluded to earlier about the
8 defense for domestic violence survivor?

9 A Correct.

10 Q But ultimately that didn't pan out.

11 A Correct.

12 Q And was she set for a trial date or anything at that
13 point?

14 A I don't recall. Let me see real quick. I'm sorry.
15 And the deceased was stabbed 23 times, not 16 times as I had
16 said earlier. Okay, can you tell me your question one more
17 time?

18 Q Was her case set for a trial date?

19 A Oh, that's right. Okay. It looks like Mr. Warren
20 Mowry, who used to be the Deputy Solicitor, wanted to go
21 forward in October of 20 -- Oh, no, wait. I'm sorry. By
22 the end of the year of 2018. When he talked about her
23 pleading, it was on October 10, 2018. So, he said he wanted
24 to get this resolved by the end of 2018, whether it was a
25 plea or a trial. And then I ended up talking him into

1 letting her stay out for another Christmas. He agreed,
2 because she wasn't violating any conditions of her bond that
3 we knew of. And then, it looks like, May of 2019, she was
4 on a trial docket. And then Warren Mowry ended up leaving.
5 And so, it was kicked to Julie Kate Keeney. And then they
6 wanted to pick another date. And I think that that was
7 going to be August of 2020, but I ended up not pleading her
8 until November 30, 2020. So she had been on a couple trial
9 dockets.

10 Q Well, so from March though, to about November, we
11 didn't really have any trial terms in 2020 though, right?

12 A That would have been correct because of COVID. I'm
13 sorry, I forgot about that.

14 Q So, August would have been the earliest that we would
15 have started back having trials?

16 A Yes. Tristan Schaefer and I were actually the first
17 lawyers to try a case in South Carolina post during that
18 Covid time, and we ended up trying a murder here in Laurens
19 under -- with Judge Hocker. And then I tried another murder
20 three weeks after that in Greenwood. So, we were starting
21 to kick up trials again.

22 Q I think the Eighth Circuit started before pretty much
23 anybody else.

24 A We were the first trial in the state. Yes.

25 Q And then the number of times that the victim was

1 stabbed, did that affect any discussions you may have had
2 with her about self defense?

3 A It did with the pathologist that I consulted with. And
4 it looks like I -- if you could just give me a second.

5 Q Sure.

6 A Okay. On December 7, of '16, I had talked to the
7 pathologist, and then I went to the jail the next day to
8 visit with her. And I went over the autopsy report with
9 client. Client started telling me a strange story about
10 what happened. Pieces of it she had told me before. I
11 finally told her that her version did not make any sense.
12 She admitted to me that everything is a blur and that she is
13 guessing about what happened and telling me this story. She
14 doesn't really remember what happened. And then I talked to
15 her pastor the next day and about how he had family members
16 who killed other family members and they got six years. Why
17 couldn't she get something like that? He guarantees she
18 won't get 30 years, et cetera, et cetera. I told him she
19 was charged with murder, which carries 30 to life. Didn't
20 give him any details about the case, but did sit there
21 patiently and let him go on and on. And then I said, I
22 don't believe that he is a real pastor, but who knows. But
23 yeah, I had talked to her about the inconsistencies and how
24 much the stabbing didn't make any sense. It was everywhere.
25 There was blood everywhere. And if she was, you know, if

1 she was woke up in the middle of him inserting something and
2 then she said that she only, you know, was swinging the
3 knife around, she somehow got the knife out of his hands, he
4 was on top of her, and then she somehow stabbed him only
5 twice. But that just didn't make any sense.

6 Q Oh, because ultimately the number of stabbings was -

7 A Twenty-three.

8 Q And you said they were all over, so they weren't ---

9 A They were all over his chest area and his back area.

10 Q Okay, give me one second. I just lost my train of
11 thought. I'm sorry. And in order to raise the self
12 defense, would you have to have gone to trial?

13 A Yes, absolutely.

14 Q And would she have gone to trial on the manslaughter or
15 the murder?

16 A She would have gone to trial on the murder, what she
17 was charged with. And it says that I spent three hours with
18 her at the jail on one occasion with Jimmy Powers, who was
19 my investigator that worked on the case, and also Tom
20 Aducci, who was my second chair. And we laid out the
21 differences between murder, voluntary manslaughter, and the
22 affirmative defense of self defense. And that being under
23 intoxication is not a defense in South Carolina. So she
24 knew all of that. But she would have gone to trial on the
25 murder, and if she lost, she would have been facing 30 to

1 life. If the jury found her guilty of voluntary
2 manslaughter, she would have been facing two to 30.

3 Q And is murder day for day?

4 A Murder is day for day. Yes.

5 Q And are you eligible for parole on manslaughter?

6 A No.

7 Q But it's not necessarily day for day.

8 A No. Voluntary manslaughter, you have to serve roughly
9 85 percent of the total time you're sentenced to before you
10 come out on community supervision. And it's also a strike
11 offense. I think it's a most serious strike offense.

12 Q Did Ms. Byrd have any strikes on her rap sheet at that
13 point?

14 A I don't think so.

15 MS. MCMAHAN: Court's indulgence. I have no further
16 questions, Your Honor.

17 MR. MITCHELL: No redirect, Your Honor.

18 THE COURT: Step down.

19 MR. MITCHELL: Your Honor, the State rests.

20 THE COURT: Anything else?

21 MS. MCMAHAN: Nothing further from the Applicant.

22 THE COURT: That will be the record. I will issue an
23 order.

24 ***END OF REQUESTED TRANSCRIPT OF RECORD)***

25

Certificate of Reporter

I, the undersigned, Tara T. Scott, CVR, Official Court Reporter for the Eighth 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/hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Laurens County, South Carolina, on the 19th day of August, 2024.

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



Tara T. Scott, CVR

Official Court Reporter

March 19, 2025

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LAURENS)
)
 Willie Ruth BYRD, SCDC #383792,)
)
 Applicant,)
)
 v.)
)
 The STATE of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS

ORDER OF DISMISSAL

Civil Action No. 2021-CP-30-00481

K. MICHELLE SIMMONS
 2025 JUN 14 P 2:44
 LAURENS COUNTY
 CLERK OF COURT

I. INTRODUCTION

The matter before this Court on application for post-conviction relief (PCR) filed by Willie Ruth Byrd (“Applicant”) on May 21, 2021. An evidentiary hearing in the matter was held on August 19, 2024. Applicant was present and represented by Ashley A. McMahan, Esq. Assistant Attorney General T. Cruise Mitchell represented the State. Testimony was taken from Applicant, Francine Tribble, Chelsie Carter, and trial counsel Chelsea B. McNeill (“Counsel”).

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

II. PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections. Applicant was indicted at the July 2016 term of the Laurens County Grand Jury for Murder (2016-GS-30-1000) and Possession of a Weapon During the Commission of a Violent Crime (2016-GS-30-01001). She was represented at trial by Chelsea McNeill, Esq. (“Counsel”). Eight Circuit Assistant Solicitor Julie Kate prosecuted the case. On September 30, 2020, Applicant pled guilty before

Circuit Judge J. Cordell Maddox to Voluntary Manslaughter and received a sentence of twenty years pursuant to a negotiated plea agreement. Applicant did not appeal the conviction or sentence.

III. STATEMENT OF FACTS

On May 8, 2016, 74-year-old Victim was found deceased with 21 stab wounds. Law enforcement developed Applicant as a suspect in this case. After making several statements to law enforcement, all offering different versions of events, Applicant eventually admitted to stabbing Victim.

(Gp. Tr. pp. 8–9).

IV. CURRENT APPLICATION

In her application Applicant alleged he was entitled to relief based on the following grounds:

1. Ineffective Assistance of Counsel
 - a. Failed to raise a self-defense theory
2. Involuntary Guilty Plea
 - a. Based on the advice given by counsel.

~~On August 12, 2024, PCR counsel amended the application to include the following allegations:~~

1. Ineffective Assistance of Counsel
 - a. Failed to discuss possible defenses to the case such as the fact the Applicant was sexually assaulted by the victim and the victim also cut the Applicant.
 - b. Due to the mental health medication Applicant was on, she was not able to understand that she was being charged with murder nor was she clear headed for her guilty plea.
 - c. Counsel coerced the Applicant into taking the plea deal and instructed the Applicant into taking the plea deal and instructed the Applicant what to say in court the day of the guilty plea.

V. INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right, and raises

a question of fact that can only be determined by an evidentiary hearing. *Rogers v. State*, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

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

The applicant has the burden of establishing both deficiency and prejudice in order to be entitled to relief. *Hughes v. State*, 346 S.C. 554, 558, 552 S.E.2d 315, 317 (2001); Rule 71.1(e), SCRPC. To prove deficient performance, the applicant must establish that, in light of all the circumstances, the acts or omissions complained of "were outside the wide range of competence" demanded of attorneys in criminal cases. *Strickland*, 466 U.S. at 688. To prove prejudice, the applicant must establish "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." *Id.* Significantly, "the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." *Id.* at 696.

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

VI. FINDINGS OF FACT & CONCLUSIONS OF LAW

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

Failure to Discuss Possible Defenses

Applicant contends Counsel failed to discuss possible defenses to the case such as the fact the Applicant was sexually assaulted by the victim and the victim also cut the Applicant. This

Court finds the record of Applicant's guilty plea coupled with Counsel's credible testimony on this issue refutes this allegation.

At the evidentiary hearing, Applicant testified she informed Counsel she was acting in self-defense. Counsel testified she met with Applicant at least fifteen times over the course of her representation. Counsel testified as to her investigation in this case including utilizing an investigator and taking photographs of the crime scene. Counsel explained she discussed self-defense with Applicant; however, the State's evidence would show Applicant was sleeping with the victim in exchange for drugs and Applicant stabbed the victim 23 times. Counsel asserted Applicant's story was inconsistent with the amount of stab wounds the victim suffered. Additionally, Counsel noted Applicant admitted she did not fully remember what happened.

This Court finds Counsel was not deficient in discussing possible defenses with Applicant. As Counsel credibly testified to, she did discuss a possible self-defense argument with Applicant prior to the plea. Counsel properly investigated the crime scene and reasonably determined that the evidence was wholly inconsistent with Applicant's version of events. Based on Counsel's credible testimony, Applicant even admitted to her that she did not fully remember the events. This Court finds Counsel properly investigated Applicant's case and discussed self-defense prior to the guilty plea. Additionally, Counsel articulated a valid reason as to why she believed self-defense would not prevail at trial. Thus, this Court finds Counsel was not deficient in this regard.

Furthermore, the transcript of the plea proceeding reflects that Applicant elected to waive her right to a jury trial and present a defense. (Plea Tr. p. 7). "A defendant is not entitled to withdraw his plea merely because he discovers long after the plea has been accepted that his calculus misapprehended the quality of the State's case or the likely." *United States v. Broce*, 488 U.S. 563, 572, 109 S. Ct. 757, 763, 102 L. Ed. 2d 927 (1989) (quoting *Brady v. Maryland*, 397

U.S. 742, 745, 90 S. Ct. 1463, 1473 (1970); see also *McMann v. Richardson*, 397 U.S. 795, 90 S. Ct. 1441 (1970) (“a counseled defendant may not make a collateral attack on a guilty plea on the allegation that he misjudged the admissibility of a confession”). Since Applicant waived her right to a jury trial, she may not now contest the voluntariness of her plea because she has allegedly miscalculated the strength of a potential self-defense claim. Thus, Applicant has failed to prove she was prejudiced.

Accordingly, this allegation is without merit and relief denied.

Involuntary Guilty Plea¹

Applicant alleges her guilty plea was involuntary for two reasons: 1) she was intoxicated at the time of the plea, and 2) she was coerced into pleading guilty by Counsel. This Court finds each of these allegations are without merit.

At the evidentiary hearing, Applicant testified she was using drugs and drinking alcohol the night before the guilty plea. Applicant contends she was still intoxicated at the guilty plea hearing which affected the voluntariness of the plea. Applicant called Francine Tribble and Chelsie Carter as witnesses, who both testified to Applicant’s alleged drug and alcohol use the night prior to Applicant’s guilty plea. This Court finds the testimony from Applicant’s witnesses pertaining to Applicant’s intoxication at the guilty plea hearing incredible. This testimony is directly contradicted by Applicant’s own admissions at the guilty plea hearing:

The Court: Okay. All right. Have you had any illegal drugs or alcohol in the last 24 hours?

The Defendant: No, Sir

The Court: Are you taking any kind of prescription medicine that would prevent you from understanding what’s going on her today?

The Defendant: No, sir.

¹ Allegations 1(b) and 1(c) will be addressed in this section.

(Plea Tr. p. 5).

Applicant's alleged intoxication is further contradicted by Counsel's credible testimony that there were no indications Applicant was intoxicated at the guilty plea hearing; that Counsel never noticed any scent of alcohol or signs of drug use; and that she believed Applicant understood everything at the time of the plea. Counsel explained that if there were any signs of Applicant being intoxicated, she would not have allowed her to plead. Counsel noted her standard practice when dealing with intoxicated clients was to inform the solicitor and allow the court to take the intoxicated client into custody to let them sober up. This Court finds Counsel had no indication Applicant was intoxicated at the time of the plea and reasonably relied on her own perception of Applicant's competency. Therefore, this Court finds, based on Applicant's own admissions at the time of the plea and Counsel's credible testimony, Counsel was not deficient nor was Applicant prejudiced by any alleged deficiency.

To the extent Applicant is alleging the effects of her mental health medication rendered her plea involuntary, this Court additionally finds this to be without merit. Applicant affirmed, under oath, she was not under the influence of her prescription medication. Thus, based on her own admissions at the guilty plea hearing, she has failed to prove she was incompetent at the plea due to her medication. Furthermore, Applicant has produced no objective data about the nature and effect of her medication for this Court to consider whether such medication could have rendered him incompetent to enter a guilty plea. *See Garren v. State*, 423 S.C. 1, 813 S.E.2d 704 (2018) (holding that "a PCR court must consider objective data about the nature and effect of the medication the defendant had taken and evaluate whether such medication had the capability to produce a sufficient effect on his mental faculties to render him incompetent to enter a guilty plea."). This allegation is without merit and relief is denied.

Applicant further alleges Counsel coerced Applicant into pleading guilty and only answered affirmatively to the plea court's questions based on the advice of counsel. This Court finds Applicant's testimony that Counsel told her what to say at the guilty plea hearing not credible. Counsel credibly testified she never tells clients how to respond to the court at a guilty plea hearing. This Court finds Counsel did not instruct Applicant on how to answer the plea court's questions. The allegation is without merit and relief denied.

"Further, respondent's explanation that [s]he answered the trial judge affirmatively on counsel's alleged advice that the questions were meaningless does not support the grant of PCR. *Id.* (defendant's claim he understood from counsel that the trial judge's questions at the guilty plea were only a "polite fiction" held not an invitation to answer untruthfully)." Moorehead v. State, 329 S.C. 329, 333, 496 S.E.2d 415, 417 (1998). This allegation is without merit and relief denied.

CONCLUSION

Based on the foregoing, this Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant the application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. Therefore, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

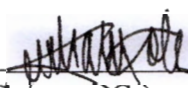
In the event Applicant wishes to appeal this decision she must file and serve a notice of appeal within thirty days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review pursuant to Rule 203, SCACR. Applicant has a right to appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek

appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to Rule 243, SCACR, for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. The application for post-conviction relief be denied and dismissed with prejudice; and
2. Applicant be remanded to the custody of the State.

AND IT IS SO ORDERED this 6th day of January, 2025.



J. DERHAM COLE
Presiding Judge
Eighth Judicial Circuit Court

Spartanburg, South Carolina


A TRUE COPY OF ORIGINAL
K. Michelle Simmons
Laurens County CCCP & G



**STATE OF SOUTH CAROLINA
THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT**

J. DERHAM COLE
JUDGE

180 MAGNOLIA STREET, 2ND FLOOR
POST OFFICE BOX 1744
SPARTANBURG, SOUTH CAROLINA 29304-1744
TELEPHONE: (864) 596-2685
FAX: (864) 596-3592
E-MAIL: jcolej@sccourts.org

January 6, 2025

The Hon. Michelle Simmons
Laurens County Clerk of Court
PO Box 287
Laurens, SC 29360-0287

Re: 2021-CP-30-00481
Willie Ruth Byrd, SCDC #383792 v. The State of South Carolina


2025 JAN 14 P 3:44
LAURENS COUNTY
CLERK OF COURT
K. MICHELLE SIMMONS

Dear Clerk;

Enclosed please find for filing an order(s) with reference to the above captioned case(s). Upon entry of the order(s), please serve notice upon the affected parties in accordance with *Rule 77(d) of the South Carolina Rules of Civil Procedure*. Thank you in advance for your usual and capable assistance in this matter.

With kindest personal regards, I remain,

Sincerely yours,


J. Derham Cole
Resident Judge
The Seventh Judicial Circuit

ATRUE COPY OF ORIGINAL
K. Michelle Simmons
Laurens County OCCP & CS