

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

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Certiorari to Aiken County

Honorable Kristi F. Curtis, Circuit Court Judge
—————

JOHN GREEN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-000245
—————

APPENDIX
—————

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)	COURT OF GENERAL SESSIONS
COUNTY OF AIKEN)	2019-GS-02-00837
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)	
STATE OF SOUTH CAROLINA,)	
PLAINTIFF,)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
JOHN GREEN,)	
DEFENDANT.)	
_____)	

December 7, 2020
Via WebEx

B E F O R E:

THE HONORABLE CLIFTON NEWMAN, JUDGE.

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

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Court Reporter III

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits submitted.)

1 P R O C E E D I N G S

2 THE COURT: All right. Who do we have next?

3 MS. HAMMACK: Your Honor, we will move forward with
4 John Green at this time.

5 THE COURT: All right.

6 Mr. John Green, is that you over there in the red suit?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. We're going to get you sworn
9 in.10 JOHN GREEN, after being duly
11 sworn, testified as follows:

12 THE COURT: All right. Mr. Hawk, he's your client?

13 MR. HAWK: Yes, Your Honor. We're here today to plead
14 guilty for the charge Mr. Green was indicted for, attempted
15 murder. The sentencing sheet is with Ms. Ashley Hammack and
16 the Clerk of Court. He's admitted to what he's done, that
17 he's guilty and he wants to move forward with making his
18 penance and wants to live out his life in a way that
19 reflects who he truly is. I think we've agreed to try to
20 move sentencing to a little bit later in the week for the
21 availability of some witness for the defense as well as for
22 the prosecution.23 THE COURT: Is that right, Mr. Green, you're pleading
24 guilty?

25 THE DEFENDANT: Right, I want to plead guilty.

1 THE COURT: All right. Before we get into that, I see
2 that I have been handed an evaluation. Let's see, let me
3 review it here.

4 (Pause.)

5 THE COURT: I have an evaluation from the -- that
6 you're competent to stand trial from the South Carolina
7 Department of Mental Health. That evaluation report recites
8 the history of this, your social history, your educational
9 history. Says you left sixth grade because you had to pick
10 cotton. Employment history, you worked at the cotton mill
11 for a while and an elevator operator and a doffer, removed
12 the doffs from the spindles. You used to sell stuff at the
13 flea market.

14 You got on disability after you hurt your right arm.
15 You denied any history of seizures, strokes, all that. You
16 got shot ten years ago and was treated at the hospital here
17 in Aiken. You stopped drinking ten years ago. At the time
18 of the alleged offense, the victim told police he was
19 intoxicated and he denied that.

20 And letters to the bond judge says you were evaluated
21 for mental health problems. You were talking too fast,
22 couldn't think very well. Had some delusions believing that
23 your brother had attempted to kill you for over 60 years,
24 his son has attempted to kill you for 20 years and your
25 daughter and brother have an incestuous relationship, but

1 you denied having any significant mental health issues.
2 Your brother threw you down a well when you were about 13 or
3 14 trying to kill you. And your ex-wife and son attempted
4 to kill you to get the insurance money. You had a bunch of
5 discord among your siblings. You became stressed and had
6 nightmares and all that.

7 They decided to give you an evaluation trying to
8 diagnose your problems, been depressed and hallucinating,
9 other problems. When they checked you out, they didn't
10 think you needed to have a diagnosis of mental illness, not
11 at the time. You knew that you had some charges against
12 you, assault and battery with intent to kill and knew what
13 you were accused of and knew how to deal with the case, such
14 as how to plead and all that, the role of the judge, the
15 lawyers and solicitor and everybody. You knew what a plea
16 bargain was. You had Barry Thompson as your lawyer and you
17 believed that you were competent to stand trial. It is
18 signed by this licensed clinical psychologist, Colby J.
19 Sutton, Ph.D. And that was in June of 2019.

20 Is there any additional information for me to consider
21 regarding Mr. Green's competency to stand trial?

22 MS. HAMMACK: Your Honor, just procedurally, we had a
23 Blair hearing in this matter on April 16th, 2020. We were
24 before Your Honor for a status conference and you reviewed
25 this same DMH report then. You did find the Defendant

1 competent to stand trial at that time. That was eight
2 months ago, but my understanding is there is no new or
3 additional information aside from that report.

4 THE COURT: Do you agree, Mr. Hawk?

5 MR. HAWK: Yes, Your Honor, there's no new information
6 aside from the report of Dr. Holt that we're going to use at
7 sentencing.

8 THE COURT: Mr. Green, do you agree that you're
9 competent and understand what's going on?

10 THE DEFENDANT: Right. Right.

11 THE COURT: Say what?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Now, as you stand before me,
14 you're presumed to be not guilty and you have the right to a
15 jury trial and require the State to prove your guilt beyond
16 a reasonable doubt. When you plead guilty, you waive those
17 important Constitutional rights. Do you understand that?

18 THE DEFENDANT: Right.

19 THE COURT: I see that on this guilty plea, the State
20 is recommending a cap of 20 years, that means that whatever
21 sentence you get would range from zero to 20 years. Do you
22 understand that?

23 THE DEFENDANT: Right.

24 THE COURT: When that occurs, the State generally
25 recommends that I give you about 20 years and your lawyer

1 tries to get me to do a lot less than that. Do you
2 understand that?

3 THE DEFENDANT: Right.

4 THE COURT: So I heard some details about what you did
5 to your sister, I believe it is, are you guilty of that?

6 THE DEFENDANT: What you talking about?

7 THE COURT: The crime that you're here for, in jail
8 for, are you guilty of it?

9 THE DEFENDANT: Right.

10 THE COURT: For the stabbing of Alberta Johnson and
11 cutting her.

12 THE DEFENDANT: Right, Alberta Johnson. She is my
13 family and I'm sorry what happened to her. I'm sorry for
14 what I did it and I hope she will please forgive me.

15 THE COURT: We'll hear about all that later on, right
16 now, we're trying to settle on whether or not you're guilty
17 or not guilty. I said your sister. She's not a sister, is
18 that right, she's some other relation?

19 THE DEFENDANT: Right.

20 THE COURT: All right. Are you guilty of the crime?

21 THE DEFENDANT: Right.

22 THE COURT: Okay. Well, I'll go to the solicitor.
23 Ms. Hammack.

24 MS. HAMMACK: Thank you, Your Honor.

25 John Green is here on Indictment 2019-GS-02-00837,

1 charged with attempted murder. He is pleading guilty to
2 that charge today. The State has recommended a cap of 20
3 years in lieu of the potential 30-year exposure. He is
4 represented by Chace Hawk. The State is dismissing a charge
5 of possession of a weapon during the commission of a violent
6 crime as part of this plea.

7 Procedural history with this case, the incident
8 occurred on November 16th of 2018. The Defendant was
9 evaluated by the South Carolina Department of Mental Health
10 on May 28th, 2019. We originally had this case scheduled
11 for a guilty plea on October 31st, 2019. At that time, the
12 Defendant was represented by Barry Thompson of the Second
13 Circuit Public Defender's Office. The Defendant withdrew
14 his plea on that date, moved to have counsel relieved. Mr.
15 Thompson was relieved and Mr. Hawk was appointed to
16 represent Mr. Green.

17 Following that, as I stated, we had a status conference
18 in April in front of Your Honor. We did have that Blair
19 hearing where you found the Defendant competent. That's the
20 main reason why this case is still pending after so long,
21 Your Honor.

22 This case was placed on the trial docket for this week.
23 We were informed by Mr. Hawk on Friday that this case would
24 be a plea. Additionally -- or excuse me, on Thursday.
25 Additionally, on Thursday, as Your Honor is aware, jury

1 trials were cancelled for this week. We had originally
2 scheduled this case to be a plea today in between jury
3 qualifications and then sentencing at a later time. We
4 don't have a jury here, so the State is prepared to go
5 forward. Ms. Johnson is here for the plea, but I think Mr.
6 Hawk was wanting to have Dr. Holt here to address the Court
7 at sentencing. I can go forward with the factual basis of
8 the plea as well as the Defendant's criminal history if Your
9 Honor would like to do that and accept the plea.

10 THE COURT: Okay. I can accept the plea and we can
11 defer any additional aggravating and mitigating
12 circumstances until the sentencing.

13 MS. HAMMACK: Yes, Your Honor.

14 THE COURT: Mr. Green, do you disagree with anything
15 the solicitor said?

16 THE DEFENDANT: I missed what she said.

17 THE COURT: Is what she said is true?

18 THE DEFENDANT: I really kind of missed out a little
19 bit.

20 THE COURT: Well, basically, she said you stabbed your
21 --

22 Did you mention the offense of him stabbing Alberta
23 Johnson multiple times?

24 MS. HAMMACK: I have not given the factual basis yet.
25 I have just given the procedural history of the case.

1 THE COURT: Okay. I'm sorry. Give me the factual
2 basis, please.

3 MS. HAMMACK: Your Honor, on November 16th of 2018,
4 officers with the Aiken Department of Public Safety
5 responded out to the 300 block of Florence Street. It's
6 here in downtown Aiken. It's not far from behind Second
7 Baptist Church. When they arrived, they found a whole group
8 of people in the parkways that divides the road by a grassy
9 area.

10 They spoke with two individuals, Brandon and Orlando
11 Williams. The Williams brothers live on Florence Street.
12 They just returned home from work that morning -- this was
13 about nine o'clock in the morning -- when they heard a woman
14 screaming for help. They ran outside and saw the Defendant
15 on top of the victim in that grassy area in between the two
16 sides of the road and he was stabbing her with a knife. The
17 brothers were able to get -- knock the Defendant off of
18 victim and subdue him until law enforcement could arrive.
19 Law enforcement actually arrived while the brothers were
20 still on the line with 911.

21 When they got there, they were able to speak with Ms.
22 Alberta Johnson. She indicated that she is the biological
23 daughter of the Defendant. They had been estranged. She
24 did not know that he was her father until about three years
25 prior to this happening. Once she found out that he was her

1 biological father, she attempted to have a relationship with
2 him. She would take him to church, doctor appointments.
3 They started going to family functions together. Just
4 trying to make up for all the time of not knowing that he
5 was her father.

6 She stated that he had been angry with her because he
7 had had an altercation with his brother the day before this
8 incident and wanted her to intervene and kind of smooth
9 things over and she declined.

10 She stated that on November 16th, he called her asking
11 her to come take him to the hospital. She needed to get to
12 work. She works at J.D. Lever Elementary School here in
13 Aiken County. But she told him that she would come take him
14 before she went to work.

15 When she picked the Defendant up, he asked her to come
16 into the house. She told him she didn't have time, that she
17 had to go to work. He said, Okay, well, just take me to the
18 hospital. She stated that she told him to put on his
19 seatbelt. And at that point, when he reached across his
20 body to put on his seatbelt, she stated he then came across
21 and started stabbing her in the face, neck, chest and
22 abdomen. She was wearing a coat that blocked some of those
23 strikes. Law enforcement did document several slashes and
24 cuts to her jacket and shirt where he cut through her
25 clothes.

1 She was able to get out of her jacket and exited the
2 vehicle and began running down Florence Street, screaming
3 for help. She stated that the Defendant pursued her,
4 stating, quote, Bitch, I'm going to kill you. She stated
5 that she fell, got back up, attempted to continue running
6 when he caught her from behind and knocked her to the
7 ground. She stated that as she was on the ground on her
8 back, he began stabbing her again about the face and neck.

9 She stated as he was stabbing her, she was actually
10 able to grab the blade of the knife in her hand, but he was
11 trying to pull the knife out of her hand and she sustained
12 several lacerations to her hand where she was gripping the
13 knife trying to keep him from stabbing her further. At that
14 point, Orlando and Brandon Williams came in, intervened and
15 were able to rescue Ms. Johnson.

16 Law enforcement noted several injuries to her body. In
17 addition to the defensive wounds on her hands from catching
18 that knife, she also had a laceration from her nose going
19 across her face and upper jaw line towards her eye. She had
20 a laceration and punctures to her left jaw. She had a
21 laceration from her chin going along her jaw line,
22 ultimately, extending up to her ear lobe. She had multiple
23 lacerations to her chin directly below her mouth. She also
24 had bruising and abrasions to her knees and legs from
25 falling and fighting with the Defendant.

1 Law enforcement was able to recover the knife from the
2 scene. They also obtained a statement from the Defendant
3 wherein he admitted to stabbing the victim. It really
4 wasn't under question as there were multiple eyewitnesses,
5 but he did admit to stabbing the victim. As I said, law
6 enforcement also noted several cuts and slashes to her
7 clothing as well.

8 Ms. Johnson had to go to the hospital where she
9 underwent treatment for those wounds to her face and neck.
10 She had to get numerous sets of stitches to her face. She
11 has sustained nerve damage as a result of the injuries. She
12 also had to seek a plastic surgeon for potential
13 reconstruction of her face. She has not undergone that at
14 this time, but that was something that came up as a result
15 of these injuries.

16 Mr. Green does have a criminal history. In 1988, in
17 Georgia, he was convicted of a weapons offense and
18 possession of marijuana. In 1994, in South Carolina, he was
19 convicted of open container, driving under the influence and
20 possession of marijuana. I would reserve any further
21 presentation for sentencing.

22 THE COURT: Mr. Green, do you disagree with anything
23 she said?

24 THE DEFENDANT: Well, I was told that it was three --
25 stabbing in her neck and the chest and the abdomen. That's

1 what happened from my understanding.

2 THE COURT: Well, some stabs, some cuts and some other
3 things. When you're dealing with a knife, you don't know
4 how many different places people might get cut in addition
5 to getting stabbed.

6 I'm going to accept the guilty plea. We'll deal with
7 all the other details later on this week.

8 THE DEFENDANT: Right.

9 THE COURT: How about that?

10 THE DEFENDANT: Right, and I plead guilty.

11 THE COURT: Okay. Well, we'll see you later in the
12 week.

13 THE DEFENDANT: Thank you, Your Honor.
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CERTIFICATE OF REPORTER

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STATE OF SOUTH CAROLINA)
COUNTY OF AIKEN)

I, PENNY M. JOHNSON, Official Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the hearing of the captioned case, relative to appeal, in General Sessions Court for Aiken County, South Carolina, on the 7th day of December, 2020.

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

May 15, 2021

Penny M. Johnson
Penny M. Johnson
Official Court Reporter

STATE OF SOUTH CAROLINA)	
)	GENERAL SESSIONS COURT
COUNTY OF AIKEN)	2019-GS-02-00837
)	
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)	
STATE OF SOUTH CAROLINA,)	
PLAINTIFF,)	
)	
vs.)	TRANSCRIPT OF RECORD
)	
JOHN GREEN,)	
DEFENDANT.)	
_____)	

December 11, 2020
Via WebEx

B E F O R E:

THE HONORABLE J. CLIFTON NEWMAN, JUDGE.

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

ASHLEY A. HAMMACK, ESQ.
Attorney for the Plaintiff

M. CHACE HAWK, ESQ.
Attorney for the Defendant

PENNY M. JOHNSON
Court Reporter III

I N D E X

(There were no witnesses called.)

E X H I B I T S

(There were no exhibits submitted.)

P R O C E E D I N G S

1
2 THE COURT: All right. Who's next?

3 MS. HAMMACK: Your Honor, next is John Green. He is
4 charged in indictment 2019-GS-02-00837 with attempted
5 murder. He came before Your Honor on Monday and entered a
6 guilty plea to that charge. Your Honor accepted his plea at
7 that time. I do not remember if we addressed on the record
8 the fact that this is violent and most serious, but those
9 were marked on the sentence sheet and he did sign the
10 sentence sheet acknowledging that. But you did accept his
11 guilty plea and we are here today for sentencing.

12 The victim is present and the defense has a
13 presentation as well.

14 THE COURT: Mr. Hawk. You might need to start again
15 after unmuting yourself.

16 (No audio)

17 THE COURT: Mr. Hawk, are you still with us? I can't
18 hear you.

19 Mr. Green, how are you?

20 THE DEFENDANT: All right.

21 THE COURT: Good.

22 Who all do we have on the line victim-wise, Ms.
23 Hammack?

24 MS. HAMMACK: Your Honor, Ms. Alberta Johnson is
25 present here in our office. She is appearing under the name

1 Chanelle Sanders, who is one of our victim advocates. Looks
2 like she has been promoted, so she is present.

3 She has written a statement for the State to read to
4 the Court. I don't know if she's able to speak herself,
5 Your Honor. She's pretty emotional about this.

6 Additionally, from law enforcement, Investigator Selena
7 Dobbs from the Aiken Department of Public Safety is on the
8 line.

9 THE COURT: All right.

10 MR. HAWK: May it please the Court? Can you hear me
11 now?

12 THE COURT: Yes.

13 MR. HAWK: Perfect.

14 THE COURT: We'll first hear from the victim, Ms.
15 Johnson, and the officer.

16 MS. HAMMACK: Ms. Alberta, do you want me to read what
17 you wrote or do you want to talk to the Judge?

18 THE VICTIM: You can read it. I'm kind of emotional.

19 MS. HAMMACK: Okay. Well, if you need to say anything
20 else to the Judge, you can, but I'm going to read what you
21 wrote first, okay?

22 THE VICTIM: Okay.

23 MS. HAMMACK: Your Honor, Ms. Johnson wrote a statement
24 for you that says: It has been asked of me to write a
25 statement on my behalf or to come back to court to state how

1 I feel in the process of Mr. John Green, my father, who is
2 incarcerated. After deep thought and consideration, I feel
3 that if he is released that my entire life will change. I
4 feel that I would have to be on the lookout at all times and
5 I truly do not want to live like that. I have to face it
6 everyday when I look in the mirror due to the scars on my
7 face and my hands.

8 I am blessed to be alive today because if it were not
9 for the two men who came to my rescue, I would be dead. The
10 two young men were able to get him off of me, which I feel
11 saved my life, until the authorities arrived. At this point
12 in time, I am just asking for peace of mind, no more
13 worrying about if he is out or whether he would be coming
14 back after me. Sincerely, Alberta Johnson.

15 THE COURT: All right. Thank you.

16 And from the officers.

17 MS. HAMMACK: Investigator Dobbs, would you like to
18 address the Court?

19 INVESTIGATOR DOBBS: I don't have anything.

20 THE COURT: All right.

21 MS. HAMMACK: I do have his criminal history, Your
22 Honor.

23 THE COURT: Okay.

24 MS. HAMMACK: In 1994, he was convicted of open
25 container, driving under the influence and possession of

1 marijuana, that was in South Carolina. In Georgia, he was
2 convicted in 1988 of a weapons offense and possession of
3 marijuana.

4 You heard the facts of this on Monday, Your Honor, but
5 this is the case where the Defendant is the estranged
6 biological father of the victim. When she went to give him
7 a ride to the hospital at his request, he attacked her with
8 a knife and chased her into the middle of Florence Street
9 here in Aiken County where he continued attacking and
10 stabbing her in the face, neck and abdomen until two good
11 Samaritans were going by and saw it, stopped and then called
12 the police.

13 THE COURT: All right.

14 Mr. Hawk.

15 MR. HAWK: Yes, Your Honor, may it please the Court?

16 THE COURT: Yes.

17 MR. HAWK: This is a terrible case. It's my intention
18 today to present some testimony and some statements by a
19 psychologist not necessarily to go to in any way alleviate
20 what has occurred here, but to sort of more accurately
21 describe Mr. Green's limitations not only with his ability
22 to deal with his mental illness, but also with his ability
23 to get through this process. This process was started a
24 long time ago and it took him almost two years to get a
25 guilty plea. And the reason for that was, in large part, he

1 started his medication in November and here we are in
2 December with a guilty plea and at sentencing.

3 So to begin with, as you just heard, his criminal
4 history is not significant. He's 76 years old and has never
5 committed a violent crime against anyone. The charges
6 against him were misdemeanors. He's been a law abiding
7 citizen most of his life. He grew up in Aiken County, had a
8 very rough childhood, was physically abused as was noted in
9 the clinical report that was produced by Colby Sutton
10 Forensics Outpatient Services for the Department of Health
11 by a clinical psychologist. She notes that he was abused as
12 a child. He reports his brother having tried to kill him,
13 tried to kill him when he was 14 and then he's been the
14 target of numerous attempts to kill him by his son and,
15 also, his wife.

16 It's important to note that at the scene, the victim,
17 when she was asked if she wanted to appear at any court
18 appearances, one of the things that she said was he needs
19 help. And when she was interviewed by Officer Dobbs at the
20 hospital, she related again the family had talked and
21 discussed for a long time about what to do for John
22 considering his limitations when it comes to his mental
23 illness.

24 His particular type of mental illness makes it almost
25 impossible for him to admit that he has one and, also, take

1 responsibility for what he's done. So I think it's
2 important, if I could, to have Dr. Joe Holt come up and
3 discuss his evaluation of the Defendant.

4 THE COURT: Okay.

5 MR. HAWK: Dr. Holt, are you there?

6 DR. HOLT: I'm sorry, Your Honor, I just got unmuted.

7 MR. HAWK: Dr. Holt, if you could, would you explain to
8 the Court what you did so far as your evaluation of the
9 Defendant, John Green?

10 DR. HOLT: What we did was -- I was contacted by your
11 office. We went in on Saturday, December the 5th, spent
12 about four hours with him then. Basically, got a
13 significant history where he outlined physical abuse from
14 his siblings. In fact, one of the stories was somebody put
15 a meat cleaver to the back of his head. Talked about his
16 skull being split open on numerous occasions. So the
17 actions were rather violent, which, in a sense, created a
18 paranoid state in the client's mind. That was evident on
19 Saturday.

20 I went back because I was curious about his inability
21 to focus in his discussions with me and I was curious about
22 at 76 years of age, I was wondering maybe early onset of
23 dementia. We tested him for that. It showed nothing that
24 would give us anything in that area. We do acknowledge the
25 diagnosis of Post Traumatic Stress Disorder exist within the

1 client. He admits to a limited amount of drug and alcohol
2 use. I was looking for more of a discussion of was he
3 impaired at the time of the incident. He denies he was and
4 indicates all he's ever used is marijuana and alcohol, which
5 matches his arrest record. So we see, basically, violent
6 behavior that has gone on in his family system towards him
7 based on his reporting to us.

8 MR. HAWK: And Doctor, did you discuss the event and
9 what led up to the actual crime with Mr. Green?

10 DR. HOLT: He believes that, apparently, members have
11 been out to get him for quite a while, I mean, years. He
12 believes that his ex-wife is a party to those actions. And
13 what happened with the daughter was, basically -- she was on
14 his side in his mindset and then all of a sudden, there was
15 some disagreements between he and her and he concluded that
16 she also has been taken over by them and, therefore, she's
17 not on his side anymore. So he felt isolated and abandoned
18 by her.

19 MR. HAWK: And what were some of the other diagnoses
20 that you attributed to Mr. Green?

21 DR. HOLT: We gave him, basically, mood disorder for
22 depression. But a lot of his is more bipolar Axis II as far
23 as his perception of relationships, his perceptions of
24 parties and their feelings towards him.

25 He was telling me a story about where he gave them

1 access to his bank account and they were cleaning it out on
2 a monthly basis. In fact, he said, I even gave them my
3 debit card. And he was concerned about that because he
4 said, I don't want them to take everything.

5 THE COURT: Dr. Holt, did any of those people you
6 referred to include the victim in this case?

7 DR. HOLT: Yes, sir. Yes, sir.

8 THE COURT: So he's accusing his daughter who he --
9 How long had he met her, Ms. Hammack?

10 MS. HAMMACK: Your Honor, she had just found out about
11 three years prior that he was her biological father. That's
12 when she began a relationship with him, taking him to
13 church, taking him to the doctor, hanging around the family
14 and getting to know the family she didn't know she had.

15 THE COURT: So, Dr. Holt, these episodes you're talking
16 about would be dated when?

17 DR. HOLT: The daughter episodes are within the last --
18 well, he's been in jail for two years and 21 days, so from
19 the time period of her finding out he was her biological
20 father, so that period of the incident.

21 THE COURT: And she was cleaning out his bank account?

22 DR. HOLT: Apparently, towards the end of the events,
23 there was the cleaning out of the bank accounts is what he
24 alluded to with me.

25 THE COURT: Proceed.

1 MR. HAWK: And, Dr. Holt, I see in your report, there's
2 an indication of a personality disorder mixed with
3 borderline and narcissistic personality disorder. Would
4 those diagnoses affect a person's ability to accept
5 responsibility for a crime of this nature?

6 DR. HOLT: Narcissistic is going to put the person as
7 always being the victim; that everybody is out to get them.
8 Borderline personality says you're going to react from one
9 extreme to the other. There's not a lot of middle ground,
10 there's not a lot of gray zone where somebody could just
11 misinterpret it. It's like no, you're out to get me. So
12 you're going to describe it in that way. And they have a
13 lot of difficulty with relationships.

14 And these are conditions that are not organic. These
15 are conditions that are created by relationships prior, so
16 things that have gone on in previous years. It's almost a
17 condition of response. Bipolar is mood swings where you end
18 up -- you could have ten days where you're depressed and
19 sad, then you can have four days of a two-week cycle where
20 you're just spinning crazy and just all over the place.
21 You're just anxious. So it's just more dramatic. It's
22 depression, but the bipolar makes it long term as well as --
23 and if you grew up in that kind of an abusive environment
24 like he described, then that would make sense for how those
25 situations would come.

1 MR. HAWK: And, Doctor, in your opinion, was John's
2 ability to sort of recognize the criminality of his conduct
3 and control himself substantially impaired by his mental
4 illness?

5 DR. HOLT: Well, I wondered if there was substance
6 abuse at the time, if he was impaired at the time of the
7 event. He denies that. But I do know based on the
8 descriptions of how serious the abuse was in his life
9 growing up -- and I think one of the events that really led
10 to the last problem was he was accused of cutting a
11 relative's tires and he wanted his daughter to go speak to
12 them on his behalf to see if he could make peace with the
13 family, which I think it was not possible at that point. I
14 think everybody was too upset. And that upset him because
15 the narcissistic side of him would say but I want you to do
16 this, I want you -- I'm willing it to be that way versus
17 their feelings.

18 MR. HAWK: So Dr. Holt, in your opinion, would his
19 narcissistic personality disorder plus PTSD substantially
20 impair his ability to recognize criminality of his conduct
21 and control himself under these circumstances?

22 DR. HOLT: I think based on his past and the PTSD, yes.

23 MR. HAWK: Thank you, Doctor.

24 Your Honor, it was noted in not only Dr. Holt's
25 evaluation, Aiken/Barnwell Mental Health Center's evaluation

1 they did November 19th of 2018 and in the report produced by
2 Colby Sutton for the Department of Mental Health that he has
3 significant issues with paranoid delusions about his family
4 coming back to harm him, that he has some level of
5 impairment, especially when it comes to getting him to
6 recognize his own fault.

7 So going forward conducting this sentencing, it's
8 important to keep that in mind when we're talking to the
9 Defendant that this is a person that has limitations with
10 respect to accepting responsibility. Again, he has very
11 limited criminal history. He's 76 years old. He's been
12 confined since the date of his arrest, I believe it was
13 November of 2018. We would request considering the
14 mitigating circumstances and the factors in the case that he
15 be given a sentence under ten years. The Social Security
16 actuarial table states that he has only about ten years left
17 to live, so a sentence of anything over ten years would be a
18 death sentence for him. We would ask the Court to consider
19 that when you're considering what to give Mr. Green for a
20 sentence.

21 THE COURT: Mr. Green, what would you like to say, if
22 anything?

23 THE DEFENDANT: I would just like to say to the victim,
24 I'm very sorry for what happened. All I can say is please
25 forgive me. I very sorry for what I done.

1 (Defendant crying.)

2 MS. HAMMACK: Your Honor, I do believe the victim would
3 like to address the Court.

4 THE DEFENDANT: I'm not trying to accuse nobody else.
5 I'm here to stand up for what I did. I ain't trying to
6 accuse nobody else, but myself. I put my mercy onto the
7 Court.

8 THE COURT: Thank you, Mr. Green.

9 Ms. Johnson.

10 THE VICTIM: Can you hear me?

11 THE COURT: Yes.

12 THE VICTIM: I wanted to talk about -- he was talking
13 about his bank accounts. He called for me to come down and
14 get his possessions down there and he gave me the PIN number
15 and he told me to bring him money down there to the
16 jailhouse, I think it was about \$600. And he told me to fix
17 what was done to my car, the damage that was done to my car,
18 so I did what I had to do. And he told me to take care of
19 what I needed to take care of. He gave me the PIN number
20 and everything. So I did what he told me to do.

21 THE COURT: When he stabbed you, what was your course
22 of medical treatment?

23 THE VICTIM: They did stitches in my face, my chin, in
24 my hand. I got about five spots in my face.

25 THE COURT: Were you released the same day or kept for

1 a while?

2 THE VICTIM: Yes, I was released the same day.

3 THE COURT: What set him off on that day?

4 THE VICTIM: Well, he had kept calling me the night
5 before and when I would answer the phone, kept telling me to
6 go over to his brother's house to get him to drop the
7 charges about him cutting his tires. And I told him, I
8 can't tell that man what to do. So he hung up the phone.
9 He had cussed me out before he hung up the phone.

10 Then he called me that morning before I got ready to go
11 to work. He said, Come to the house and take me to the
12 hospital, I feel sick. And I said, Well, I got to go to
13 work. It was about 20 minutes to 9:00. I had to be to work
14 at 9:30. So I said, Well, I'll come by and pick you up and
15 drop you off at the hospital and I'll go on to work. So I
16 told my husband I was going to take daddy to the hospital,
17 drop him off.

18 And when I got there, I blowed the horn, he didn't come
19 out. So I got out, put the car in park and knocked on the
20 door. So he still wasn't coming. So when I got in the car,
21 I sat there for a while and he come out to the car, come out
22 the house. When he got in the car, he said, Why don't you
23 cut the car off and get out? I said, Daddy, I got to go to
24 work. I thought you was sick. He said, Well, drop me to
25 the hospital. I said, Well, put your seatbelt on.

1 So I mashed the gas a little bit and when he reached to
2 put his seatbelt on, his hand come across my face with a
3 blade in his hand cutting across and putting a deep cut to
4 my face and started kicking me in my face and the car was
5 just rolling in the yard.

6 And I can't remember how I got out, but I got out and I
7 started running and I fell. I got up and started running
8 across the road in the grass and I fell again. That's when
9 he was on me chopping me. And I said, Lord, please give me
10 strength. When he came down with the blade, I grabbed hold
11 to the blade. It kind of slipped back and I hold onto it,
12 to the blade. The next thing I know, the guys had knocked
13 him over.

14 THE COURT: All right. Thank you. Anything else you'd
15 like to say?

16 THE VICTIM: No.

17 THE COURT: Thank you.

18 Ms. Hammack, anything further?

19 MS. HAMMACK: No, Your Honor.

20 THE COURT: Well, we've had the mental evaluation and
21 he was found competent to stand trial. He must suffer the
22 consequences. This is a true attempted murder case. While
23 there may be some mitigating factors based on the issues
24 discussed by Mr. Hawk and the doctor, nevertheless, there is
25 no justifiable excuse for attempting to kill the victim.

1 The sentence of the Court is that he be committed to the
2 State Department of Corrections for a period of 12 years,
3 credit for 756 days. Thank you.

4 MR. HAWK: Thank you, Your Honor.

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2 CERTIFICATE OF REPORTER

3

4

5 STATE OF SOUTH CAROLINA)

6 COUNTY OF AIKEN)

7

8 I, PENNY M. JOHNSON, Official Court Reporter for the

9 Second Judicial Circuit of the State of South Carolina, do

10 hereby certify that the foregoing is a true, accurate, and

11 complete Transcript of Record of the proceedings had and the

12 evidence introduced in the hearing of the captioned case,

13 relative to appeal, in General Sessions Court for Aiken

14 County, South Carolina, on the 11th day of December, 2020.

15 I do further certify that I am neither of kin, counsel,

16 nor interest to any party hereto.

17

18 May 18, 2021

19

20

21 Penny M. Johnson

22 Penny M. Johnson

23 Official Court Reporter

24

25

FORM 5

2021CP0200665

STATE OF SOUTH CAROLINA)
)
 COUNTY OF Aiken)
)
John Green 384642 (SCDC))
 Full name and prison number (if any) of Applicant.)
)
 v.)
)
 State of South Carolina)
)

IN THE COURT OF COMMON PLEAS

FILED 4-5 20 21:31

Robert J. White
C.C.P. & G.S. SP

Shadell Parks
Deputy Clerk

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 SCDC
2. Name and location of Court which imposed sentence Aiken County, SC
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) 2019GS0200837 2019A0220100923
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 12/11/2020, 12 years
 - (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?

8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. SC Court of Appeals _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. dismissed _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. 2/2/2021 _____
- 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) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully: Insufficient Counsel

- (a) _____
- (b) _____
- (c) _____

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

- (a) Chase Hawk worked with Barry Thompson who was fired
- (b) from my case for working with the victim against me. Chase
- (c) railroaded me and did not advise me of what I was pleading guilty to.

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

- (a) any petition in a State Court under South Carolina Law? _____
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? _____
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? _____
- (d) any other petitions, motions or applications in this or any other Court? _____

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) The State Court of Appeals dismissed my appeal because I

(b) was filed 1 day late.

(c) _____

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

(a) your arraignment and plea? yes

(b) your trial, if any? _____

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____

(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. Marion Chase Hawk

ii. _____

iii. _____

(b) the proceedings at which each such attorney represented you:

i. 12/11/2020, Aiken Court - v. Corporal Sossini + 5

ii. _____

iii. _____

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

New Trial

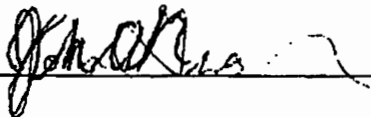
20. Are you now under sentence from any other court that you have not challenged?

No

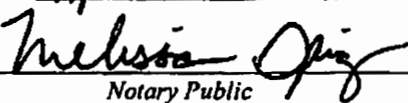
STATE OF SOUTH CAROLINA)
)
County of Aiken)

VERIFICATION

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



SWORN to and subscribed before me this 1 day of April, 2021.

 (L.S.)
Notary Public

My Commission Expires: 12-1-2025

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

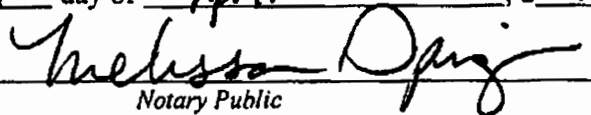
I, John Green, hereby
apply for leave to proceed in this action without prepayment of fees or costs or security therefor.
In support of my application I declare under penalty of perjury that the following facts are true:

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



Applicant

SWORN or affirmed to and subscribed before me this
1 day of April, 2021.



Notary Public

My Commission Expires: 12-1-2025

John Green # ³⁸⁴⁶⁴²~~038642~~ F-3-A 101
Kirkland Correctional Institution
4344 Broad River Road
Columbia, SC 29210

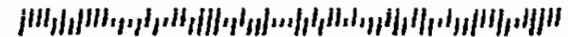
COLUMBIA SC 292

02 APR 2021 PM 4 L



Robert J. Harte
Clerk of Court
P.O. Box 583
Aiken, SC 29802-0583

29802-058363



STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF AIKEN)	FOR THE SECOND JUDICIAL CIRCUIT
)	
JOHN GREEN, S.C.D.C. # 384642,)	
)	Case No.: 2021-CP-02-0665
Applicant,)	
)	RETURN TO THE APPLICATION
v.)	FOR POST-CONVICTION RELIEF
STATE OF SOUTH CAROLINA,)	(Counsel Already Appointed)
)	
Respondent.)	
_____)	

In response to the post-conviction relief application by Applicant John Green on April 5, 2021, Respondent the State of South Carolina makes the following return to the application and requests an evidentiary hearing to resolve the claims as set forth in this application.

I. Procedural History

Applicant is presently confined in the South Carolina Department of Corrections. On November 16, 2018, Applicant stabbed his biological daughter numerous times. Two witnesses observed the incident and intervened, and Applicant later gave a statement admitting to the stabbing. Subsequently, during the May 2019 term, the Aiken County Grand Jury indicted Applicant for attempted murder (2019-GS-02-00837). Applicant was originally represented by Assistant Public Defender Barry Thompson of the Second Circuit Public Defender’s Office. Applicant moved to have Mr. Thompson relieved, which was granted, and thereafter, Applicant was represented by Marion Chace Hawk, Esquire. Assistant Solicitor Ashley Hammack of the Second Circuit Solicitor’s Office prosecuted the case.

Applicant was evaluated for competency to stand trial and criminal responsibility by the South Carolina Department of Mental Health. Following a hearing on April 16, 2020, Honorable Clifton Newman, circuit court judge, found Applicant competent to stand trial and criminal responsible.

FILED June 10 2021
Abel J. White CMP
 C.C.P. & G.S.
Charla Buffin Pleau
 Deputy Clerk

On December 7, 2020, Applicant, alongside counsel, appeared before Judge Newman and pled guilty as indicted. Following a colloquy with Applicant, Judge Newman found the plea was knowing, voluntary, and intelligent, accepted the plea. At Applicant's request, deferred sentencing until later in the week to allow family members to be present.

On December 11, 2020, the parties reconvened before Judge Newman for a sentencing proceeding. At that time, counsel Hawk presented testimony from Dr. Holt as to Applicant's mental health conditions, particularly as related to the incident giving rise to these charges. Pursuant to a recommendation by the State for a sentence to not exceed twenty years of imprisonment, Judge Newman sentenced Applicant to twelve years of imprisonment.

On December 22, 2020, counsel Hawk filed a notice of appeal at Applicant's request. In his Rule 203(b), SCACR, explanation, counsel stated he did not believe there were any sufficient grounds for an appeal but was filing an appeal at his client's request. By order filed January 11, 2021, the South Carolina Court of Appeals dismissed the appeal based on a failure to timely serve the notice of appeal. The remittitur was issued on February 2, 2021.

II. Current Action before the Court

In his application for post-conviction relief, Applicant alleges he is entitled to relief based on the following: "insufficient counsel . . . Chase Haw worked with Barry Thompson who was fired from my case for working with the victim against me. Chase railroaded me and did not advisement of what I was pleading guilty to."

As requested relief, he states he is seeking "new trial."

Attached herewith and incorporated herein are the records of the Aiken County Clerk of Court regarding the subject convictions, the transcript from Applicant's plea proceeding, the records from Applicants direct appeal, and Applicant's records from the South Carolina

Department of Corrections. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III. Response to Allegations of Ineffective Assistance of Counsel

Applicant also alleges he was denied the right to effective counsel because counsel worked in conjunction with his prior public defender and the victim to “railroad” him.

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive effective assistance of counsel guaranteed by the Sixth Amendment. See generally S.C. Code Ann. § 17-27-20(A) (enumerating allegations cognizable in PCR actions). The allegation of denial of such representation sets forth a prima facie violation of this constitutional right, and raises a question of fact that can only be determined by an evidentiary hearing. Rogers v. State, 261 S.C. 288, 291, 199 S.E.2d 761, 762 (1973).

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

The first prong—constitutional deficiency—is “necessarily linked to the practice and

expectations of the legal community.” Padilla v. Kentucky, 559 U.S. 356, 366 (2010). In order to prove deficient performance, the applicant must show counsel’s representation fell below an objective standard of “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler, 286 S.C. at 442, 334 S.E.2d at 814.

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

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

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

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

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

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

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

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

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

The analysis of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show counsel's representation fell below the objective standard of

reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his plea was induced by ineffective assistance of counsel must prove counsel’s advice to plead guilty was not “within the competence demanded of attorneys in criminal cases.” Hill, 474 U.S. at 56.

The second, or “prejudice” prong, however, “focuses on whether counsel’s constitutionally ineffective performance affected the outcome of the plea process.” Id. at 58–59. Specifically, when an applicant claims counsel’s deficient performance caused him to accept a plea, the applicant “must show that there is a reasonable probability that, but for [plea] counsel’s [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial.” Id. at 59. This inquiry “focuses on a defendant’s decisionmaking” and does not turn on the outcome of a defendant’s actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. ___, 137 S. Ct. 1958, 1966 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Surmounting Strickland’s high bar is never an easy task, and the strong societal interest in finality has “special force with respect to convictions based on guilty pleas.” Lee, 582 U.S. ___, 137 S. Ct. at 1967 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 (“[R]equiring a ‘prejudice’ showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel ‘will serve the fundamental interest in the finality of guilty pleas.’”). Reviewing “[c]ourts should not upset a plea solely because of post

hoc assertions from a defendant about how he would have pleaded but for his attorney's deficiencies. Lee, 582 U.S. ___, 137 S. Ct. at 1967. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences. Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the PCR hearing. Harres, 282 S.C. at 134, 318 S.E.2d at 361.

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." Id. 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.

Here, the record established Applicant knowingly, voluntarily, and intelligently entered a guilty plea with the assistance of competent counsel. Accordingly, Respondent submits Applicant cannot satisfy either requirement of the Strickland test for these claim of ineffective assistance of counsel. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve these allegations of ineffective assistance of counsel. Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV. Any Future Amendments and Invocation of Discovery Process

Applicant must specify any claims he intends to raise at the PCR evidentiary hearing. All claims should be made well in advance of the evidentiary hearing. Because Applicant has an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. See Rule 11, SCRPC. *Pro se* filings will not be considered at the PCR hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State pursuant to Love v. State, 428 S.C. 231, 834 S.E.2d 196 (2019), or, alternatively, the State will request a continuance in the matter. See Id. at 245, 834 S.E.2d at 203 (Kittredge, J., dissent) (“If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and thus remove any possibility of prejudice resulting from the belated amendments.”).

Pursuant to section 17-27-150 of the South Carolina Code, 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. Further, Respondent requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last minute resulting in undue prejudice to the State. See Love, 428 S.C. 231, 834 S.E.2d 196.

V. Response to Any and All Other Allegations

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

VI. Request for an Evidentiary Hearing


WHEREFORE, having made its return, Respondent requests an evidentiary hearing be held on the allegations of ineffective assistance of counsel as set forth in the application.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

By: 
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

June 8th, 2021

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

JOHN GREEN, #384642,)

Applicant,)

vs)

STATE OF SOUTH CAROLINA,)

Respondent.)

IN THE COURT OF COMMON PLEAS


2021-CP-02-0665

AFFIDAVIT OF SERVICE BY MAIL

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

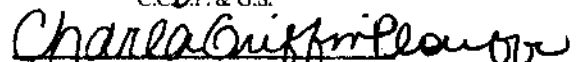
Arthur K. Aiken, Esquire
Aiken & Hightower, P.A.
Post Office Box 90707
Columbia, South Carolina 29290

DATED this the 8th day of June, 2021.


 Kaitlyn S. Slice, Legal Assistant
 For Respondent

FILED June 10 20 21


 C.C.P. & G.S.


 Deputy Clerk

1 STATE OF SOUTH CAROLINA * COURT OF COMMON PLEAS
 *
 2 COUNTY OF AIKEN * TRANSCRIPT OF RECORD
 *
 3 -----X
 JOHN GREEN, *
 *
 4 Applicant, *
 *
 5 vs. * Case No. 2021-CP-20-00665
 *
 6 STATE OF SOUTH CAROLINA, *
 *
 7 Respondent. *
 8 -----X

9 January 30, 2024

10 POST-CONVICTION RELIEF HEARING

11 B E F O R E:

12 The Honorable Kristi F. Curtis, Presiding Judge

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

14 Kimberly Yancey-Brooks, Esq.
 15 Attorney for the Applicant

16 Cruise Mitchell, Esq.
 17 Assistant Attorney General for the Respondent

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 23 Recorded by: DCRP Court Monitor

24 Court Transcriber: Bobbi Fisher, RPR
 25 SC Official Court Reporter III

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I N D E X

DESCRIPTION	PAGE
Proceedings	3

E X H I B I T S

(None.)

COURT REPORTER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[Verbatim]	Indicates the word is said as written
(Indiscernible)[Transcription]	Indicates word(s) is not known due to audio recording quality

1 P R O C E E D I N G S

2 (The following proceedings started at 9:50 a.m.):

3 THE COURT: Okay. Our first matter this morning is John
4 Green.

5 MR. MITCHELL: Yes, Your Honor. May it please the Court.

6 THE COURT: Yes, sir.

7 MR. MITCHELL: This is the Post-Conviction Relief matter
8 of John Green v. State, Case No. 2021-CP-02-0665 out of Aiken
9 County. I'm Cruise Mitchell on behalf of the State of South
10 Carolina. Applicant is present and represented by counsel,
11 Kimberly Brooks.12 During the May 2019 term, the Aiken County Grand Jury
13 indicted Applicant for attempted murder. Applicant was
14 originally represented by Barry L. Thompson, II, of the
15 2nd Circuit Public Defender's Office. Applicant moved to have
16 Mr. Thompson relieved, which was granted, and thereafter,
17 applicant was represented by Marion Chase Hawk, Esquire.
18 Assistant Solicitor Ashley Hammack prosecuted the case.19 On December 7th, 2020, Applicant appeared before the
20 Honorable Clifton Newman and pleaded guilty as indicted.
21 Sentencing was deferred until December 11th, 2020.22 Pursuant to a recommended cap of 20 years, Judge Newman
23 sentenced Applicant to 12 years' imprisonment for attempted
24 murder.

25 On December 22nd, 2020, Mr. Hawk filed a Notice of Appeal

1 at Applicant's request. The South Carolina Court of Appeals
2 dismissed the appeal as untimely. The remittitur was issued
3 on February 2nd, 2021.

4 And with that, I'll turn it over to Ms. Brooks.

5 THE COURT: Okay. Good morning.

6 MS. BROOKS: Good morning, Your Honor. I would like to
7 call Mr. Green to the stand.

8 THE COURT: Okay. And before we do that, if I can just
9 question him briefly.

10 Mr. Green, if you'll raise your right hand, sir.

11 Do you swear or affirm the testimony you're about to give
12 the Court is the truth, the whole truth, and nothing but the
13 truth so help you God?

14 THE APPLICANT: Yes, ma'am.

15 JOHN GREEN

16 after having been duly sworn, was examined and testified
17 to as follows:

18 THE COURT: So I see that you were indicted and
19 ultimately convicted for attempted murder, which I understand
20 carries zero to 30 years. Is that your understanding?

21 THE APPLICANT: Right.

22 THE COURT: And you received a sentence of 12 years. And
23 I understand that your max-out date is January of 2029, is
24 what your paperwork was showing. So about five years from
25 now, which I'm not trying to make light of, certainly.

1 But you understand, if I grant your PCR, my only weapon
2 in my arsenal is I can send this case back as if your trial
3 never took place or your plea never took place? So that means
4 the State could still try you for attempted murder, and you
5 could be retried and get more time than 12 years. And it
6 carries up to 30 years, so you could get significantly more
7 time on a retrial than you did in this plea. And you
8 understand that?

9 THE APPLICANT: Right.

10 THE COURT: And there's no guarantee that, on a retrial,
11 the State would make any offers to you. In the first plea,
12 they offered you a 20-year cap. You understand, if you went
13 back, there's no guarantee that they would offer that 20-year
14 cap again?

15 And I see that you're nodding your head yes.

16 THE APPLICANT: Do what now?

17 THE COURT: I see that you're nodding your head yes. I
18 just need you to respond verbally.

19 THE APPLICANT: Well, I didn't know you was -- could you
20 repeat what you said?

21 THE COURT: I just want to make sure you understand that
22 the State doesn't have to offer you that 20-year cap when you
23 go back for a retrial.

24 THE APPLICANT: Right.

25 THE COURT: If I were to grant your PCR and you got a new

1 trial, the State doesn't have to make any offers to you.

2 THE APPLICANT: Right.

3 THE COURT: And so you could end up with a worse sentence
4 than what you got the first time.

5 THE APPLICANT: Right.

6 THE COURT: And you understand that?

7 THE APPLICANT: Right, I understand.

8 THE COURT: And you've talked that over with Ms. Brooks?

9 THE APPLICANT: Right.

10 THE COURT: And knowing that, are you wanting to go
11 forward with your PCR today?

12 THE APPLICANT: Yes, ma'am. I want to go forward with
13 it.

14 THE COURT: Okay. Come on up.

15 And since I've already sworn you, you can just go
16 straight onto the witness stand. Thank you.

17 THE APPLICANT: Oh, okay.

18 JOHN GREEN

19 after having been previously duly sworn, was examined and
20 testified to as follows:

21 DIRECT EXAMINATION

22 BY MS. BROOKS:

23 Q. State your name for the record, please.

24 A. John Green.

25 Q. All right, Mr. Green. And where are you currently

1 incarcerated? Where are you in jail right now? Prison. What
2 prison are you in?

3 A. I'm in Kirkland. I was in Trenton, and they moved me to
4 Kirkland.

5 Q. Okay. You're in Kirkland.

6 And are you in Kirkland because you pled guilty to
7 charges of attempted murder?

8 A. Right.

9 Q. All right. And you received a 12-year sentence with some
10 credit for your time served; correct?

11 A. Right.

12 Q. And you filed this PCR paperwork and said that your
13 counsel, Chase Hawk, was ineffective.

14 A. Right.

15 Q. And you -- can you please explain to the Court how you
16 feel or how you believe Mr. Hawk was ineffective.

17 A. Chase Hawk -- well, see, I went to court four times for
18 this case. I come to court in 2019 here in this court with
19 Barry Thompson.

20 Q. Yes. That was your first attorney; correct?

21 A. That's the first attorney.

22 Q. All right. And then they released --

23 A. So they -- they --

24 Q. Wait. Wait one second. They relieved that attorney;
25 correct?

1 A. Right. They found Barry Thompson was getting the victim
2 tied up in my case.

3 Q. All right. And after he was relieved, they appointed
4 Mr. Hawk; correct?

5 A. No, they got me to plead guilty without a lawyer after
6 they find Mr. Barry Thompson. Then the judge got me to plead
7 -- asked me how I plead, and I told him I pleaded -- nobody
8 put a cap on it.

9 And the judge told me, he said I can't plead it that way.
10 And I knew I didn't have a lawyer, and he said, "Well, you've
11 got to plead guilty." So I went ahead and pled guilty without
12 a lawyer. And I knew that wasn't right.

13 Q. Okay. And then what happened?

14 A. And then they turned it around and give me Chase Hawk out
15 of Augusta, the one sitting right over there right there.

16 And the next time we went to court -- well, Mr. Chase
17 Hawk, he's not a criminal lawyer. He's an injury lawyer. So
18 the second time we went to court, when the judge asked Chase
19 Hawk what he knows about the case, Mr. Chase Hawk said he
20 didn't know anything about that case because he never tried a
21 case like that.

22 And then he brought Mr. Barry Thompson back in there
23 again on me to mess me up again. And he got fired in 2019.

24 Q. All right. So you're saying, in 2020, you went to court;
25 correct?

1 A. Right.

2 Q. With Mr. Hawk; correct?

3 A. Right.

4 Q. All right. And because Mr. Hawk didn't know anything
5 about the case, you're saying the judge brought Mr. Thompson
6 back into the courtroom?

7 A. Yeah, they brought Mr. Thompson back into the courtroom.

8 Q. All right. Now, eventually, you pled guilty to this
9 charge; correct?

10 A. Well, I pled guilty in 2019.

11 Q. And do you remember pleading perhaps a second time with
12 Mr. --

13 A. No, I didn't pled guilty, because they used that guilty
14 plea from 2019 for 2020.

15 Q. And so what's wrong -- what was wrong with how Mr. Hawk
16 represented you?

17 A. Mr. Hawk?

18 Q. Yeah.

19 A. Well, he never did -- did anything, got any paperwork.
20 He told me that he had -- he got the victim involved with my
21 case, just like Mr. Chase Hawk did and he --

22 Q. Wait one second. When you say he got the victim involved
23 with the case just like Mr. Thompson did, what do you mean by
24 that?

25 A. Well, he -- he start -- he said that what I did, he was

1 going to make sure I get some time put on me. And then
2 he was --

3 Q. And by "he," you mean Mr. Hawk?

4 A. Right, Mr. Hawk.

5 Q. And Mr. Hawk said what?

6 A. He said he was going to make sure I get some time. He's
7 going to make sure that I was going to get some time.

8 Q. And so are you telling the Court that Mr. Hawk was in
9 cahoots with the victim?

10 A. Right.

11 Q. Okay. All right. And other -- okay. So Mr. Hawk said
12 he was going to get you some -- make sure you got time. And
13 why did he say that? Did he tell you why he was going to make
14 sure you got time?

15 A. Well, he said that he had paid the mental health doctor
16 \$1,500 down there in Aiken County Jail so I could -- so I
17 could really get some time.

18 Q. Okay. All right. And so you're saying that Mr. Hawk
19 told you he had paid the doctor. Would that be Dr. Powell?

20 A. Right. Doctor -- doctor -- the mental health doctor down
21 there at the Aiken County Jail.

22 Q. Would it be the same doctor that testified at your
23 sentencing hearing?

24 A. Right. The same one.

25 Q. And that he paid him so that you would -- to say things

1 that were untrue?

2 A. That's right.

3 Q. So that you would get more time?

4 A. That's right.

5 Q. All right.

6 A. And then plus they -- Mr. Chase Hawk put slashing tires
7 on my charges that somebody told him that I'd done, and then
8 they got sexual assault charges from the jail. They just
9 roped me up. And then I wouldn't sign the paper so they could
10 get it documented and got my hand up in the door and tried to
11 break my hand. I still got problems with my hand. The
12 lieutenant down there at the jail done that. But, anyway --

13 Q. May I ask: What does any of that -- the charges you
14 almost got in the jail and the lieutenant shutting your hand
15 in the door, what does that have to do with Mr. Hawk?

16 A. Well, they -- they done that so I could -- I could sign
17 the papers so they could get it documented, but I wouldn't
18 sign the paper. So Mr. Hawk put that on my paper, the
19 attempted murder charges, put sexual assault and slashing
20 tires. And them two charges was not documented.

21 Q. All right. But you would agree that, for your guilty
22 plea, it didn't have anything to do with sexual assault or
23 slashing tires?

24 A. No, ma'am. That didn't have nothing to do with that.

25 Q. All right. Now, you have informed the Court that you

1 would like -- you understand that, if you go -- you win on the
2 PCR and the judge agrees that Mr. Hawk did all of these
3 things, that all you can do is go back down to the trial
4 court; correct?

5 A. Right.

6 Q. And you would get to have a trial; correct?

7 A. Right.

8 Q. But based on your testimony here, you pled guilty twice.

9 A. What I pled guilty for -- for the attempted murder,
10 because the judge told me I had to plead guilty to attempted
11 murder without a lawyer.

12 Q. All right. So you're saying you only pled guilty under
13 duress. They made you plead guilty.

14 A. Right.

15 Q. First, it was the judge that -- the judge made you do it?

16 A. Yeah, the judge made me plead guilty to it because I told
17 him I didn't have a lawyer, I'm going to plead no violence
18 with -- put a cap on it.

19 And the judge said, "You cannot plead that way. You've
20 got to plead guilty."

21 So I went ahead and pled guilty to the charges without a
22 lawyer.

23 Q. All right. Now, do you -- I sent you some paperwork;
24 correct?

25 A. Right.

1 Q. And you've got it and you've brought it with you to court
2 today?

3 A. Right.

4 Q. All right. And in that paperwork was a copy of the
5 transcript from a hearing -- for two hearings in December of
6 2020. Do you remember going to court in December of the year
7 2020?

8 A. Right.

9 Q. Well, it would have been by WebEx. Do you remember
10 getting on the screen and doing hearings by WebEx over the
11 computer or over the TV screen?

12 A. Right.

13 Q. All right. Do you remember pleading guilty during that
14 time?

15 A. I didn't -- they didn't -- I didn't pled guilty. They
16 just used -- from 2019, they just used that back on me.

17 Q. Okay. All right. And so why do you think that this
18 paperwork that I received and I sent to you says you pled
19 guilty in 20- --

20 A. Well, I don't know about that. You know? I reckon they
21 just did what they wanted to do.

22 Q. Okay. All right. Now, what is it you hope to gain by
23 going back to trial court?

24 A. Well, the first thing I want to say, with all respect, I
25 ain't trying to get out of what happened. The only thing, I

1 just want a fair trial.

2 Q. Okay.

3 A. That's all I want -- looking for. You know? A serial
4 killer -- I mean, by the law, they're supposed to get a fair
5 trial. I mean, I'm not a serial killer. I was treated like a
6 serial killer, but I didn't kill anybody.

7 And plus, you know, all the paperwork that Mr. Chase Hawk
8 said he had, he never turned nothing in. He didn't do
9 anything. So I went to court four times without a lawyer.

10 Q. And so you're saying you pled guilty but you didn't -- no
11 one had gone over the discovery with you?

12 A. That's right.

13 Q. And did you discuss with Mr. Hawk any defenses that you
14 had to what you were accused of?

15 A. Right. But he just said, "No, you -- I'm going to make
16 sure -- you're going to get some time. I'm going to make sure
17 you're going to get some time." That's all he said. And he
18 ain't did nothing to work with me or try to work my case or
19 nothing.

20 Q. All right. And what is your defense? What defense did
21 you tell Mr. Hawk? Because you were accused of stabbing your
22 daughter, but you -- what defense did you have to that?

23 A. Well, I told him that what happened, that she had tried
24 to stab me and cut my hand and held a knife from getting --
25 getting stabbed. And so the City Police Department was called

1 in. And they wrote up -- they wrote up some papers and stuff,
2 and they had a record of that at the police department. And
3 Mr. Chase Hawk said he had all of that, but he never turned
4 nothing in.

5 Q. Okay. All right.

6 A. That was in 2018.

7 Q. All right. And so, despite your insistence that you had
8 a defense, you had a good reason for what happened, Mr. Hawk
9 insisted that you plead guilty?

10 A. Well, right. Well, I already had pled guilty in 2019.

11 Q. That's right. The judge made you plead guilty.

12 A. Right. The judge made me pled guilty.

13 Q. But if you pled guilty in 2020 like the paper says --

14 A. Right.

15 Q. -- was -- would you have done that freely of your own
16 will?

17 A. No, I wouldn't have did it not on my own if I didn't --
18 you know? If I know Mr. Hawk, you know -- I didn't even know
19 Mr. Hawk. He wasn't even assigned to my case in 2019.

20 Q. Okay. All right. Is there anything else you would like
21 to say about Mr. Hawk's representation of you? Did he do
22 anything else wrong?

23 A. Well, it was a lot of things that Mr. Hawk done wrong.
24 He -- I told him to -- to -- how about go at the bank. The
25 victim had done took, like, about \$14,000 off of my Social

1 Security check, and I told Mr. Hawk. He said, "Why don't I be
2 your attorney?" So I signed this paper, and I go up there and
3 -- and -- and get rid of your -- and drop your insurance.

4 And Mr. Hawk took that paper and -- what I signed and --
5 and the victim took that paper and signed there for my income
6 taxes for my -- send me (ph) the check and stop me from
7 getting that.

8 Q. Okay. All right.

9 A. And then, plus, after -- he didn't drop the insurance,
10 and the victim turned around and hired somebody to kill me in
11 prison when I was up there and couldn't and messed my leg up
12 and beat on me for about three or four days and mentioned the
13 victim's name.

14 But now, if he had-a dropped that insurance, I wouldn't-a
15 had that problem because they had done collected \$14,000. I
16 bet you they were going to try to collect the other \$8,000 if
17 I was killed in prison.

18 Q. Okay. But Mr. Hawk, as far as you know, did not have
19 anything to do with the attempt on your life in prison;
20 correct?

21 A. Well, I -- I can't say, but I don't -- I wouldn't say he
22 had the attempt, but I know it was attempt there. Because the
23 guy that tried to kill me, he was from Aiken and he acted --
24 before he start trying to kill me, he mentioned the victim's
25 name. But I know, if that insurance wasn't there -- because I

1 had had that happen to me before.

2 Q. Somebody else tried to kill you?

3 A. Yes. Some people in my family took that -- we had
4 \$25,000 on my insurance.

5 Q. By "insurance" -- let me stop you for a second. By
6 "insurance," you don't mean health insurance. I mean, you
7 don't mean a health savings plan?

8 A. No, Soc- -- I mean --

9 Q. You mean life insurance?

10 A. Life insurance.

11 Q. Life insurance. Okay. So people tried to kill you for
12 your life insurance when you were in prison?

13 A. Right.

14 MR. MITCHELL: Objection, Your Honor. I don't understand
15 the relevance of any of this testimony as it pertains to the
16 ineffectiveness of Mr. Hawk.

17 THE WITNESS: I ain't saying Mr. Hawk had anything to do
18 with it, but now, if he had-a --

19 THE COURT: Hang on just a minute.

20 That's sustained. We can move on from this.

21 BY MS. BROOKS:

22 Q. So back to Mr. Hawk, he didn't -- are you -- have you
23 said everything that Mr. Hawk -- that you need to about what
24 Mr. Hawk did, how he was an ineffective counsel in your case
25 and how he didn't do what needed to be done?

1 A. Right.

2 Q. Okay. Anything else to say about Mr. Hawk?

3 A. Well, that's -- that's about it. There's a lot of other
4 things that he did wrong, but, you know, I'll just leave it
5 like that. You know? I ain't saying that he had anything to
6 do with the person that tried to kill me. Now, he might have
7 didn't have anything to do, but what he didn't do when he
8 should have went up there and dropped that insurance, I
9 wouldn't have had that problem in problem -- in prison.

10 Q. Okay. All right. Thank you. I have no further
11 questions.

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

14 THE COURT: Thank you, sir. You can step down.

15 MS. BROOKS: I have no other witnesses, Your Honor.

16 THE COURT: Mr. Mitchell?

17 MR. MITCHELL: Your Honor, the State calls Mr. Barry
18 Thompson.

19 THE CLERK: Do you solemnly swear or affirm the testimony
20 you'll give in this case will be the truth, the whole truth,
21 and nothing but the truth so help you God?

22 MR. THOMPSON: I do.

23 BARRY THOMPSON,

24 after having been duly sworn, was examined and testified
25 to as follows:

1 THE CLERK: If you'll take a seat in the witness box and
2 state your full name for the Court.

3 THE WITNESS: I'm Barry Thompson, T-h-o-m-p-s-o-n.

4 DIRECT EXAMINATION

5 BY MR. MITCHELL:

6 Q. Good morning, Mr. Thompson.

7 A. Good morning.

8 Q. Were you appointed or retained in this case?

9 A. Appointed. I work for the 2nd Circuit Public Defender's
10 Office.

11 Q. And do you know how long you represented Mr. Green?

12 A. I'm going to have to confess to you, someone helped me
13 this morning and unloaded my iPad out of my briefcase.

14 THE WITNESS: And I apologize, Your Honor, I'm probably
15 in contempt of court in that I don't have my file before me
16 today.

17 A. So I don't know exactly what day it was, but I was
18 appointed to represent Mr. Green in the normal course of my
19 duties. And I met with him on numerous occasions in the jail
20 and we discussed his case.

21 I also -- kind of helping you maybe advance a little bit,
22 in the course of my investigation -- you have to investigate
23 the defense's case and the prosecution's case. In the course
24 of my investigation, I spoke with his daughter, who was the
25 victim in this matter. And I can give you a brief synopsis of

1 my investigation, if you want me to.

2 Q. Please.

3 A. Essentially what happened is Mr. Green and the victim,
4 who was his daughter, had had an estranged relationship. She
5 had discovered who he was and was trying to kind of reconnect
6 with her family members. And they were in the car together
7 during a car ride.

8 For an unknown reason, Mr. Green is alleged to have
9 pulled out a knife and started trying to stab her while she's
10 driving the car. She stops the car and she gets out of the
11 car and she starts running away from Mr. Green, and Mr. Green
12 chases her down and starts stabbing her some more.

13 And there are two completely unrelated kind of
14 bystanders. These are people kind of out in their front yards
15 that see this attack happening, and they come to the victim's
16 aid, and they restrain Mr. Green until the police get there,
17 and that's how he ended up in police custody.

18 I found him to be a little bit difficult to follow, and I
19 had him evaluated by the Department of Mental Health. The
20 Department of Mental Health gave an opinion that he was
21 competent to stand trial and that he was able to understand
22 his behaviors at the time that this all happened.

23 Mr. Green and I discussed his case at length on numerous
24 occasions. He very much did not want to plead guilty, so we
25 had this real circular argument where I would say, "Well, if

1 you don't want to plead guilty, then we need to get ready to
2 go to trial." And he would say, "Well, I don't want to go to
3 trial. I know I can catch up to 30 years if I go to trial. I
4 don't want to go to trial."

5 And I would say, "Well, if you don't want to go to trial,
6 then we need to talk about whether to plead guilty, because
7 they're not going to drop this case."

8 And he would say, "But I don't want -- I don't want to
9 plead guilty."

10 "Well, then you need to go to trial."

11 And we'd go round and round and round and round about
12 this. Ultimately, there was an offer made on the case.
13 Mr. Green decided that he wanted to accept the State's offer.
14 I don't really twist people's arms about whether to go to
15 trial or not go to trial or not. I get -- I'm here for the
16 duration. I'm part of the County staff, and my life is not
17 affected very much whether we go to trial or don't go to
18 trial. I told him, yeah, sure, we could --

19 Q. So you've never tried to coerce Mr. Green into pleading
20 guilty?

21 A. No, sir. No, sir, not at all. I did tell him my -- my
22 professional opinion was that, if we went to trial, we did not
23 have any affirmative defenses. We did not have any witnesses
24 other than Mr. Green's testimony; that the State was going to
25 have three very compelling witnesses, two of which were

1 perfect strangers to Mr. Green and did not know him, did not
2 know the victim, and witnessed him chasing this girl down and
3 stabbing her; that I thought that we would very, very likely
4 lose at trial and that the best option for him was to plead
5 guilty.

6 And, ultimately, he decided, "Okay, well, I'll go plead
7 guilty." We came in front of the Court. And when we came in
8 front of the Court, the plea --

9 Q. Was this in 2019?

10 A. I believe that's correct. I apologize; I don't have my
11 file in front of me, but I believe that's correct.

12 When we came in front of the Court, the plea broke down
13 because Mr. Green said, "Well, I really don't want to plead
14 guilty." And I said, "Well, that's fine, let's all go back to
15 the back and..."

16 Anyway, Mr. -- sorry, Judge Newman, I believe in an
17 effort to try to help Mr. Green out, did ultimately, I
18 believe, relieve me of counsel -- I believe it was Judge
19 Newman -- and appointed alternative counsel for Mr. Green.
20 And that was the extent of my representation of Mr. Green.

21 I am frequently in the courtroom during General Sessions
22 Court. In fact, I'm here almost all the time unless I'm sick.
23 And I'm certain that I was here during the time where he would
24 have been having conversations back in lock up with Mr. Hawk.
25 And I think I can remember offering, "Hey, look, I can, you

1 know, try to talk to you about this if you want to."

2 But Mr. Hawk, I think, did a fantastic job. He basically
3 had the same kind of evaluation of the case that I did, that
4 this was not going to be a case that was going to go well for
5 Mr. Green if it went to trial, and that the -- frankly, the
6 best and kindest way to try to conserve as much of Mr. Green's
7 freedom as possible was that he needed to go ahead and plead
8 guilty. But I don't remember anybody forcing Mr. Green to do
9 that. It's just -- unfortunately for him, it was a difficult
10 choice.

11 Q. So Mr. Green never pled guilty to these charges in 2019?

12 A. I think we tried to, but I don't believe -- because of
13 Mr. Green's reluctance, I don't believe that that plea was
14 accepted in 2019. I don't believe that that's correct.

15 Q. And so was y'all's breakdown of the relationship based on
16 you advising him he wanted to plea and him wanting to go to a
17 jury trial and then him not wanting to go to jury trial but
18 not wanting to plea and then...

19 A. I believe that the reason why he got another -- why he
20 got separate counsel was because Mr. -- Judge Newman, who I
21 think is a very fine man, wanted to give Mr. Green a second
22 opinion.

23 Q. And then, based on the State's evidence in this case, do
24 you believe a guilty plea was in Mr. Green's best interest?

25 A. Absolutely.

1 MR. MITCHELL: I have no further questions for this
2 witness.

3 Thank you, Mr. Thompson.

4 THE WITNESS: Very fine.

5 THE COURT: Ms. Brooks?

6 MS. BROOKS: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. BROOKS:

9 Q. Sir, during the course of your representation of
10 Mr. Green, did you have contact with the victim?

11 A. Absolutely. I spoke to her on the phone. I can't
12 remember whether I had my investigator speak directly to her
13 or not, but I spoke to her on the phone and basically asked
14 her about her testimony. It was essentially consistent with
15 what she told the police and consistent with her medical
16 records and consistent with what we thought had happened in
17 the case.

18 Q. Okay. And did Mr. Green at any time that he was not
19 wanting to say he didn't want to plead guilty but he didn't
20 want to go to trial ever tell you what his belief -- in his
21 belief, what his defense would be?

22 A. Like you saw this morning, he had very strong feelings
23 about having been done wrong and how she had -- I believe
24 there was some kind of allegation of her having some type of
25 sexual relation with some other family member or something

1 like that. But nothing that would have been a defense or an
2 affirm- -- nothing that would have been a defense that we
3 could have used either affirmatively or not affirmatively.

4 Q. And did you discuss all of that with Mr. Green?

5 A. Yes, ma'am.

6 Q. Did he indicate to you that he believed that he didn't
7 want you speaking with the victim or that he thought you and
8 the victim may be in some sort of agreement?

9 A. I don't remember him saying that to me. I remember being
10 able to speak to him about, yes, I did talk to her, and him
11 being very angry about what she said, but -- which would have
12 been very reasonable for him to be angry about what she said.
13 But I don't remember him giving any instructions to not speak
14 to her.

15 That also, honestly, would have probably not been
16 something that I would have listened to anyway. She was the
17 identified victim in the case and was absolutely going to be a
18 witness -- a key witness at the trial, if we were to go to
19 trial.

20 MS. BROOKS: All right. One second.

21 (Ms. Brooks conferring with Mr. Green off the record.)

22 BY MS. BROOKS:

23 Q. Did you ever -- Mr. Green was evaluated; correct?

24 A. That's correct.

25 Q. He was found to have -- and in that evaluation, they

1 determined that he had mental health issues; correct?

2 A. I believe that's correct. I haven't read the eval
3 recently, but it's quite common for us to get opinions back
4 from DMH that says, "Hey, look, this person has some type of
5 disorder or some kind of issue," but that whatever it is
6 that's going on with them doesn't rise to the level that, in
7 their opinion, this person would not be competent to stand
8 trial or that they wouldn't have understood the nature of
9 their actions and been able to conform their behavior at the
10 time that this happened.

11 And that would have been a document -- their opinion is
12 just your opinion. The ultimate person that makes that
13 decision, as you know, is the judge, and that would have been
14 -- I haven't looked at the transcript, but that would have
15 been something that I would have given Judge Newman at the
16 time that we were initially talking about pleading, and he
17 would have made a ruling on that at the time. I'm not going
18 to swear to that having happened, but that's a normal -- in
19 the 20 years that I've been doing this, that's the normal way
20 those things happen.

21 Q. And prior to Mr. Green going to -- or going for -- in
22 front of Judge Newman ---

23 A. Yes, ma'am.

24 Q. --- did you instruct him not to take his medication and
25 to act crazy when he got there?

1 A. No. No, ma'am. That would not have been -- that would
2 not have -- no, ma'am.

3 MS. BROOKS: One second.

4 (Ms. Brooks conferring with Mr. Green off the record.)

5 BY MS. BROOKS:

6 Q. Did you have anything to do with some money the victim
7 took out of his bank account, \$14,000?

8 A. No, ma'am, I don't touch money. And most of the time, if
9 I have clients that say, "Hey, can you do this or that,"
10 whatever type of civil work, I tell them that, "Look, my
11 malpractice insurance doesn't run that direction." I only do
12 criminal defense work, and I would not have gotten into any of
13 the weeds of any of his finances or -- I mean, by the nature
14 of my job, I only represent indigent defense clients that
15 aren't really supposed to have any money anyway. So, no,
16 ma'am, I do not get involved in that.

17 Q. All right. Thank you. No further questions.

18 A. Yes, ma'am.

19 MR. MITCHELL: Just briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. MITCHELL:

22 Q. Mr. Thompson, is it common for you to speak to victims
23 during the course of your investigations?

24 A. It's not only common -- the only reason why I would not
25 have spoken to the victim is if the victim would have said,

1 "No, I don't want to talk to you." It's not only common, it's
2 probably -- I don't want to say malpractice, but it's probably
3 required in me being diligent in my job duties to speak to as
4 many witnesses in the case as I can identify, at least that's
5 my understanding of it.

6 Q. And then -- and when Mr. Green explained his potential
7 defenses, did you find any of them to be viable?

8 A. No. No, sir. I mean, he was mad at this, that, or the
9 other thing, but no, sir, nothing that rises to the level of a
10 provocation that would allow you to stab an unarmed person.

11 Q. And Mr. Green was found -- was he found to be competent
12 to stand trial?

13 A. Yes, sir, that's my recollection. Again, if you have a
14 report you want to confront me with, I'll yield to the report,
15 but my understanding is that we had him evaluated and he was
16 found competent to stand trial at the time and that he was
17 found to have been able to conform his behavior at the time
18 that the events are alleged to have occurred.

19 MR. MITCHELL: Your Honor, I have no more questions for
20 this witness.

21 Thank you, Mr. Thompson.

22 THE WITNESS: Yes, sir.

23 THE COURT: You may step down.

24 THE WITNESS: And I'm sorry I did not bring my file.

25 MR. MITCHELL: Your Honor, the State calls Mr. Chase

1 Hawk.

2 THE CLERK: Do you solemnly swear or affirm the testimony
3 that you will give this Court in this case shall be the truth,
4 the whole truth, and nothing but the truth so help you God?

5 MR. HAWK: I do.

6 CHASE HAWK,
7 after having been duly sworn, was examined and testified
8 to as follows:

9 THE CLERK: If you'll have a seat in the witness box and
10 state your full name for the Court.

11 THE WITNESS: My name is Marion Chase Hawk. That is
12 M-a-r-i-o-n; Chase, C-h-a-s-e; Hawk, like the bird.

13 DIRECT EXAMINATION

14 BY MR. MITCHELL:

15 Q. Good morning, Mr. Hawk.

16 A. Good morning.

17 Q. You were appointed to represent Mr. Green following
18 Mr. Thompson being relieved?

19 A. Yes. As best as my recollection, it was somewhere around
20 November of 2019.

21 Q. So a little over a year before his guilty plea?

22 A. Correct.

23 Q. And did you meet with Mr. Green?

24 A. I did. I -- my practice, as Mr. Green correctly stated,
25 is a primary civil practice, and this was the first criminal

1 case that I had been given. As a result, I -- I worked with
2 my father on a number of criminal cases in Georgia before and
3 sat second-chair through many jury trials and helped him with
4 those, and so, I actually enlisted him to come with me to our
5 first meeting. I think that was November 13th, 2019.

6 I enlisted him to come with me in part -- he strike -- or
7 defended criminal cases pro hac vice in South Carolina for
8 many years, us being so close to the border and him doing
9 mostly criminal defense work for a number of years. So I
10 brought him along to help me ask the correct questions at our
11 first meeting with Mr. Green.

12 And so, yes, I met with him on that occasion and had had
13 many phone conversations with him in the next -- I guess over
14 the course of the next year and, of course, having follow-up
15 meetings at the jail with him.

16 Q. And then, during those meetings, did you review the
17 discovery with Mr. Green?

18 A. We talked about the discovery. We talked about what, you
19 know, the State had turned over. It took some time. I met
20 with Barry Thompson to get his take on the case and also to
21 pick up discovery from his office.

22 I did discuss with Mr. Green the damning evidence that
23 was contained within that discovery: Multiple eyewitnesses,
24 you know, testifying or giving statements to the police that
25 he chased down his daughter and was stabbing her on the

1 ground.

2 And, at those meetings, he explained his side of the
3 story to me. At the initial meetings, there was no allegation
4 that he was in any way defending himself. He was upset that
5 his daughter was messing around with his brother. And
6 Mr. Green -- when we initially met, he started off, when I
7 asked him to explain what had happened here, he went back to
8 his childhood and explained that, you know, his brother had
9 been trying to kill him since he was 14 and then explained
10 murder attempts by other family members, you know, that
11 occurred in the '90s.

12 And this is part of the reason why I insisted on having
13 him evaluated again. He might have been declared competent to
14 stand trial, but I thought it would be important, if there is
15 going to be any sort of plea, that he be evaluated for his
16 mental competency to sort of even take responsibility and for
17 the judge to understand the limitations he may have.

18 Q. So following these conversations that are based on some
19 of the things Mr. Green would relate to you, you thought it
20 would be wise to have his mental health evaluated?

21 A. Yes. I hired an LPC, a Licensed Professional Counselor,
22 to meet with Mr. Green at our cost, and he met with Mr. Green
23 and gave an opinion I thought was pretty consistent with what
24 his behavior and basically him having some level of delusions
25 about being victimized constantly and also having a very

1 difficult time with accepting responsibility.

2 I insisted that this report and the doctor be there to
3 explain that to the judge, and Judge Newman, when we got to
4 the stage of actually, you know, to do the actual sentencing
5 and to explain that in mitigation and try to -- because what I
6 understood, I asked around to the defense bar about Judge
7 Newman and how these sentencings go. And it was explained to
8 me that it was important that the person accept
9 responsibility. So I thought it important that we have the
10 judge there -- or the doctor there to explain the limitations
11 that Mr. Green may have in that regard.

12 You know, prior to getting to that sentencing stage, we
13 had done some extensive investigation, you know, not only
14 looking over what had already been generated by the State, my
15 office sent out requests to all the -- to all the mental
16 health facilities in the area, given some of the erratic
17 behavior that we witnessed at our interviews, to see if he
18 had, you know, maybe a more solid defense of having a
19 long-term mental health issue that could have been used as
20 some sort of defense in the case but to no avail.

21 I also did an open records request to all the law
22 enforcement in the area in order to determine if he had been a
23 problem, if his house had been a problem, if the victim had
24 actually ever caused problems with him in the past, and none
25 of those -- the documents that were generated actually

1 produced anything that would help with any sort of affirmative
2 defense for Mr. Green. And it was my belief that it was very
3 important for me to try to help him get to a place where he
4 could accept a plea and that I believed it to be 100% the best
5 thing in his interest in order to maybe have him a chance to
6 actually not die in prison.

7 Q. And backing up some, do you recall any of the discussions
8 you had with Mr. Green about pleading guilty versus going to
9 trial?

10 A. I do. At the initial -- at the initial meeting with him,
11 you know, we explained the possible charges that he could be
12 charged with, the amount of time that each one of those
13 charges could be -- that he would have to do, you know, versus
14 the percentage typically that he would have to serve for each
15 one of those charges and explained to him that the current
16 offer was that there was a cap of 20 years. And this was a
17 cap that or a suggestion that the prosecution was going to
18 make, and the judge could follow it or not follow it, and that
19 he had the potential to receive 30 years for just the
20 attempted murder.

21 Q. And, ultimately, Mr. Green decided to plead guilty?

22 A. Mr. Green did.

23 Q. And was that his decision or yours?

24 A. It was his decision.

25 Q. And did you ever coerce Mr. Green into pleading guilty?

1 A. Aside from telling him "this is in your best interest,
2 and if we go to trial, that you're going to get more time," in
3 my opinion.

4 Q. And during representation of Mr. Green, did you work with
5 the victim to make sure that Mr. Green got time?

6 A. I did not.

7 Q. And Mr. Green was ultimately sentenced to how long?

8 A. He was ultimately sentenced to 12 years.

9 Q. And during your mitigation, you presented all of your
10 findings from the mental health investigation?

11 A. I did. From the mental health investigation, the
12 criminal records showing he had not had any sort of violent
13 crimes in the past. I explained to him his -- I explained to
14 the judge his rough upbringing, the fact that he had been the
15 victim of abuse in the past at the hands of his brothers and
16 others, and then, of course, the mental health mitigating
17 circumstances that were testified to by the LPC.

18 Q. Thank you, Mr. Hawk. I think that's all I have for you.

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

20 CROSS-EXAMINATION

21 BY MS. BROOKS:

22 Q. Mr. Hawk, did you at any time have Mr. Green sign a
23 document regarding money in the bank or his life insurance?

24 A. He'd been asking me a bunch of times to get involved in
25 some sort of civil issue that he was having with the -- I

1 think it was a victim. And, at one point, I explained to him
2 that I would have to have him sign a Power of Attorney to
3 allow me to do that.

4 I did have him sign that Power of Attorney, but having
5 talked to senior defense counsel, it was explained to me --
6 Charles Lyons works in my office -- and having talked with him
7 and Victor, it was explained to me to not get involved in that
8 type of conduct that didn't have anything to do with the
9 representation of the client and the criminal defense issue.

10 Q. So even though you had him sign the Power of Attorney,
11 you never actually did anything with it; correct?

12 A. No, I did nothing -- didn't do anything with it ever.

13 Q. Okay. And did you explain to Mr. Green that, even though
14 he had signed this document, that you would not be able to
15 help him with that matter?

16 A. Yes.

17 Q. Did he appear to understand?

18 A. Sometimes yes and sometimes no.

19 Q. All right. Regarding the guilty plea, when you met with
20 Mr. Green -- when you first met with Mr. Green, did he already
21 -- did he believe he had already pled guilty?

22 A. You know, I don't have a clear recollection. I know that
23 he had been -- he understood he had been to court before.
24 Whether or not he knew he had pled guilty or thought he had
25 pled guilty, I'm not sure. I think he was aware that there

1 was a hearing where, you know, pleading guilty was an issue.

2 Q. And did you yourself talk to and meet with the victim?

3 A. I don't believe I ever met with the victim. I do believe
4 I had a phone call with the victim in particular about her
5 conversation with the police directly after the event where
6 she said he needs help.

7 Q. Okay. All right. And so are you -- is it your testimony
8 that your discussion with the victim focused more on your
9 client's mental health situation?

10 A. Correct. I just wanted to know if it was a known thing
11 amongst his family that he had mental health issues, and my
12 hope was to find out, you know, if he had been to Aurora, if
13 he had been to other local mental health facilities where I
14 could request those records that might help produce, you know,
15 something to the level of a defense.

16 Q. And had -- did she tell you that he had had long-term
17 mental health issues?

18 A. I think that she was used to the -- what we have seen
19 here, and for most people, I think that that would qualify as
20 some level of issues. And she explained that there was also
21 some alleged drug use issues with alcohol.

22 Q. Now, regarding Dr. Tao (ph), I believe he's the
23 individual that testified at sentencing?

24 A. Yeah. I think it's Holt (ph), but yes. Yes.

25 Q. I'm terrible with names; I apologize.

1 So you had that person reevaluate Mr. Green to ensure
2 that he was capable of standing trial or well enough to --

3 A. Well, for a variety of things. One, if Dr. Holt actually
4 determined that he was not competent or that there was some
5 sort of defense that could be raised, I would want to know
6 that, of course.

7 But I also believed that there were some other mental
8 health limitations that may affect his ability to actually
9 plead guilty and also to do it in a way in which the judge
10 would not be upset about.

11 Q. Did you at any time instruct Dr. Holt or encourage him or
12 pay him money to write a report saying that Mr. Green was
13 crazy or had mental health issues?

14 A. No.

15 Q. All right. So it's your testimony that Dr. Holt did an
16 independent -- even though you paid -- you paid for the
17 assessment, that was independent?

18 A. Yes.

19 Q. By the time you got to court in December of 2020 to plead
20 guilty, did Mr. Green actually -- did he agree to plead
21 guilty? Was that -- had he finally accepted that that was
22 what was in his best interest or was he still resistant to
23 pleading guilty?

24 A. Yes, he had agreed to plead guilty at that stage. There
25 were some -- he did float some stories for the first time

1 about having been attacked by her and there being some sort of
2 self-defense issue. And when I pressed and said, "Is that,
3 you know, what occurred?" and he expressed that he wasn't sure
4 about it. And I explained to him that I would not be able to
5 be part of suborning perjury and that I would have to allow
6 him to testify in a narrative fashion if that's the defense
7 that he wanted to put forward.

8 And so I encouraged him to -- that the plea deal, okay,
9 was the deal that allowed him a chance to not die in prison
10 and that I believed that, if he were my brother, uncle,
11 cousin, best friend, that I would not want them to go to trial
12 and that it would be in his best interest to take this plea
13 deal. But if he wanted to go to trial, we could do it.

14 Q. So you're saying you did not coerce or he was not under
15 any sort of duress at that time to plead guilty?

16 A. No.

17 Q. All right. And so you advised him -- you fully advised
18 him as to what he was pleading guilty to; is that true?

19 A. That is true, explained to him that there would be a cap
20 of 20 years that was suggested by the prosecution but he could
21 receive up to 30, and the judge did not have to accept it and
22 that he would be at sort of the mercy of the Court as to what
23 he got.

24 Q. And he was willing to go forward knowing that?

25 A. He was.

1 MS. BROOKS: One second.

2 (Ms. Brooks conferring with Mr. Green off the record.)

3 BY MS. BROOKS:

4 Q. All right. And he was sentenced by Judge Newman;
5 correct? Judge Newman, is he the one that sentenced him?

6 A. Correct.

7 Q. And out of the 30 possible years, he received a sentence
8 of 12?

9 A. Correct.

10 Q. With credit for time served.

11 But based on the information you presented to the Court,
12 at his age, 10 years -- 10 or 12 years would -- he probably
13 would have died in prison, based on an actuarial report;
14 correct?

15 A. Right.

16 Q. Do you believe that, given what you know of Mr. Green,
17 that he's more upset with the fact that he was found guilty of
18 the crime, or do you believe he is more upset with the amount
19 of years he got?

20 MR. MITCHELL: Your Honor, he can't testify as to how
21 Mr. Green feels.

22 MS. BROOKS: Well, I'll rephrase.

23 BY MS. BROOKS:

24 Q. Did you ever have a conversation with him where he
25 expressed -- how was he after he pled guilty? Was he happy or

1 unhappy with the sentence?

2 A. You know, I don't know how happy or unhappy he was. I
3 don't really recall that. I was, I don't want to say pleased,
4 but I thought that 12 years on an attempted murder charge was
5 an acceptable sentence. It was a rather lenient sentence.

6 Q. All right. And at any time did Mr. Green ask you to
7 appeal the sentence?

8 A. He did.

9 Q. And did you timely file a Notice of Appeal?

10 A. Apparently not.

11 MS. BROOKS: All right. No further questions, Your
12 Honor.

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

14 THE COURT: Thank you, sir. You can step down.

15 MR. MITCHELL: At this time, the State rests.

16 THE COURT: Okay. Anything further from either party
17 before we adjourn on this matter?

18 MS. BROOKS: No, Your Honor.

19 THE COURT: Okay. Thank you. I will take a close look
20 at it and take it under advisement before I give you my
21 ruling.

22 MR. MITCHELL: Thank you, Your Honor.

23 MS. BROOKS: Thank you, Your Honor.

24 (At 10:50 a.m., the hearing concluded.)

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Certificate of Transcriber

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CASE NAME: John Green v. State of South Carolina

DATE OF HEARING: 1/30/24

RECORDING METHOD: DCRP Court Monitor (BIS)

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Bobbi Fisher

/s/ Bobbi Fisher _____

Bobbi Fisher, SC Official Court Reporter III, RPR

Transcript Prepared: 5/11/25

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STATE OF SOUTH CAROLINA)
 COUNTY OF AIKEN)
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)
 John Green, SCDC #384642,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE SECOND JUDICIAL CIRCUIT

Case No. 2021-CP-02-00665

ORDER OF DISMISSAL

STATE OF SOUTH CAROLINA
 COUNTY OF AIKEN
 I, Robert J. Harter, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina, hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this

JAN 13 2025

Robert J. Harter
 C.C.P. & G., Aiken County, S.C.
 Charla Peartie
 Deputy Clerk

FILED January 13, 2025
Robert J. Harter
 CLERK
 Charla Peartie
 Deputy Clerk

INTRODUCTION

The matter before this Court is an action for post-conviction relief (PCR) commenced by John Green (“Applicant”) on April 5, 2021. On January 30, 2024, a hearing into the matter was convened before the Honorable Kristi F. Curtis at the Aiken County Courthouse. Applicant was present and represented by Kimberly Y. Brooks, Esquire. Assistant Attorney General T. Cruise Mitchell represented the State. At the evidentiary hearing, testimony was taken from Applicant, Barry L. Thompson, II, (“Counsel Thompson”) and M. Chace Hawk, Esquires (“Counsel Hawk”).

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

PROCEDURAL HISTORY

Applicant is confined in the South Carolina Department of Corrections. During the May 2019 term, the Aiken County Grand Jury indicted Applicant for attempted murder (2019-GS-02-00837). Applicant was originally represented by Assistant Public Defender Barry Thompson of the Second Circuit Public Defender’s Office. Applicant moved to have Mr. Thompson relieved,

which was granted, and thereafter, Applicant was represented by Marion Chace Hawk, Esquire. Assistant Solicitor Ashley Hammack of the Second Circuit Solicitor's Office prosecuted the case.

Applicant was evaluated for competency to stand trial and criminal responsibility by the South Carolina Department of Mental Health. Following a hearing on April 16, 2020, Honorable Clifton Newman, Circuit Court Judge, found Applicant competent to stand trial and criminally responsible.

On December 7, 2020, Applicant, alongside counsel, appeared before Judge Newman and pleaded guilty as indicted. Following a colloquy with Applicant, Judge Newman found the plea was knowing, voluntary, and intelligent, and accepted the plea. At Applicant's request, Judge Newman deferred sentencing until later in the week to allow family members to be present.

On December 11, 2020, the parties reconvened before Judge Newman for a sentencing proceeding. At that time, Counsel Hawk presented testimony from Dr. Holt as to Applicant's mental health conditions, particularly as related to the incident giving rise to these charges. Pursuant to a recommendation by the State for a sentence to not exceed twenty years of imprisonment, Judge Newman sentenced Applicant to twelve years of imprisonment.

On December 22, 2020, Counsel Hawk filed a notice of appeal at Applicant's request. In his Rule 203(b), SCACR, explanation, counsel stated he did not believe there were any sufficient grounds for an appeal but was filing an appeal at his client's request. By order filed January 11, 2021, the South Carolina Court of Appeals dismissed the appeal based on a failure to timely serve the notice of appeal. The remittitur was issued on February 2, 2021.

STATEMENT OF FACTS

The following summary was taken, verbatim, from the Solicitor's recitation of the facts at

Applicant's guilty plea:

Your Honor, on November 16th of 2018, officers with the Aiken Department of Public Safety responded out to the 300 block of Florence Street. It's here in downtown Aiken. It's not far from behind Second Baptist Church. When they arrived, they found a whole group of people in the parkways that divides the road by a grassy area.

They spoke with two individuals... They just returned home from work that morning - - this was about nine o'clock in the morning - - when they heard a woman screaming for help. They ran outside and saw the Defendant on top of the victim in that grassy area in between the two sides of the road and he was stabbing her with a knife. The brothers were able to get - - knock the Defendant off of victim and subdue him until law enforcement could arrive. Law enforcement actually arrived while the brothers were still on the line with 911.

When they got there, they were able to speak with Ms. Alberta Johnson. She indicated that she is the biological daughter of the Defendant. They had been estranged. She did not know that he was her father until about three years prior to this happening. Once she found out that he was her biological father, she attempted to have a relationship with him. She would take him to church, doctor appointments. They started going to family functions together. Just trying to make up for all the time of not knowing that he was her father.

She stated that he had been angry with her because he had an altercation with his brother the day before this incident and wanted her to intervene and kind of smooth things over and she declined.

She stated that on November 16th, he called her asking her to come take him to the hospital. She needed to get to work. She works at J.D. Lever Elementary School here in Aiken County. But she told him she would come take him before she went to work.

When she picked the Defendant up, he asked her to come into the house. She told him she didn't have time, that she had to go to work. He said, okay, well just take me to the hospital. She stated that she told him to put on his seatbelt. And at that point, when he reached across his body to put on his seatbelt, she stated he then came across and started stabbing her in the face, neck, chest and abdomen. She was wearing a coat that blocked some of those strikes. Law enforcement did document several slashes and cuts to her jacket and shirt where he cut through her clothes.

She was able to get out of her jacket and exited the vehicle and began running down Florence Street, screaming for help. She stated that the Defendant pursued her, stating, quote, Bitch, I'm going to kill you. She stated that she fell, got back up, attempted to continue running when he caught her from behind and knocked her to the ground. She

stated that as she was on the ground on her back, he began stabbing her again about the face and neck.

She stated as he was stabbing her, she was actually able to grab the blade of the knife out of her hand and she sustained several lacerations to her hand where she was gripping the knife trying to keep him from stabbing her further. At that point, Orland and Brandon Williams came in, intervened and were able to rescue Ms. Johnson.

Law enforcement noted several injuries to her body. In addition to the defensive wounds on her hands from catching that knife, she also had a laceration from her nose going across her face and upper jaw line towards her eye. She had a laceration and punctures to her left jaw. She had a laceration from her chin going along her jaw line, ultimately, extending up to her ear lobe. She had multiple lacerations to her chin directly below her mouth. She also had bruising and abrasions to her knees and legs from falling and fighting with the Defendant.

Law enforcement was able to recover the knife from the scene. They also obtained a statement from the Defendant wherein he admitted to stabbing the victim. It really wasn't under question as there were multiple eyewitnesses, but he did admit to stabbing the victim.

(Gp. Tr. pp.10–13).

CURRENT APPLICATION

Applicant timely commenced this PCR application on April 5, 2021. In his application

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

1. "Insufficient counsel...Chase Hawk worked with Barry Thompson who was fired from my case for working with the victim against me. Chase railroaded me and did not advisement of what I was pleading guilty to."

At the evidentiary hearing, Applicant raised the allegation that Counsels Thompson and Hawk failed to review discovery with him. Before this Court are the records of the Aiken County Clerk of Court regarding the underlying conviction, the plea transcript, Applicant's records from the South Carolina Department of Corrections, the records from Applicant's direct appeal, and the records of this post-conviction relief action.

INEFFECTIVE ASSISTANCE OF COUNSEL, GENERALLY

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

71.1(e), SCRCF. Where , the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814.

In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in *Strickland*. First, Applicant must prove that counsel’s performance was deficient. *Strickland*, 466 U.S. at 687; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” *Cherry*, 300 S.C. at 117, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” *Id.* (citing *Strickland*, 466 U.S. at 690). “When counsel focuses on some issues to the exclusion of others, there is a strong presumption that he [or she] did so for tactical reasons rather than through sheer neglect.” *Yarborough v. Gentry*, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690). The Court, in determining deficiency, must affirmatively entertain the range of possible reasons counsel may have had for proceeding as they did. *Cullen v. Pinholster*, 563 U.S. 170, 196 (2011); *Harrington v. Richter*, 562 U.S. 86, 109–10 (2011). “[E]ven if an omission is inadvertent, relief is not automatic. The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight.” *Yarborough*, 540 U.S. at 6; *see also Murphy v. Davis*, 901 F.3d 578, 592 (5th Cir. 2018) (“[C]ounsel’s performance need not be optimal to be reasonable.”).

Second, counsel’s deficient performance must have prejudiced Applicant such that “there

is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Cherry*, 300 S.C. at 117–18, 386 S.E.2d at 625 (quoting *Strickland*, 466 U.S. at 694). “This does not require a showing that counsel’s actions ‘more likely than not altered the outcome,’ but the difference between *Strickland*’s prejudice standard and a more-probable-than-not standard is slight and matters ‘only in the rarest case.’” *Harrington*, 562 U.S. at 111-12 (quoting *Strickland*, 466 U.S. at 697). “The likelihood of a different result must be substantial, not just conceivable.” *Id.* at 112.

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

In the context of a guilty plea, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. *Hill v. Lockhart*, 474 U.S. 52, 59 (1985). Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant’s right to contest the validity of such a plea is usually, but not invariably, foreclosed. *See Blackledge v. Allison*, 431 U.S. 63, 73–74 (1977) (“Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.”). Statements made during a guilty plea should be considered conclusive, unless an applicant presents valid reasons why he or she should be allowed to depart from the truth of his statements. *Dalton*

v. State, 376 S.C. 130, 137–38, 654 S.E.2d 870, 874 (Ct. App. 2007) (citing *Crawford v. United States*, 519 F.2d 347, 350 (4th Cir. 1975)).

FINDINGS OF FACT & CONCLUSIONS OF LAW

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

Counsel Hawk Improperly Worked with Counsel Thompson Who Was Fired For Working With Victim

Applicant contends Counsel Hawk was ineffective for working with Barry Thompson who was fired from his case for working with the victim against him. This Court disagrees, and finds Counsel was not ineffective in this regard. This Court finds credible and persuasive the testimony of Counsel Hawk, who presented well-recalled testimony of his workings with Counsel Thompson and the victim.

1. PCR Testimony

Applicant testified Counsel Thompson got the victim tied up in his case. Applicant explained that Counsel Hawk was also in “cahoots” with victim and that Counsel Hawk wanted to make sure Applicant got some time. Applicant then accused Counsel Hawk of paying \$1,500 to the mental health evaluation doctor to say untrue things about Applicant to ensure he would get some time.

Counsel Thompson testified he had Applicant evaluated by the Department of Mental Health who found him competent to stand trial. Counsel Thompson testified he spoke with the victim over the phone and his investigator spoke with her in person. Counsel Thompson noted that Applicant was unhappy about what the victim told Counsel Thompson. Counsel Thompson explained it was required of him to speak to the victim, a key witness, in order to conduct a diligent investigation.

Counsel Hawk testified he had Applicant reevaluated for competency by Dr. Holt. Although Dr. Holt made findings regarding Applicant's delusions and victimization, he ultimately found Applicant competent to stand trial. Counsel Hawk explained he did use those findings in his mitigation. Counsel Hawk testified he spoke with victim regarding Applicant's mental health history as part of his investigation into a mental health defense. Counsel Hawk denied paying Dr. Holt to make certain findings about Applicant and merely requested Dr. Holt to conduct an independent investigation.

2. Discussion

This Court finds Counsels were not ineffective in speaking with the victim as part of their investigation in this case. This Court finds Applicant failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [her] case." *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing *Strickland*). "[W]hen Counsel articulates a valid reason for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel." *Smith v. State*, 386 S.C. 562, 567, 689 S.E.2d 629, 632 (2010).

Counsels Thompson and Hawk both articulated valid reasons for speaking with the victim. This Court finds Counsel Thompson's communication with the victim was not only proper, but

necessary, to conduct a diligent investigation in this case. This Court finds Counsel Hawk properly spoke with the victim, who is the Applicant's biological daughter, to further investigate Applicant's mental health. Therefore, this Court finds both Counsels in this case were not deficient in speaking with victim as part of their investigations.

Furthermore, Applicant has produced no evidence, besides his own self-serving testimony, that either Counsel Thompson or Counsel Hawk colluded with victim to ensure Applicant was sentenced in this case. Therefore, Applicant has failed to prove prejudice as to this allegation.

Accordingly, this allegation is **DENIED**.

Counsels Thompson and Hawk Failed to Consult with or Review Discovery with Applicant

Applicant alleges Counsels Thompson and Hawk failed to review discovery with him. This Court disagrees and finds Counsels were not ineffective in this regard.

1. PCR Testimony

Applicant testified neither Counsel Thompson nor Hawk reviewed discovery with him. Applicant further explained Counsel Hawk possessed evidence of self-defense, but he never presented it at court.

Counsel Thompson testified he had multiple discussions with Applicant regarding this case and whether he wanted to plead guilty or proceed to trial. Counsel Thompson advised Applicant it was likely he would be found guilty at trial and pleading guilty was the best option. Counsel Thompson noted he saw no viable defenses in this case. Counsel Thompson explained they went in front of Judge Newman to plead guilty, but Applicant backed out and asked for Counsel Thompson to be relieved, which was granted. This ended Counsel Thompson's representation in this case.

Counsel Hawk testified he met with Applicant several times, both in person and over the phone. Counsel Hawk explained he spent a lot of time reviewing the evidence and discovery with Applicant. Counsel Hawk informed Applicant pleading guilty was absolutely his best option. However, Counsel Hawk stated he did not coerce Applicant to plead guilty and was merely giving his opinion based on the evidence. Counsel Hawk testified he explained to Applicant his charge, potential sentence, the current plea offer, and the pros/cons of pleading guilty versus going to trial.

2. Discussion

This Court finds Counsels Thompson and Hawk were not ineffective in consulting or reviewing discovery with Applicant. Applicant suggests a failure to adequately meet with him prior to the plea. Additionally, Applicant contends Counsel failed to review discovery with him. This Court finds Counsels' credible testimony refutes these allegations. There is no established "minimum number of meetings between counsel and client prior to trial necessary to prepare an attorney to provide effective assistance of counsel." *United States v. Olson*, 846 F.2d 1103, 1108 (7th Cir.1988) (there is no constitutional minimum number of meetings between attorney and client and observes that an experienced attorney may get more out of a single meeting than a neophyte); *Moody v. Polk*, 408 F.3d 141, 148 (4th Cir. 2005); *Campbell v. Polk*, 447 F.3d 270, 279, n.2 (4th Cir. 2006) ("we cannot conclude that the fact that Campbell's counsel only met with him five times before trial made them ineffective."). "[B]revity of consultation time between a defendant and his counsel, alone, 'cannot support a claim of ineffective assistance of counsel.'" *Davis v. State*, 44 So. 3d 1118, 1130 (Ala. Crim. App. 2009) (quoting *Murray v. Maggio*, 736 F.2d 279, 282 (5th Cir. 1984)); *White v. Godinez*, 301 F.3d 796, 800 (7th Cir. 2002) ("A brief consultation does not by itself establish that counsel's performance was inadequate."); *Chavez v. Pulley*, 623 F. Supp. 672, 685 (E.D. Cal. 1985) ("brevity of consultation time between a defendant

and his counsel alone cannot support a claim of ineffective assistance of counsel,” especially where the defendant “fails to allege what purpose further consultation with his attorney would have served and fails to demonstrate how further consultation with his attorney would have produced a different result”). Both Counsels Thompson and Hawk testified they met with Applicant several times during the course of their respective representations wherein they discussed Applicant’s case, any potential plea offers, and reviewed the State’s evidence with him. This Court finds this testimony credible. Thus, this Court finds Counsels were not deficient in consulting or reviewing discovery with Applicant prior to his plea. This Court further finds Counsels properly advised Applicant of the benefits and risks of pleading guilty and, after those discussions, Applicant made the decision to plead guilty freely and voluntarily.

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

Accordingly, this allegation is **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 his application for post-conviction relief. This Court finds Counsel was not deficient in any manner, nor was Applicant prejudiced by Counsel's representation. This Court finds Applicant freely, knowingly, and voluntarily pleaded guilty. Therefore, this Court denies relief on all allegations and dismisses this PCR action with prejudice.

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

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 30th day of Dec., 2024.



THE HONORABLE KRISTI F. CURTIS
Presiding Judge
Second Judicial Circuit

Sumter, South Carolina

WITNESSES

Aiken Department Of Public Safety

Celeina B Dobbs

Law Enforcement Case #: 18-05885

DOCKET NO. 2019GS0200837

The State of South Carolina

County of Aiken

AAH

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

MAY TERM 2019

FILED May 2 2019

2018A0220100923

Robert J. White
C.C.P. & G.S.

THE STATE

vs.

Sharon Skipped
Deputy Clerk

JOHN GREEN

ACTION OF GRAND JURY

True Bill

[Signature]
Foreperson of Grand Jury

Date: May 2, 2019

CDR #: 3410

Indictment for

VERDICT

ATTEMPTED MURDER

§ 16-03-0029(A)

[Signature]
Foreperson of Petit Jury

Date:

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
ATTEMPTED MURDER

§ 16-03-0029(A)

At a Court of General Sessions, convened on May 6, 2019, the Grand Jurors of Aiken County present upon their oath:

That JOHN GREEN did in Aiken County on or about November 16, 2018, feloniously, wilfully and with malice aforethought, attempt to murder [REDACTED] by means of stabbing and cutting the victim multiple times about the face, hand, and body. All in violation of Section 16-3-29 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.



J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Aiken
STATE VS.

John Aka Rooster Green

AKA:

Race: Black Sex: M Age: 74

DOB: [redacted] SS#: [redacted]

Address:

City, State, Zip:

DL#: [redacted] SID#: [redacted]

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

In disposition of the said indictment comes now the Defendant who was TO: Attempted Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS0200837

N/W#: 2018A0220100923

Date of Offense: 11/16/2018

S.C. Code §: 16-03-0029(A)

CDR Code #: 3410

SENTENCE SHEET 0-30 years

[] CONVICTED OF or [X] PLEADS

in violation of § 16-03-0029(A) of the S.C. Code of Laws, bearing CDR Code # 3410
[] NON-VIOLENT [X] VIOLENT [] SERIOUS [X] MOST SERIOUS [] Mandatory GPS [] §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: [X] As Indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury, [] (defendant's initials)*

The plea is: [] Without Negotiations or Recommendation, [] Negotiated Sentence, [X] Recommendation by the State, cap of 20 years

ATTEST: Anthony J. Hammack 80176 John A. Rooster Green Maxine C. Hank 102046
Solicitor SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections, [] County Detention Center,

for a determinate term of 12 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 Services standard conditions of probation, which are incorporated by reference.

[] CONCURRENT or [] CONSECUTIVE to sentence on:
[X] 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 SCDOC.

[] The Defendant is to be placed on the 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. _____

Recipient: May serve W/E beginning _____

*Fine: \$ _____ Substance Abuse Counseling []

§ 14-1-206 (Assessments 107.5%) \$ _____ Random Drug/Alcohol testing []

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00 Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$ _____ pmts. of \$ _____ beginning _____

§ 56-5-2995 (DUI Assessment) \$12 \$ _____ \$ _____ paid to Public Defender Fund

§ 56-1-286 (DUI Breath Test) \$25 \$ _____ Other: _____

Proviso (Public Def/Probation) \$500 \$ _____

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

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

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

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

3% to County (if paid in installments) \$ 3.75

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk Latoya Frangri-Hyer

Court Reporter: Penny Johnson

SCCA217 (04/2018) Court Reporter: Penny Johnson

[] Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge [Signature]

Judge Code: 2127

Sentence Date: Dec 11, 2020

Plea Date: December 7, 2020