

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

J. Ernest Kinard, Jr., Circuit Court Judge

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S.C. Supreme Court

STACY RAYSOR,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2013-000428

APPENDIX

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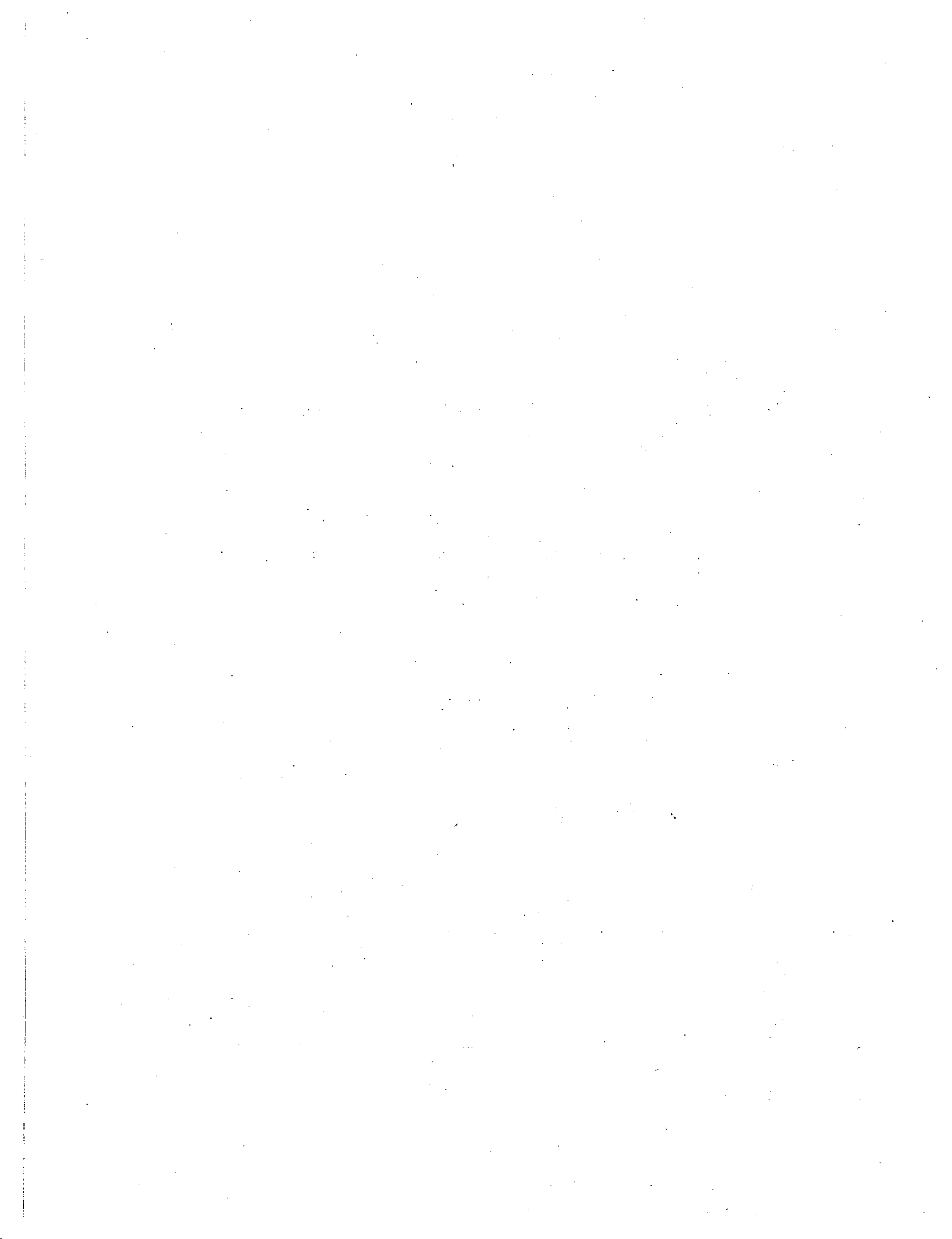
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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

THE STATE,)
PLAINTIFF,)
-VS-)
STACY R. RAYSOR,)
DEFENDANT.)

IN THE COURT OF GENERAL SESSIONS
9th GS-40-44509

TRANSCRIPT
RD
AUGUST 13, 2
COLUMBIA, SOUTH

B E F O R E :

THE HONORABLE L. CASEY MANNING, JUDGE.

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

K. LUCK CAMPBELL, ESQUIRE,

DANIEL E. JOHNSON, ESQUIRE,
ASSISTANT SOLICITORS FOR THE FIFTH JUDICIAL
ATTORNEYS FOR THE STATE,

HEMPHILL P. PRIDE, II, ESQUIRE,
LAW FIRM OF HEMPHILL P. PRIDE,
ATTORNEY FOR THE DEFENDANT.

ROBBIE KOON DEFREESE
CIRCUIT COURT REPORTER

ROBBIE KOON DeFREESE, CIRCUIT COURT REPORTER
142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075

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ROBBIE KOON DeFREese, CIRCUIT COURT REPORTER
 142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075

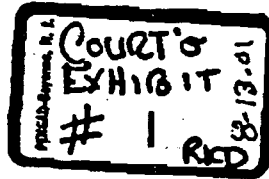
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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND
THE STATE

IN THE COURT OF GENERAL SESSIONS
REPORT OF FINDING MENTAL CAPACITY

vs.
RAYSOR, STACY
CH201-0581
Defendant

TO: THE SOLICITOR/ASSISTANT SOLICITOR

THE UNDERSIGNED RESPECTFULLY REPORTS TO THE COURT:

1. That the above-named defendant was evaluated on September 1, 2000, to determine the defendant's capacity to stand trial pursuant to Section 44-23-410, et sequential, Code of Laws of South Carolina, 1976. The evaluation was conducted under the supervision of Dr. Bradley A. Clayton.
2. That after study and observation, the hospital staff submits the following report:
 - a. That the above-named defendant is diagnosed History of Alcohol Abuse.
 - b. That the above-named defendant is capable of understanding the nature of the charges, and is capable of assisting counsel in his own defense.
 - c. That the above-named defendant did have the ability to differentiate right from wrong at the time of the alleged offense, on or about August 21, 1999.
 - d. That the above-named defendant did have the capacity to conform his conduct to the requirements of the law.
3. It is recommended that the above-named defendant be returned to the jurisdiction of the court.

C, Hemphill P. Pride II, Attorney at Law, P.O. Box 4529, Columbia, SC 29240

Columbia, SC 29202
November 13, 2000

Pamela M. Crawford, M.D.
Director-WSHPI-Forensic Unit

/rbw

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FORENSIC UNIT STAFFING**DATE OF EVALUATION:** September 1, 2000**PRESIDING:** Bradley A. Clayton, M.D.**OTHERS PRESENT:** Jeffrey E. Musick, Ph.D.
Carol David, Social Worker**DIAGNOSES:** **AXIS I:** History of Alcohol Abuse.
AXIS II: No Diagnosis.
AXIS III: No Diagnosis.**COMPETENCY TO STAND TRIAL:** Yes.**CRIMINAL RESPONSIBILITY:** Yes.**CAPACITY TO CONFORM:** Yes.**DISPOSITION:** Returned to Richland County Detention Center to await disposition of legal charges.**IDENTIFYING DATA:** Mr. Raysor is a 28-year-old, African-American male who presented to William S. Hall Psychiatric Institute, Forensic Division pursuant to a court order from Richland County Court of General Sessions. The court order requested an evaluation of his competency to stand trial, his criminal responsibility pursuant to the McNaughten standard for his actions on or about August 21, 1999, and if responsible, a determination of his capacity to conform his behavior to the requirements of the law on the date in question. Mr. Raysor is currently charged with murder.**SOURCES OF INFORMATION:**

- 1) Court order requesting evaluation dated May 23, 2000.
- 2) Prisoner control record.
- 3) Incident report dated August 21, 1999.
- 4) Arrest warrant on the charge of murder dated August 23, 1999.
- 5) Records from Richland Memorial Hospital dated August 21, 1999 including laboratory testing.
- 6) Investigative report from Phillip Smith dated August 21, 1999.
- 7) NCIC Criminal History.
- 8) Booking report.
- 9) Statement of J. R. Watts dated August 22, 1999.
- 10) Statement of Barry D. Sowards dated August 21, 1999.

RAYSOR, STACY
201-0581
ADMITTED: 08/28/00

- 1) Report of postmortem examination of Nielle Martin Raysor.
- 12) William S. Hall Psychiatric Institute inpatient record from August 28, 2000 - September 1, 2000.
- 13) Clinical Forensic psychiatric exam lasting approximately two hours on September 1, 2000.
- 14) Psychology consultation from Dr. Jeffrey E. Musick.
- 15) Neurology consultation from Dr. Steadman.

BRIEF HISTORY: Mr. Raysor denied any psychiatric history and reported no symptoms consistent with major depressive episodes, manic episodes, or psychotic disorders over the course of his life. He reported that he had difficulty with alcohol in the past, resulting in two DUI charges, one each in 1993 and 1997. He received two weeks of alcohol abuse counseling in 1993. He stated that alcohol also caused arguments with his first wife. He reported that he has dramatically curtailed his use of alcohol since 1997 and that prior to incarceration he drank approximately two times per month. He reported his last use of alcohol was on August 13, 1999. He denied symptoms consistent with a diagnosis of alcohol dependence. Mr. Raysor reportedly earned a high school diploma and was trained in drafting and surveying in the Marines, where he served for six years before being honorably discharged. He has held steady employment throughout his life. He reported he has been under some stress secondary to his current charge and this has left him feeling melancholy, but he does not feel it is in excess of what would be expected given the situation. He denied any current problems with sleep, appetite, suicidal or homicidal ideation, or hallucinations. Around the dates in question, Mr. Raysor reported that he had been experiencing marital discord and a number of other stressors. He denied any alcohol use in the one week period preceding August 21, 1999. There is no evidence that he suffered from any major mental disease or defect during this time.

PSYCHOLOGICAL TESTING: Mr. Raysor appeared to be both willing and able to put forth a satisfactory effort on testing; as such, the following results seem to be reasonable estimates of his current level and manner of functioning. On the Wechsler Adult Intelligence Scale-III, a widely-used intelligence test, Mr. Raysor earned a Full Scale IQ in the High Average range (112, 79th percentile). His Verbal IQ (116, 86th percentile) was statistically significantly higher than his Performance IQ (105, 63rd percentile), but it should be noted that a difference of this magnitude (11 points) or greater occurs in about 32% of the population. On the Repeatable Battery for the Assessment of Neuropsychological Status--a screening battery for neuropsychological deficits in language, attention, memory, and visuospatial/constructional abilities--Mr. Raysor's overall performance was in the Average range. Accurately copying and subsequently recalling and drawing a complex geometric figure were his only areas of significant difficulty. Although there was some evidence of a defensive approach to the Personality Assessment Inventory, a self-report measure of psychopathology and personality functioning, results were commensurate with expectations given his available history and clinical presentation; that is, they were free from significant evidence of serious psychopathology.

MENTAL STATUS EXAM: Mr. Raysor was cooperative and pleasant. He appeared his stated age. His grooming was fair. He was alert and fully oriented. His speech was clear and coherent as well as within normal limits in rate, quantity, and intensity. His affect was appropriate to verbalized content, and he described his mood as "listless" and "melancholy." He denied and showed no evidence of psychotic symptoms. He could

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perform simple calculations, and he demonstrated good concentration. He was able to recall three objects after one and five minutes. He demonstrated good judgment to a hypothetical situation. He denied having any thoughts or feelings about harming himself or others.

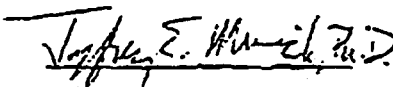
CONCLUSION REGARDING COMPETENCY TO STAND TRIAL: Mr. Raysor stated that he had consulted with his lawyer on numerous occasions prior to this evaluation. He was cooperative with the evaluation process. He read his Miranda Rights and accurately paraphrased them. He displayed an adequate understanding of the roles of the defense attorney, solicitor, judge, and jury. He was aware of the charges against him and the possible sentences if convicted. He was familiar with the pleas available to him and the concept of plea bargaining. He was aware of what constituted appropriate courtroom behavior and the possible consequences of outbursts in the courtroom. He was able to communicate his perceptions of the events in question in a clear and logical fashion. It is our opinion that Mr. Raysor possesses both a rational and factual understanding of the charges and proceedings against him and can consult rationally with a lawyer in developing a defense against his charges if he so chooses.

CONCLUSION REGARDING CRIMINAL RESPONSIBILITY: There is no evidence that Mr. Raysor suffered from a mental disease, disorder, or defect that would have impacted his ability to distinguish legal and moral right from legal and moral wrong on the date in question.

CONCLUSION REGARDING CAPACITY TO CONFORM: There is no evidence that Mr. Raysor suffered from a major mental disease, disorder, or defect that would have impacted his ability to conform his behavior to the requirements of the law on the date in question.

RECOMMENDATIONS: Mr. Raysor seems to have controlled his use of alcohol; however, were he interested in pursuing further treatment, this should be made available to him.


Bradley A. Clayton, M.D.
Forensic Psychiatry Fellow


Jeffrey E. Musick, Ph.D.
Clinical Psychologist

BAC/JM/khr

D: 09/01/00
RT/EM: 09/05/00
F/EM: 10/27/00

RAYSOR, STACY
201-0581
ADMITTED: 08/28/00

1 MONDAY, AUGUST 13, 2001.

2 MR. JOHNSON: THE STATE CALLS STACY RAYSOR.

3 THE CLERK: RAISE YOUR RIGHT HAND TO BE SWORN.

4 STACY R. RAYSOR,

5 FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

6 THE COURT: YES, SIR.

7 MR. JOHNSON: MAY IT PLEASE THE COURT, YOUR
8 HONOR.

9 STANDING BEFORE YOU IS MR. STACY RAYSOR WITH HIS
10 ATTORNEY, MR. HEMPHILL PRIDE OF THE RICHLAND COUNTY PRIVATE
11 BAR. STANDING WITH ME IS THE VICTIM'S FAMILY, MS. RAYSOR,
12 MR. RAYSOR -- I'M SORRY, I APOLOGIZE.

13 THE COURT: THAT'S ALL RIGHT.

14 MR. JOHNSON: MR. JACK MARTIN AND BARBARA MARTIN
15 AND DONZELLA (PHONETICALLY) LINDSEY.

16 HE IS HERE PLEADING GUILTY TO ONE COUNT OF
17 VOLUNTARY MANSLAUGHTER. WE ARE ASKING FOR THE MAXIMUM
18 SENTENCE, YOUR HONOR, OF THIRTY YEARS.

19 THE COURT: ALL RIGHT, SIR.

20 JIM, WILL YOU HAVE MR. RAYSOR SIGN THE INDICTMENT
21 BY THE X?

22 THE CLERK: YES, SIR.

23 THE COURT: MR. PRIDE, YOU REPRESENT STACY
24 RAYSOR?

25 MR. PRIDE: I DO, YOUR HONOR.

1 THE COURT: HAVE YOU EXPLAINED TO MR. RAYSOR THE
2 CHARGE CONTAINED IN THIS INDICTMENT, THE POSSIBLE
3 PUNISHMENT, AND HIS RIGHTS, INCLUDING HIS CONSTITUTIONAL
4 RIGHT TO A JURY TRIAL?

5 MR. PRIDE: THOROUGHLY AND FULLY.

6 THE COURT: IF YOUR OPINION, DOES MR. RAYSOR
7 UNDERSTAND THE CHARGE, THE PUNISHMENT, AND HIS RIGHTS?

8 MR. PRIDE: WITHOUT A DOUBT.

9 THE COURT: HOW DOES HE INDICATE TO YOU HE WISHES
10 TO PLEAD, GUILTY OR NOT GUILTY?

11 MR. PRIDE: HE INDICATES TO ME THAT HE WISHES TO
12 PLEAD GUILTY.

13 THE COURT: DO YOU AGREE WITH HIS DECISION TO DO
14 SO?

15 MR. PRIDE: I RECOMMEND IT AND I AGREE TO IT.

16 THE COURT: ALL RIGHT.

17 FROM YOUR INVESTIGATION OF THE FACTS AND
18 CIRCUMSTANCES SURROUNDING THIS CASE, DO YOU FEEL THAT THE
19 STATE COULD PRODUCE SUFFICIENT EVIDENCE TO CONVINCE A JURY
20 HERE IN RICHLAND COUNTY OF MR. RAYSOR'S GUILT BEYOND A
21 REASONABLE DOUBT AND IF HE WERE TO STAND TRIAL ON THIS
22 CHARGE, HIS CONVICTION WILL BE PROBABLE?

23 MR. PRIDE: THAT'S CORRECT, THEY WOULD PROVE HIS
24 GUILT BEYOND A REASONABLE DOUBT.

25 THE COURT: ALL RIGHT.

1 YOU ARE STACY RAYSOR, IS THAT CORRECT?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: MR. RAYSOR, BEFORE I CAN ACCEPT YOUR
4 PLEA OF GUILTY, IT'S NECESSARY FOR ME TO MAKE SURE THAT YOU
5 ARE MAKING THIS PLEA FREELY AND VOLUNTARILY. TO DO THAT,
6 MR. RAYSOR, I NEED TO ASK YOU A SERIES OF QUESTIONS. AT
7 ANY POINT DURING MY QUESTIONING OF YOU, IF YOU DO NOT
8 UNDERSTAND ANYTHING I SAY OR ANY WORDS THAT I USE, PLEASE
9 STOP ME. I'LL BE MORE THAN HAPPY TO REPEAT OR EXPLAIN
10 ANYTHING I SAY, MR. RAYSOR.

11 ADDITIONALLY, I'LL BE MORE THAN HAPPY TO STOP
12 THIS PLEA AND ALLOW YOU AS MUCH TIME AS YOU FEEL YOU MAY
13 NEED TO CONSULT WITH YOUR LAWYER, MR. PRIDE.

14 DO YOU UNDERSTAND, SIR?

15 THE DEFENDANT: YES, SIR.

16 THE COURT: HOW OLD ARE YOU, MR. RAYSOR?

17 THE DEFENDANT: TWENTY-NINE.

18 THE COURT: HOW FAR DID YOU GO IN SCHOOL?

19 THE DEFENDANT: HIGH SCHOOL.

20 THE COURT: ALL RIGHT.

21 WHAT KIND OF WORK DO YOU DO?

22 THE DEFENDANT: I WAS DOING SHIPPING AND
23 RECEIVING AT ADAMS MARK.

24 THE COURT: ALL RIGHT.

25 MR. RAYSOR, HAVE YOU EVER BEEN TREATED FOR THE

1 ABUSE OF ALCOHOL OR DRUGS OR FOR MENTAL ILLNESS?

2 THE DEFENDANT: ALCOHOL, SIR.

3 THE COURT: WHEN WERE YOU TREATED FOR ALCOHOL
4 ABUSE?

5 THE DEFENDANT: AT LRADAC FOR D.U.I., SIR.

6 THE COURT: DID YOU SUCCESSFULLY COMPLETE THAT
7 PROBLEM?

8 THE DEFENDANT: NO, SIR, I DIDN'T.

9 THE COURT: ALL RIGHT.

10 HAVE YOU TAKEN ANY MEDICATIONS OR DRUGS OR
11 ALCOHOL IN THE PAST 24 HOURS?

12 THE DEFENDANT: NO, SIR.

13 THE COURT: ARE YOU TODAY AWARE OF ANY PHYSICAL,
14 NERVOUS, OR EMOTIONAL PROBLEM THAT MIGHT KEEP YOU FROM
15 UNDERSTANDING WHAT YOU'RE DOING?

16 THE DEFENDANT: NO, SIR.

17 THE COURT: YOU KNOW WHAT YOU ARE DOING, IS THAT
18 CORRECT, MR. RAYSOR?

19 THE DEFENDANT: YES, SIR.

20 THE COURT: YOU AGREE, MR. PRIDE, THAT MR. RAYSOR
21 KNOWS, UNDERSTANDS, AND APPRECIATES WHAT HE'S DOING HERE
22 TODAY?

23 MR. PRIDE: I DO, YOUR HONOR.

24 THE COURT: ALL RIGHT.

25 MR. RAYSOR, YOU'VE HEARD YOUR LAWYER, MR. PRIDE,

1 TELL ME THAT HE HAS EXPLAINED TO YOU THE CHARGE CONTAINED
2 IN THIS INDICTMENT, THE POSSIBLE PUNISHMENT, AND YOUR
3 RIGHTS, INCLUDING YOUR RIGHT TO A JURY TRIAL, THAT YOU
4 UNDERSTAND THESE THINGS, IS THAT CORRECT?

5 THE DEFENDANT: YES, SIR.

6 THE COURT: MR. RAYSOR, YOU ARE BEFORE ME ON
7 INDICTMENT NUMBER 99-44509, THE STATE VERSUS STACY
8 RAYSOR. IT'S AN INDICTMENT FOR MURDER. WHICH YOU ARE
9 HERE BEFORE ME TODAY TO PROFFER A PLEA TO VOLUNTARY
10 MANSLAUGHTER.

11 DO YOU UNDERSTAND THE CHARGE VOLUNTARY
12 MANSLAUGHTER?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: THIS PARTICULAR INDICTMENT, MR.
15 RAYSOR, ALLEGES THAT YOU DID HERE IN RICHLAND COUNTY ON OR
16 ABOUT AUGUST THE 21ST OF 1999, FELONIOUSLY, WILLFULLY, AND
17 WITH MALICE AFORETHOUGHT KILL ONE NIELLE---

18 MR. JOHNSON: NIELLE, YOUR HONOR.

19 THE COURT: ---NIELLE RAYSOR BY MEANS OF
20 SUFFOCATION IN THAT SHE DID DIE AS A PROXIMATE RESULT
21 THEREOF.

22 NOW, DO YOU UNDERSTAND THAT ALLEGATION, MR.
23 RAYSOR?

24 THE DEFENDANT: YES, SIR.

25 THE COURT: THAT'S WHAT YOU WANT TO PLEAD GUILTY

1 TO?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: YOU REALIZE THAT BY PLEADING GUILTY
4 TO VOLUNTARY MANSLAUGHTER, MR. RAYSOR, THAT YOU COULD GO TO
5 JAIL FOR THIRTY YEARS?

6 THE DEFENDANT: YES, SIR.

7 THE COURT: KNOWING THEN, SIR, THAT YOU CAN GO TO
8 PRISON FOR THIRTY YEARS BY PLEADING GUILTY TO VOLUNTARY
9 MANSLAUGHTER, DO YOU STILL WISH TO PLEAD GUILTY TO IT?

10 THE DEFENDANT: YES, SIR.

11 THE COURT: ADDITIONALLY, MR. RAYSOR, YOU REALIZE
12 THAT BECAUSE THE TYPE OF OFFENSE THIS IS; THAT IS,
13 VOLUNTARY MANSLAUGHTER, THAT WHATEVER SENTENCE I AM GOING
14 TO IMPOSE UPON YOU, YOU WILL HAVE TO DO 85 PERCENT OF IT
15 BEFORE YOU ARE ELIGIBLE FOR PAROLE.

16 DO YOU UNDERSTAND THAT?

17 THE DEFENDANT: YES, SIR.

18 THE COURT: AND THAT'S BEEN EXPLAINED TO YOU BY
19 YOUR LAWYER, MR. PRIDE?

20 THE DEFENDANT: YES, SIR.

21 THE COURT: KNOWING THAT, YOU STILL WANT TO
22 PROCEED AND PLEAD GUILTY, IS THAT CORRECT?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: MR. RAYSOR, WHEN YOU PLEAD GUILTY,
25 YOU HAVE TO GIVE UP CERTAIN BASIC CONSTITUTIONAL RIGHTS.

1 FIRST OF ALL, YOU HAVE TO GIVE UP YOUR RIGHT TO
2 REMAIN SILENT. THAT'S YOUR RIGHT AGAINST
3 SELF-INCRIMINATION. THAT'S YOUR RIGHT TO SAY NOTHING AT
4 ALL. NO ONE CAN COMPEL YOU TO COME INTO COURT TO PROVIDE
5 EVIDENCE OR TO TESTIFY AGAINST YOURSELF.

6 DO YOU UNDERSTAND THAT, MR. RAYSOR?

7 THE DEFENDANT: YES, SIR.

8 THE COURT: SECONDLY, MR. RAYSOR, WHEN YOU PLEAD
9 GUILTY, YOU GIVE UP YOUR RIGHT TO A JURY TRIAL; THAT IS,
10 YOUR RIGHT FOR A JURY HERE IN RICHLAND COUNTY TO DECIDE
11 WHETHER OR NOT YOU ARE GUILTY OF THIS OFFENSE BEYOND A
12 REASONABLE DOUBT. A JURY WOULD BASE ITS DECISION ON
13 WHATEVER EVIDENCE THE STATE WOULD INTRODUCE AT TRIAL
14 AGAINST YOU AND ALSO ON WHATEVER EVIDENCE YOU AND YOUR
15 LAWYER, MR. PRIDE, MAY WISH TO INTRODUCE.

16 NOW, MR. RAYSOR, I SAY MAY WISH TO INTRODUCE,
17 BECAUSE IN A TRIAL, YOU WILL BE PRESUMED INNOCENT, WOULD
18 NOT HAVE TO PROVE ANYTHING, AND YOU COULD NOT BE CONVICTED
19 UNLESS THE STATE CONVINCED ALL TWELVE JURORS OF YOUR GUILT
20 BEYOND A REASONABLE DOUBT. THE JURY'S DECISION WOULD HAVE
21 TO BE UNANIMOUS, MR. RAYSOR.

22 DO YOU UNDERSTAND THAT, SIR?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: THIRDLY, MR. RAYSOR, WHEN YOU PLEAD
25 GUILTY, YOU GIVE UP YOUR RIGHT TO CONFRONT AND TO BE

1 CONFRONTED BY THE WITNESSES AGAINST YOU. THAT IS, YOUR
2 RIGHT TO SEE, HEAR, AND CROSS-EXAMINE ANY WITNESSES THE
3 STATE MAY CALL TO TESTIFY AGAINST YOU DURING A TRIAL; AND
4 ALSO, MR. RAYSOR, BY PLEADING GUILTY, YOU GIVE UP YOUR
5 RIGHT TO SUBPOENA AND CALL WITNESSES ON YOUR OWN BEHALF.
6 THAT IS, SOMEONE WHO MAY TESTIFY FOR YOU.

7 DO YOU UNDERSTAND THAT, SIR?

8 THE DEFENDANT: YES, SIR.

9 THE COURT: NOW, MR. RAYSOR, DO YOU UNDERSTAND
10 THESE RIGHTS I JUST MENTIONED TO YOU?

11 THE DEFENDANT: YES, SIR.

12 THE COURT: DO YOU UNDERSTAND, SIR, THAT WHEN YOU
13 PLEAD GUILTY, YOU GIVE UP THESE CONSTITUTIONAL RIGHTS?

14 THE DEFENDANT: YES, SIR.

15 THE COURT: IS THAT WHAT YOU WANT TO DO?

16 THE DEFENDANT: YES, SIR.

17 THE COURT: YOU WANT TO GIVE UP ALL OF YOUR
18 CONSTITUTIONAL RIGHTS?

19 THE DEFENDANT: YES, SIR.

20 NOW, YOU REALIZE YOU WILL NOT RECEIVE A JURY
21 TRIAL BY PLEADING GUILTY TO THIS CHARGE?

22 THE DEFENDANT: YES SIR.

23 THE COURT: ONCE AGAIN, MR. RAYSOR, YOU ARE
24 PLEADING GUILTY TO VOLUNTARY MANSLAUGHTER THAT CARRIES
25 THIRTY YEARS IN THE PENITENTIARY. WHATEVER SENTENCE I

1 IMPOSE UPON YOU, YOU WILL HAVE TO DO 85 PERCENT OF THAT
2 SENTENCE BEFORE YOU ARE ELIGIBLE FOR PAROLE.

3 NOW, YOU ARE GIVING UP ALL YOUR CONSTITUTIONAL
4 RIGHTS. CONSIDERING WHAT I JUST SAID TO YOU, MR. RAYSOR,
5 I'LL ASK YOU, ONCE AGAIN, HOW DO YOU WISH TO PLEAD TO THIS
6 CHARGE, GUILTY OR NOT GUILTY?

7 THE DEFENDANT: GUILTY, YOUR HONOR.

8 THE COURT: YOU REALIZE, MR. RAYSOR, THAT WHEN
9 YOU PLEAD GUILTY, YOU ADMIT THE TRUTH OF THE ALLEGATION
10 CONTAINED IN THIS INDICTMENT AGAINST YOU.

11 YOU UNDERSTAND THAT, SIR?

12 THE DEFENDANT: YES, SIR.

13 THE COURT: I TELL YOU THAT, MR. RAYSOR, BECAUSE
14 YOU MAY HAVE SOME DEFENSES TO THIS CHARGE. OF COURSE,
15 THERE'S NO WAY FOR ME TO KNOW THAT, BUT YOU NEED TO REALIZE
16 THAT BY PLEADING GUILTY HERE TODAY, YOU GIVE UP ANY
17 DEFENSES YOU MIGHT HAVE.

18 DO YOU UNDERSTAND THAT?

19 THE DEFENDANT: YES, SIR.

20 THE COURT: ADDITIONALLY, I TELL YOU THAT, MR.
21 RAYSOR, BECAUSE WHEN YOU WERE ARRESTED BY THE COLUMBIA
22 POLICE DEPARTMENT, YOU MAY HAVE GIVEN SOME TYPE OF
23 INCRIMINATING STATEMENT; THAT IS, MADE SOME ADMISSION OR
24 CONFESSION ABOUT YOUR GUILT. YOU NEED TO REALIZE THAT BY
25 PLEADING GUILTY HERE TODAY, YOU WAIVE YOUR RIGHT TO LATER

1 ON CHALLENGE OR CONTEST, IF YOU GAVE ANY STATEMENTS,
2 WHETHER OR NOT THOSE STATEMENTS WERE OBTAINED OR TAKEN FROM
3 YOU FREELY AND VOLUNTARILY IN ACCORDANCE WITH YOUR
4 CONSTITUTIONAL RIGHTS.

5 DO YOU UNDERSTAND THAT?

6 THE DEFENDANT: YES, SIR.

7 THE COURT: NOW, MR. RAYSOR, I'LL ASK YOU, ONCE
8 AGAIN, DID YOU COMMIT THIS OFFENSE?

9 THE DEFENDANT: YES, SIR.

10 THE COURT: SO, ONCE AGAIN, MR. RAYSOR, YOU ARE
11 TELLING ME YOU ARE PLEADING GUILTY TO INDICTMENT NUMBER
12 99-44509, VOLUNTARY MANSLAUGHTER, BECAUSE YOU DID, IN FACT,
13 HERE IN RICHLAND COUNTY ON OR ABOUT AUGUST THE 21ST, 1999,
14 SUFFOCATE ONE NIELLE--

15 MR. JOHNSON: NIELLE, YOUR HONOR.

16 THE COURT: ---NIELLE, I'M SORRY -- NIELLE RAYSOR
17 TO DEATH. SHE DIED AS A RESULT OF YOUR SUFFOCATING HER.

18 THE DEFENDANT: YES, SIR.

19 THE COURT: YOU'RE PLEADING GUILTY BECAUSE YOU
20 ARE, IN FACT, GUILTY, IS THAT CORRECT, MR. RAYSOR?

21 THE DEFENDANT: YES, SIR.

22 THE COURT: YOU ARE PLEADING GUILTY BECAUSE YOU
23 COMMITTED THIS OFFENSE?

24 THE DEFENDANT: YES, SIR.

25 THE COURT: ALL RIGHT.

1 AND I THINK THE PLEA NEGOTIATIONS ARE HE WAS
2 ORIGINALLY INDICTED FOR MURDER. Y'ALL HAVE WORKED OUT A
3 RESOLUTION WHERE HE IS TO PLEAD GUILTY TO VOLUNTARY
4 MANSLAUGHTER. THE STATE IS GOING TO BE ASKING FOR THE
5 MAXIMUM OF THIRTY YEARS---

6 MR. JOHNSON: THAT'S CORRECT, YOUR HONOR.

7 THE COURT: ---AND MR. PRIDE WANTS TO HAVE THE
8 OPPORTUNITY TO ASK FOR SOMETHING ELSE.

9 IS THAT FAIR ENOUGH?

10 MR. PRIDE: THAT SUCCINCTLY AND CLEARLY STATES
11 THE AGREEMENT BETWEEN THE STATE AND DEFENSE COUNSEL.

12 THE COURT: ALL RIGHT.

13 YOU STILL WISH TO PLEAD GUILTY, MR. RAYSOR?

14 THE DEFENDANT: YES, SIR.

15 THE COURT: NOW, HAS ANYONE PROMISED YOU ANYTHING
16 OR HELD OUT ANY HOPE OF REWARD IN ORDER TO GET YOU TO PLEAD
17 GUILTY?

18 THE DEFENDANT: NO, SIR.

19 THE COURT: HAS ANYONE THREATENED YOU OR USED
20 FORCE TO GET YOU TO PLEAD GUILTY?

21 THE DEFENDANT: NO, SIR.

22 THE COURT: HAS ANYONE USED ANY PRESSURE OR
23 INTIMIDATION TO CAUSE YOU TO PLEAD GUILTY?

24 THE DEFENDANT: NO, SIR.

25 THE COURT: HAVE YOU HAD ENOUGH TIME TO MAKE UP

1 YOUR MIND AS TO WHETHER OR NOT YOU WANT TO PLEAD GUILTY?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: ARE YOU PLEADING GUILTY OF YOUR OWN
4 FREE WILL AND ACCORD?

5 THE DEFENDANT: YES, SIR, I AM.

6 THE COURT: NOW, MR. RAYSOR, ARE YOU SATISFIED
7 WITH THE MANNER IN WHICH YOUR LAWYER, MR. PRIDE, HAS
8 ADVISED AND REPRESENTED YOU ON THIS CHARGE?

9 THE DEFENDANT: YES, SIR.

10 THE COURT: HAVE YOU TALKED WITH HIM FOR AS LONG
11 AND FOR AS OFTEN AS YOU FEEL IT NECESSARY FOR HIM TO
12 PROPERLY REPRESENT YOU?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: DO YOU NEED ANY MORE TIME TO TALK TO
15 HIM?

16 THE DEFENDANT: NO, SIR.

17 THE COURT: HAVE YOU UNDERSTOOD YOUR TALKS WITH
18 HIM?

19 THE DEFENDANT: YES, SIR.

20 THE COURT: MR. RAYSOR, HAS MR. PRIDE DONE
21 EVERYTHING FOR YOU, YOU FEEL HE SHOULD DO OR COULD DO ON
22 YOUR BEHALF IN ADVISING AND REPRESENTING YOU ON THIS
23 CHARGE?

24 THE DEFENDANT: YES, SIR.

25 THE COURT: HAS HE DONE ANYTHING YOU FEEL HE

1 SHOULD NOT HAVE DONE?

2 THE DEFENDANT: NO, SIR.

3 THE COURT: ARE YOU COMPLETELY SATISFIED WITH HIS
4 SERVICES?

5 THE DEFENDANT: YES, SIR.

6 THE COURT: MR. RAYSOR, DO YOU HAVE ANY
7 COMPLAINTS TO MAKE AGAINST ANYONE AT THE COLUMBIA POLICE
8 DEPARTMENT?

9 THE DEFENDANT: NO, SIR.

10 THE COURT: ANY COMPLAINTS TO MAKE AGAINST ANYONE
11 WORKING HERE IN THE FIFTH CIRCUIT SOLICITOR'S OFFICE?

12 THE DEFENDANT: NO, SIR.

13 THE COURT: HAVE YOU UNDERSTOOD MY QUESTIONS?

14 THE DEFENDANT: YES, SIR.

15 THE COURT: IS THERE ANYTHING YOU WANT TO ASK ME
16 ABOUT WHAT WE JUST DISCUSSED? ANYTHING AT ALL?

17 THE DEFENDANT: NO, SIR.

18 THE COURT: MR. RAYSOR, YOU REALIZE THAT YOU HAVE
19 A RIGHT TO APPEAL THIS GUILTY PLEA AND WHATEVER SENTENCE I
20 MAY IMPOSE UPON YOU, BUT IF YOU ARE GOING TO APPEAL, YOU
21 NEED TO FILE A NOTICE OF INTENT TO APPEAL WITHIN TEN DAYS
22 OF TODAY'S DATE, YOU UNDERSTAND THAT, SIR?

23 THE DEFENDANT: YES, SIR.

24 THE COURT: ADDITIONALLY, MR. RAYSOR, I TELL YOU,
25 IT MAY NOT MEAN MUCH TO YOU NOW, BUT IT COULD LATER ON,

1 THAT YOU ALSO HAVE A RIGHT TO FILE A POST-CONVICTION-RELIEF
2 APPLICATION; THAT IS, ONCE YOU ARE IN THE DEPARTMENT OF
3 CORRECTIONS YOU FEEL AS IF YOU HAVE ANY COMPLAINTS LATER ON
4 TO MAKE AGAINST THE POLICE, THE SOLICITOR, YOUR LAWYER, ME,
5 OR ANYBODY ELSE INVOLVED IN YOUR CASE, THAT IF YOU FEEL
6 LIKE YOU HAVE ANY REASON TO COMPLAIN ONCE YOU ARE IN THE
7 DEPARTMENT OF CORRECTIONS, YOU MUST COMPLAIN BY FILING A
8 POST-CONVICTION-RELIEF APPLICATION WITHIN ONE YEAR OF
9 TODAY'S DATE.

10 DO YOU UNDERSTAND THAT, SIR?

11 THE DEFENDANT: YES, SIR.

12 THE COURT: VERY WELL.

13 MR. JOHNSON.

14 MR. JOHNSON: THANK YOU, YOUR HONOR.

15 MAY IT PLEASE THE COURT.

16 THIS EVENT HAPPENED AUGUST 21ST OF 1999, AT [REDACTED]
17 [REDACTED] OFFICERS RECEIVED A CALL -- IT WAS AN OPEN
18 LINE. THEY RESPONDED TO THAT LOCATION. ONCE THEY ARRIVED
19 ON THE SCENE, THEY SAW THROUGH AN OPEN WINDOW THAT MR.
20 RAYSOR WAS SITTING ON THE SOFA BLEEDING WITH THE TELEPHONE
21 SQUEEZED AGAINST HIS EAR AND SHOULDER. THEY MADE ENTRY AT
22 THAT TIME.

23 AT THAT TIME, YOUR HONOR, THEY WEREN'T AWARE OF
24 WHAT HAD HAPPENED. THEY BELIEVED IT WAS A SUICIDE AT THAT
25 TIME OR AN ATTEMPTED SUICIDE. THEY SOUGHT TO CLEAR THE

1 RESIDENCE. THEY FOUND MS. RAYSOR IN THE BACK ROOM. SHE
2 WAS -- SHOWED NO SIGNS OF LIFE. SHE WAS, IN FACT, DEAD AT
3 THAT TIME. THEY HAD MR. RAYSOR TRANSPORTED TO THE
4 HOSPITAL.

5 DURING THAT TIME, YOUR HONOR, THEY NOTICED
6 SEVERAL KNIVES THROUGHOUT THE HOUSE, BLOOD IN MOST EVERY
7 ROOM. THEY TOOK HIM TO THE HOSPITAL. WHILE AT THE
8 HOSPITAL, INVESTIGATORS SOUGHT TO INTERVIEW HIM WHICH HE
9 DECIDED TO DO. AT THAT TIME, HE MADE A STATEMENT TO
10 INVESTIGATORS THAT HE HAD KILLED HIS WIFE AND QUITE
11 FRANKLY, YOUR HONOR, THAT WAS WHEN THEY FIRST REALIZED THAT
12 THAT WAS, IN FACT, WHAT HAPPENED.

13 SUBSEQUENT INVESTIGATION, THEY COLLECTED OVER
14 FIFTY PIECES OF EVIDENCE, DID D.N.A. TESTING ON THAT
15 EVIDENCE. MOST OF THE BLOOD WAS, IN FACT, HIS AND IT WAS
16 LATER REVEALED THAT MS. RAYSOR WAS KILLED BY SUFFOCATION.

17 YOUR HONOR, THERE IS NO -- I BELIEVE THE DEFENSE
18 STIPULATES TO OR HAS NOT EXACTLY STIPULATED TO A COMPETENCY
19 EVALUATION---

20 THE COURT: COMPETENCY EVALUATION---

21 MR. PRIDE: I HAVEN'T STIPULATED TO ANYTHING,
22 YOUR HONOR, BUT THERE IS A COMPETENCY EVALUATION---

23 MR. JOHNSON: AND DOES NOT OBJECT---

24 MR. PRIDE: ---AND THE COMPETENCY TEST WAS TAKEN
25 AS A RESULT OF MY MOTION FILED TO HAVE HIM EVALUATED.

1 THE COURT: ALL RIGHT.

2 MR. JOHNSON: AND HE DOES NOT OBJECT TO US
3 ENTERING THAT INTO THE RECORD---

4 THE COURT: IS THAT CORRECT, MR. PRIDE?

5 MR. PRIDE: THAT'S CORRECT.

6 MR. JOHNSON: HE IS, IN FACT, COMPETENT AND DOES
7 UNDERSTAND THE NATURE OF THESE CHARGES.

8 (WHEREUPON, COURT'S EXHIBIT NUMBER
9 ONE, REPORT OF FINDING MENTAL CAPACITY, MARKED FOR THE
10 RECORD AT THIS TIME.)

11 MR. JOHNSON: YOUR HONOR, THIS PARTICULAR
12 DEFENDANT HAS NO PRIOR RECORD.

13 LET ME SAY THIS, YOUR HONOR. I THINK THAT THE
14 ALLEGATIONS WOULD BE AND THE TESTIMONY WOULD BE AT TRIAL
15 THAT MS. RAYSOR WAS, IN FACT, THE PRIMARY BREADWINNER IN
16 THAT HOUSEHOLD. BASED ON SOME ACTIONS THAT MR. RAYSOR
17 DECIDED TO UNDERTAKE IN THAT HE HAD ENGAGED IN SOME TYPE OF
18 RELATIONS WITH ANOTHER FEMALE, THEY WERE BASICALLY GOING TO
19 PART WAYS, YOUR HONOR. MS. RAYSOR WAS GOING TO THROW HIM
20 OUT OF THE RESIDENCE AND QUITE FRANKLY, THE THEORY WOULD
21 HAVE BEEN THAT IF HE COULD NOT HAVE HER, THAT NO ONE COULD
22 AND THAT'S WHY HE KILLED HER. HE HAS NO PRIOR RECORD, YOUR
23 HONOR.

24 I DO NOT KNOW IF THE WITNESSES AND FAMILY WANT TO
25 SPEAK---

1 THE COURT: I'M GOING TO INVITE THEM IN JUST A
2 MOMENT.

3 LET ME JUST COVER ONE THING.

4 MR. PRIDE, MR. RAYSOR, Y'ALL AGREED THAT BASED ON
5 THE ALLEGATIONS IN THE INDICTMENT AND WHAT THE SOLICITOR
6 SAID TO ME, THAT'S PRETTY MUCH THE WAY THIS MATTER UNFOLDED
7 AT HOME, HE SUFFOCATED HER, AND SHE DIED?

8 MR. PRIDE: THAT PART WE AGREE.

9 THE COURT: OKAY. VERY WELL.

10 THEN I FIND THAT THERE IS A SUBSTANTIAL FACTUAL
11 BASIS FOR YOUR PLEA, MR. RAYSOR. I FURTHER FIND THAT YOUR
12 DECISION TO PLEAD GUILTY IS FREELY, VOLUNTARILY, KNOWINGLY,
13 AND INTELLIGENTLY MADE. THAT YOU'VE HAD THE ADVICE OF
14 COMPETENT COUNSEL WHOM YOU INDICATE TO ME YOU ARE
15 COMPLETELY SATISFIED WITH; THEREFORE, I WILL ACCEPT YOUR
16 PLEA.

17 MR. JOHNSON, AT THIS TIME, I'LL BE MORE THAN
18 HAPPY TO HEAR ANY INPUT FROM THE FAMILY. AND BY THE WAY,
19 FOR THE RECORD, AND I THINK THIS IS NO SURPRISE TO YOU, MR.
20 RAYSOR, I THINK YOUR LAWYER WAS INFORMED, I DID MEET WITH
21 MEMBERS OF THE VICTIM'S FAMILY BRIEFLY IN A JURY ROOM HERE
22 AND I INDICATED TO THEM THAT IN MY MIND THE MOST IMPORTANT
23 THING WAS TO BRING CLOSURE TO THIS MATTER, THAT I WAS
24 DISINCLINED TO GIVE YOU THIRTY YEARS, BUT IT WOULD BE CLOSE
25 TO THE THIRTY YEARS, AND, I THINK, YOUR LAWYER PROBABLY

1 COMMUNICATED THIS FACT TO YOU, IS THAT CORRECT?

2 MR. PRIDE: I DID NOT COMMUNICATE TO HIM ANY TIME
3 THAT HE WOULD RECEIVE OTHER THAN THE FACT THAT HE WAS
4 ELIGIBLE FOR THIRTY YEARS AND THAT YOU WOULD TAKE THE
5 MATTER UNDER CONSIDERATION.

6 THE COURT: OKAY. ALL RIGHT.

7 MR. PRIDE: YOUR HONOR DID TELL ME IN FRONT OF
8 THE SOLICITOR THAT THERE WAS A REQUEST TO MEET WITH THE
9 VICTIM'S FAMILY. I TOOK NO EXCEPTION TO THAT WHATSOEVER.

10 THE COURT: OKAY.

11 I MET WITH THE VICTIM'S FAMILY. UNKNOWN TO MR.
12 PRIDE TO YOU, MR. RAYSOR, I INDICATED TO THEM THAT I
13 PROBABLY WOULD NOT IMPOSE A THIRTY-YEAR SENTENCE, BUT IT
14 WOULD BE IN THAT NEIGHBORHOOD.

15 IS THAT FAIR ENOUGH, MR. JOHNSON?

16 MR. JOHNSON: THAT'S CORRECT, YOUR HONOR.

17 THE COURT: DO YOU HAVE ANY OBJECTIONS TO THAT?

18 MR. PRIDE: EXCUSE ME, JUDGE.

19 THE COURT: TAKE YOUR TIME.

20 MR. PRIDE: I'M BEING ASKED A QUESTION. IF
21 YOU'LL GIVE ME ONE MOMENT.

22 THE COURT: YES, SIR. TAKE AS MUCH TIME AS YOU
23 NEED.

24 (WHEREUPON, MR. PRIDE CONFERS WITH
25 THE DEFENDANT AT THIS TIME OFF THE RECORD.)

1 MR. PRIDE: JUDGE, IT WAS MY UNDERSTANDING AND TO
2 REHEARSE WITH YOU THE NEGOTIATIONS IN THIS MATTER---

3 THE COURT: YES, SIR.

4 MR. PRIDE: ---THE SOLICITOR'S OFFICE SENT ME A
5 LETTER INDICATING THAT THEY WOULD DROP THE CHARGES FROM
6 MURDER TO INVOLUNTARY MANSLAUGHTER---

7 THE COURT: YES, SIR.

8 MR. PRIDE: ---WITH THE UNDERSTANDING---

9 MR. JOHNSON: YOUR HONOR, THAT'S VOLUNTARY
10 MANSLAUGHTER.

11 MR. PRIDE: VOLUNTARY -- SORRY. THANK YOU VERY
12 MUCH. VOLUNTARY MANSLAUGHTER WITH THE UNDERSTANDING THAT
13 HE WOULD HAVE TO PLEAD TO THIRTY YEARS.

14 I SENT THEM A COUNTEROFFER TELLING THEM THAT MY
15 CLIENT WOULD AGREE TO PLEAD TO INVOLUNTARY---

16 THE COURT: TO VOLUNTARY---

17 MR. PRIDE: ---TO VOLUNTARY MANSLAUGHTER, BUT
18 THAT HE WOULD NOT PLEAD TO THIRTY YEARS AND THAT THEY WOULD
19 HAVE TO AGREE NOT TO ELOCUTE; HOWEVER THE FAMILY COULD COME
20 IN AND MAKE ANY STATEMENTS THAT THEY WANTED TO. THEY
21 TURNED DOWN THE OFFER. I, SUBSEQUENT TO THAT, SENT THEM A
22 FAX TELLING THEM THAT WE WOULD ACCEPT THE OFFER AND LATER
23 ON THE OFFER WAS MADE THAT SENTENCING WOULD BE PURELY
24 WITHIN THE DISCRETION OF THE COURT.

25 THE COURT: YES, SIR.

1 MR. PRIDE: WHEN WE TALKED, THE AGREEMENT WAS
2 THAT THE FAMILY AND THE SOLICITOR'S OFFICE COULD ASK FOR
3 THE MAX AND OBVIOUSLY I CAN PUT ON AS WITNESSES AND TRY AND
4 CONVINCED THE COURT IN MITIGATION OF SENTENCING TO GIVE AS
5 LITTLE TIME AS I POSSIBLY CAN TALK YOU OUT OF TO PUT IT
6 QUITE FRANKLY. THAT WAS THE UNDERSTANDING.

7 MY CLIENT IS UPSET BECAUSE APPARENTLY HE FEELS
8 THAT YOU'VE ALREADY MADE UP YOUR MIND BEFORE HEARING HIS
9 WITNESSES---

10 THE COURT: NO, SIR. IN FACT, TO HIS BENEFIT,
11 MR. PRIDE.

12 I WILL STOP YOU AND TELL YOU, MR. RAYSOR. I
13 INDICATED TO THE VICTIMS THAT I WAS DISINCLINED TO GIVE YOU
14 THIRTY YEARS, OKAY. AND WHAT SENTENCE I WOULD IMPOSE, I
15 HAVEN'T HEARD ANYTHING YET. BUT IN ORDER TO BRING CLOSURE
16 TO THIS MATTER FOR THEIR BENEFIT AND FOR YOUR BENEFIT AND
17 PURSUANT THE UNDERSTANDING I HAD BETWEEN MR. PRIDE AND MR.
18 JOHNSON ON FRIDAY LAST WHEN I MET, YOUR CONCERN WAS NOT TO
19 HAVE A CONTRACT PRETTY MUCH WHERE YOU WOULD GET EXACTLY
20 THIRTY YEARS.

21 NOW, YOU STILL COULD GET THIRTY YEARS, BUT THE
22 SENTENCING IS LEFT ENTIRELY UP TO ME. YOU HAD A NEGOTIATED
23 SENTENCE OF THIRTY YEARS AND YOU WERE RELUCTANT TO PROCEED
24 ON THAT BASIS. I MET WITH MR. PRIDE AND MR. JOHNSON ON
25 FRIDAY AND SAID, WELL, IT'S ALWAYS THE JUDGE'S DECISION

1 ANYWAY. IF THIS IS GOING TO BE A HANGUP TO RESOLVING THIS
2 MATTER -- AND I THINK ITS BEST FOR YOU AND AS WELL AS FOR
3 THE VICTIMS IF WE CAN RESOLVE -- THEN JUST LET ME MAKE THE
4 DECISION. I'LL PICK OUT A NUMBER. I DON'T KNOW WHAT
5 NUMBER THAT'S GOING TO BE. AND WHAT I TOLD THE VICTIM'S
6 FAMILY IN YOUR ABSENCE WAS I WAS DISINCLINED TO GIVE YOU
7 THIRTY YEARS.

8 NOW, WHAT I WILL GIVE YOU, I DON'T KNOW YET. BUT
9 IN ORDER TO RESOLVE THIS MATTER, IN ORDER TO BRING CLOSURE
10 FOR YOU AND FOR EVERYBODY ELSE, IF YOU ARE GOING TO PLEAD
11 GUILTY, YOU DESERVE SOME CREDIT FOR THAT. THAT'S WHY I
12 INDICATED I'M PROBABLY NOT GOING TO GIVE YOU THIRTY YEARS,
13 BUT WHAT I'M GOING TO GIVE YOU, I DON'T KNOW. IT COULD BE
14 29, IT COULD BE 20, IT COULD BE ANYWHERE IN THE RANGE,
15 THAT'S WITHIN MY DISCRETION.

16 DO YOU UNDERSTAND THAT?

17 THE DEFENDANT: YES, YOUR HONOR.

18 THE COURT: ALL RIGHT.

19 UNDERSTANDING ALL THAT, DO YOU STILL WANT TO
20 PROCEED WITH THIS GUILTY PLEA HERE THIS MORNING?

21 THE DEFENDANT: YES, YOUR HONOR.

22 THE COURT: ALL RIGHT.

23 AND YOU UNDERSTAND THAT I CAN GIVE YOU 29 -- I
24 CAN GIVE YOU 30 YEARS IF I WANT, BUT, YOU KNOW, I'VE
25 ALREADY INDICATED TO THE VICTIMS THAT I PROBABLY WOULDN'T

1 GIVE YOU THIRTY YEARS, BUT IT'S GOING TO BE A SUBSTANTIAL
2 AMOUNT OF TIME AND YOU UNDERSTAND THAT?

3 THE DEFENDANT: YES, SIR.

4 THE COURT: IT'S FURTHER MY UNDERSTANDING THAT AT
5 SOME POINT IN TIME YOU HAD ACTUALLY AGREED TO A THIRTY-YEAR
6 SENTENCE?

7 MR. PRIDE: NO, YOUR HONOR---

8 THE COURT: Y'ALL NEVER QUITE GOT THAT FAR?

9 MR. PRIDE: WE DID NOT GET THAT FAR.

10 THE COURT: OKAY. OKAY.

11 BUT YOU REALIZE, OBVIOUSLY, MR. RAYSOR, THAT YOU
12 CAN GET ANY WHERE FROM THIRTY YEARS ON DOWN?

13 THE DEFENDANT: YES, YOUR HONOR.

14 THE COURT: AND YOU KNOW THAT, THAT'S WHY YOU'RE
15 PLEADING GUILTY, YOU UNDERSTAND, AND YOU WISH TO PROCEED,
16 IS THAT FAIR ENOUGH?

17 THE DEFENDANT: YES, YOUR HONOR.

18 THE COURT: ALL RIGHT. VERY WELL.

19 MR. PRIDE: WOULD YOU INDULGE ME?

20 THE COURT: YES, SIR. TAKE YOUR TIME.

21 (WHEREUPON, MR. PRIDE CONFERS WITH
22 THE DEFENDANT AT THIS TIME OFF THE RECORD.)

23 MR. PRIDE: THANK YOU VERY MUCH, JUDGE.

24 THE COURT: BEG YOUR PARDON?

25 MR. PRIDE: I SAID THANK YOU VERY MUCH FOR

1 INDULGING US.

2 THE COURT: ALL RIGHT.

3 AND, MR. RAYSOR, THAT'S JUST ABOUT AS HONEST AS I
4 CAN BE WITH YOU, AS HONEST AS I CAN BE WITH THE VICTIMS AND
5 IF I LEFT ANYTHING OUT, LIKE I SAID, YOU STILL HAVE ALL THE
6 RIGHTS THAT I MENTIONED TO YOU ON THE RECORD TO PURSUE IF
7 YOU LIKE.

8 YOU UNDERSTAND THAT, SIR?

9 THE DEFENDANT: YES, YOUR HONOR.

10 THE COURT: VERY WELL.

11 MR. JOHNSON, I'LL BE HAPPY HEAR FROM THE VICTIMS
12 AT THIS TIME, SIR.

13 MS. MARTIN: YOUR HONOR---

14 THE COURT: YOU ARE MS. MARTIN, IS THAT CORRECT?

15 MS. MARTIN: YES. I'M THE VICTIM'S MOTHER.

16 THE COURT: BARBARA MARTIN. AND YOU WERE A
17 SISTER, IS THAT FAIR?

18 MS. MARTIN: I'M THE MOTHER.

19 THE COURT: THE MOTHER. I'M SORRY, I'M SORRY.

20 YES, MA'AM.

21 MS. MARTIN: YES.

22 I SEE THAT THIS IS FITTING IN THAT MY DAUGHTER'S
23 BIRTHDAY WAS YESTERDAY AND IT IS TIME TO BRING CLOSURE TO
24 THIS.

25 I FEEL THAT, YOU KNOW, YOU'VE BASICALLY ALREADY

1 SAID THIRTY IS IT. FOR ME, I WOULD -- YOU KNOW, I WOULD
2 EXPECT TO HAVE MORE. I KNOW NOT TO EXPECT ANYMORE.

3 AND I JUST WANT TO SO THAT THIS TYPE OF PERSON
4 COULD NOT BE OUT TO HAVE MORE VICTIMS THIS WAY SO THERE
5 WOULDN'T BE A CHANCE FOR HIM TO -- TO GET INTO SOMEONE'S
6 LIFE AND HAVE AN UNSUSPECTING PERSON AND THEN THE SAME
7 THING HAPPEN. THAT'S ALL I ASK FOR.

8 THE COURT: I APOLOGIZE. FOR SOME REASON I WAS
9 THINKING YOU WERE A SISTER, BUT YOU ARE HER MOTHER.

10 THANK YOU, MS. MARTIN.

11 THE COURT: MR. MARTIN.

12 MR. MARTIN: YES. JACK MARTIN, NIELLE'S FATHER.

13 IT'S A VERY STRESSFUL TIME HERE TO GO THROUGH
14 THESE PROCEEDINGS. NIELLE WAS A LOVEABLE CHILD. I WENT
15 THROUGH VIETNAM AND THIS IS TRULY THE SADDEST OF ALL
16 OCCASIONS, TO MISS A LOVE ONE WITH A UNTIMELY DEATH LIKE
17 THIS. THAT'S ALL I HAVE TO SAY.

18 THE COURT: ALL RIGHT.

19 THANK YOU, MR. MARTIN.

20 MR. JOHNSON: YOUR HONOR, THAT WOULD BE THE
21 EXTENT OF THE VICTIM IMPACT TESTIMONY.

22 THE COURT: THANK YOU, MR. JOHNSON.

23 MR. PRIDE.

24 MR. PRIDE: YOUR HONOR, I WOULD LIKE FOR YOU TO
25 HEAR FROM CERTAIN WITNESSES THAT I WOULD PRESENT AND, OF

1 COURSE, STACY RAYSOR WOULD LIKE TO ADDRESS THE COURT, TOO.

2 THE COURT: YES, SIR.

3 MR. PRIDE: BUT, YOUR HONOR, I WOULD LIKE TO TELL
4 YOU, FIRST OF ALL, THAT I'VE TRIED CASES WHERE PEOPLE HAVE
5 BEEN CHARGED WITH MURDER AND LATER ON THE CHARGES HAVE BEEN
6 REDUCED. I READ CASES FROM THE SOUTH CAROLINA SUPREME
7 COURT, THE COURT OF APPEALS, AND I'VE ALSO READ CASES FROM
8 THE UNITED STATES SUPREME COURT ON CASES WITH FACTS SIMILAR
9 TO THIS ONE. I'M WELL AWARE OF WHAT THE STATE WOULD HAVE
10 TO ESTABLISH IN ORDER TO PROVE HIS GUILT IN THIS CASE. I
11 HAVE INVESTIGATED THIS CASE. I HAVE HIRED EXPERTS IN THIS
12 CASE. I HAVE PETITIONED THE COURT TO ASK FOR FUNDS IN
13 ORDER TO PREPARE HIS DEFENSE AND HAD JUDGE WESTBROOK GRANT
14 AN ORDER ALLOCATING FUNDS SO THAT I COULD PROPERLY PREPARE
15 HIS DEFENSE IN THIS MATTER. I HAVE COUNSELLED WITH MY
16 CLIENT ON NUMEROUS OCCASIONS ABOUT GOING TO TRIAL AND ALSO
17 ON THE OTHER SIDE OF THE COIN ABOUT ENTERING INTO A PLEA IN
18 THIS MATTER.

19 MR. RAYSOR DID NOT HAVE FUNDS TO HIRE ME, BUT A
20 FRIEND OF HIS DID PAY ME, BUT MY LOYALTY AND MY CONFERENCES
21 WERE ALWAYS WITH HIM AND WE ALWAYS REACHED DECISIONS IN
22 CONCERT TOGETHER. I'VE TAKEN MY TIME TO TRY AND FULLY
23 EXPLAIN TO HIM THE DISCOVERY MATTER. WHAT THE EVIDENCE
24 WOULD BE, WHAT A -- WHAT KIND OF A JURY I WOULD EXPECT TO
25 GET IN THIS CASE, WHAT KIND OF A JURY I DID NOT WANT IN

1 THIS CASE.

2 SO WHEN HE ENTERED HIS PLEA OF GUILTY, I'M
3 SATISFIED THAT I'VE DISCHARGED MY RESPONSIBILITY TO HIM AS
4 A LAWYER. I'M SATISFIED THAT THE COURT GAVE HIM PROPER
5 INSTRUCTIONS ON WHAT HE COULD DO, WHAT HE HAD A RIGHT TO
6 DO, AND WHAT HE DIDN'T HAVE TO DO; AND I'M SATISFIED THAT
7 STACY, ALONG WITH ME AND THROUGH ME AND WITH MY
8 RECOMMENDATION, HAS REACHED WHAT I CONSIDER TO BE THE FAIR
9 AND JUST DECISION BY ENTERING A PLEA IN THIS CASE.

10 WOULD YOU STATE YOUR FULL NAME, PLEASE?

11 DR. MCKEE: MY NAME IS GEOFFREY R. MCKEE, P.H.D.

12 MR. PRIDE: AND WOULD YOU TELL THE COURT A LITTLE
13 BIT ABOUT YOUR EDUCATIONAL BACKGROUND, YOUR EXPERIENCE, AND
14 THE NUMBER OF TIMES YOU'VE HAD AN OPPORTUNITY TO
15 PARTICIPATE IN COURT AS A WITNESS?

16 DR. MCKEE: I RECEIVED MY P.H.D. IN PSYCHOLOGY
17 FROM THE UNIVERSITY OF MISSOURI IN COLUMBIA IN 1969. IN
18 1985, I WAS AWARDED THE DIPLOMAT IN FORENSIC PSYCHOLOGY
19 THROUGH THE AMERICAN BOARD OF PROFESSIONAL PSYCHOLOGY AND
20 THE AMERICAN BOARD OF FORENSIC PSYCHOLOGY. I HELD THE RANK
21 OF CLINICAL PROFESSOR IN THE DEPARTMENT OF NEUROPSYCHIATRY
22 AT THE UNIVERSITY OF SOUTH CAROLINA SCHOOL OF MEDICINE FOR
23 12 YEARS. I WAS CHIEF OF PSYCHOLOGY IN THE FORENSIC
24 PSYCHIATRY SERVICES OF WILLIAM S. HALL PSYCHIATRIC
25 INSTITUTE, CONDUCTING COMPETENCY AND CRIMINAL

1 RESPONSIBILITY AND OTHER PSYCHOLOGICAL AND FORENSIC
2 PSYCHOLOGICAL EVALUATIONS OF CRIMINAL DEFENDANTS THROUGHOUT
3 THE STATE. I HAVE TESTIFIED IN PROBABLY OVER 200 CRIMINAL
4 CASES, MANY OF THOSE MURDER CASES AND DEATH PENALTY CASES.
5 I HAVE BEEN RETAINED BOTH BY THE SOLICITOR'S OFFICE AND THE
6 DEFENSE ATTORNEYS ON A NUMBER OF OCCASIONS AND OCCASIONALLY
7 APPOINTED BY THE COURT.

8 THE COURT: ALL RIGHT, SIR.

9 MR. PRIDE: WOULD YOU TELL THE COURT WHEN YOU SAW
10 STACY RAYSOR AND BEGIN TO EVALUATE HIM? WOULD YOU TELL HIM
11 THE KIND OF EVALUATION AND THE RESULTS AND CONCLUSIONS THAT
12 YOU REACHED AS A RESULT OF YOUR EVALUATION?

13 DR. MCKEE: I WAS RETAINED BY MR. PRIDE TO
14 CONDUCT A FORENSIC PSYCHOLOGICAL EVALUATION FOR THE
15 PURPOSES OF FORMING OPINIONS REGARDING DIAGNOSIS AND MENTAL
16 STATE AT THE TIME OF THE OFFENSE.

17 I INITIALLY SAW MR. RAYSOR IN FEBRUARY OF THIS
18 YEAR AND CONDUCTED OVER TWELVE AND A HALF HOURS OF CLINICAL
19 INTERVIEWS AND PSYCHOLOGICAL TESTS. IN ADDITION, I
20 REVIEWED A NUMBER OF POLICE REPORTS AND INCIDENT REPORTS
21 AND MEDICAL RECORDS FROM RICHLAND MEMORIAL HOSPITAL AND THE
22 HALL PSYCHIATRIC INSTITUTE. I ALSO INTERVIEWED A NUMBER OF
23 FAMILY MEMBERS AND PERSONS IN THE COMMUNITY THAT HAD KNOWN
24 MR. RAYSOR SINCE ADOLESCENT.

25 AS A RESULT OF MY EVALUATION, IT'S MY OPINION

1 THAT DURING THE TIME PERIOD SURROUNDING THE OFFENSE, THAT
2 MR. RAYSOR WAS SUFFERING FROM AN EXTREME ANXIETY REACTION,
3 MOST SPECIFICALLY ADJUSTMENT DISORDER WITH ANXIOUS MOOD
4 WITH SIGNIFICANT ANXIETY SYMPTOMS OF DEPERSONALIZATION AND
5 DISSOCIATION.

6 DEPERSONALIZATION IS CHARACTERIZED BY FEELING AS
7 IF YOU ARE OUT OF YOUR BODY, AS IF YOU ARE SEEING YOURSELF
8 FROM ABOVE, AND IT'S OFTEN REFLECTED IN THE PATIENT OR THE
9 DEFENDANT REPORTING AND REFERRING TO THEMSELVES IN THE
10 THIRD PARTY.

11 DISSOCIATION IS CHARACTERIZED BY BEING AS IF IN A
12 TRANCE.

13 AND BOTH THE POLICE REPORTS AND THE PSYCHOLOGICAL
14 TESTING ARE CONSISTENT WITH THAT.

15 ADDITIONALLY, THE PSYCHOLOGICAL TESTING AND HIS
16 HISTORY AND, AGAIN, INTERVIEWS WITH OTHER FAMILY MEMBERS
17 INDICATE THAT MR. RAYSOR DOES NOT HAVE AN ANTISOCIAL
18 PERSONALITY DISORDER AND HE IS NOT MALINGERING, THE
19 SYMPTOMS THAT I HAVE DESCRIBED. IT'S---

20 THE COURT: SO WOULD IT BE FAIR TO SAY, DOCTOR,
21 THAT YOUR EVALUATION, YOUR OPINION, YOUR ASSESSMENT OF THE
22 SITUATION WOULD MAKE THE ACTIONS OF MR. RAYSOR ON THE NIGHT
23 IN QUESTION FIT WITH A VOLUNTARY MANSLAUGHTER RESOLUTION OF
24 THIS MATTER? WOULD THAT BE FAIR TO SAY?

25 DR. MCKEE: YES, SIR.

1 THE COURT: ALL RIGHT.

2 THANK YOU, SIR.

3 MR. PRIDE: AND IN DETERMINING THE GUIDELINES SET
4 OUT BY THE F.B.I., WOULD THEY ALSO BE WITHIN THOSE
5 GUIDELINES?

6 DR. MCKEE: THEY ARE CONSISTENT WITH
7 CLASSIFICATION SYSTEMS BY THE NATIONAL CENTER FOR ANALYSIS
8 OF VIOLENT CRIME, F.B.I.'S BEHAVIORAL SCIENCES UNIT.
9 CONSISTENT WITH A CATEGORY OF SPONTANEOUS DOMESTIC
10 HOMICIDE.

11 MR. PRIDE: DID YOU FIND ANYTHING IN MR. RAYSOR'S
12 BACKGROUND TO SHOW A PROPENSITY FOR VIOLENCE?

13 DR. MCKEE: NO.

14 THE COURT: DID YOU FIND ANYTHING IN MR. RAYSOR'S
15 BACKGROUND AND FROM YOUR INVESTIGATION AND EVALUATION TO
16 SHOW THAT MR. RAYSOR AT ANY POINT IN TIME DURING THIS
17 MARRIAGE HAD EVER HIT HIS WIFE, FOUGHT HIS WIFE, OR THERE
18 WAS FIGHTING GOING ON?

19 DR. MCKEE: NO.

20 THE COURT: DID YOU FIND THAT MR. RAYSOR AND HIS
21 WIFE WERE INVOLVED IN A PROMISCUOUS MARRIAGE?

22 DR. MCKEE: IT'S MY UNDERSTANDING THAT THERE WERE
23 ALLEGATIONS OF EXTRAMARITAL INVOLVEMENTS.

24 THE COURT: AND WAS THAT ON BOTH SIDES?

25 DR. MCKEE: THAT'S MY UNDERSTANDING.

1 MR. PRIDE: YOUR HONOR, JUST TO SORT OF SUM UP
 2 AND THIS MAY BE AN UNUSUAL WAY ABOUT GOING ABOUT IT, BUT TO
 3 SUM THIS MATTER UP IN TERMS OF WHAT DR. MCKEE SAYS,
 4 ORDINARILY, THERE IS WHAT YOU CALL AN AUTONOMIC REACTION.
 5 WE NEVER KNOW WHEN WE BLINK OUR EYES. IT JUST OCCURS. AND
 6 THAT'S EXACTLY WHAT HAPPENED TO STACY BASED ON HIS
 7 OBSERVATION. IT WAS AN AUTONOMIC REACTION. HE DIDN'T
 8 INTEND TO DO IT, IT WASN'T ONE THAT OBVIOUSLY WAS PLANNED
 9 TO DO IT SO THERE WAS NO PREMEDITATION.

10 THE COURT: BE THE SUDDEN HEAT AND PASSION THAT
 11 IS THE CLASSIC DEFINITION OF VOLUNTARY MANSLAUGHTER.

12 MR. PRIDE: THAT'S RIGHT.

13 THE COURT: ALL RIGHT.

14 MR. PRIDE: AND BASED ON DR. MCKEE'S
 15 INVESTIGATION AND HIS COUNSELING AND EXAMINATION OF STACY,
 16 STACY HAD ONE BAD DAY IN 29 YEARS AND THAT WAS ON THE 21ST
 17 OF AUGUST WHEN THIS EVENT TOOK PLACE.

18 THE COURT: ALL RIGHT.

19 MR. PRIDE: THANK YOU VERY MUCH.

20 THE COURT: THANK YOU, DOCTOR. THANK YOU, MR.
 21 PRIDE.

22 MR. PRIDE: I'M SORRY, JUDGE, I DON'T HAVE MY
 23 WITNESSES RIGHT UP HERE.

24 THE COURT: TAKE YOUR TIME, MR. PRIDE.

25 MS. RAYSOR: HELLO, JUDGE.

1 THE COURT: COULD YOU SPEAK UP A LITTLE BIT AND
2 PLEASE TELL ME YOUR NAME.

3 MS. RAYSOR: MY NAME IS PAT RAYSOR. I'M STACY'S
4 MOTHER, JUDGE.

5 THE COURT: ALL RIGHT, MS. RAYSOR.

6 MR. PRIDE: MS. RAYSOR, HOW OLD WERE YOU WHEN
7 STACY WAS BORN?

8 MS. RAYSOR: I WAS 16 OR 17, I THINK---

9 MR. PRIDE: I WANT YOU TO SPEAK UP---

10 MS. RAYSOR: SEVENTEEN.

11 MR. PRIDE: SEVENTEEN-YEARS OLD.

12 AND HOW MANY CHILDREN HAVE YOU HAD?

13 MS. RAYSOR: WELL, I HAVE FOUR KIDS.

14 MR. PRIDE: AND WAS STACY BORN INTO A SINGLE
15 FAMILY?

16 MS. RAYSOR: YES, HE WAS.

17 MR. PRIDE: AND WHO REARED STACY?

18 MS. RAYSOR: WELL, HIS GRANDMOTHER AND I.

19 MR. PRIDE: AND WHO DID STACY LIVE WITH?

20 MS. RAYSOR: HIS GRANDMOTHER MOSTLY.

21 MR. PRIDE: ALL RIGHT.

22 AND TO YOUR KNOWLEDGE, HAS STACY EVER
23 DEMONSTRATED ANY PROPENSITIES FOR VIOLENCE? HAS HE EVER
24 BEEN A KID THAT GOT INVOLVED IN FIGHTS?

25 MS. RAYSOR: NO. NO, SIR.

1 MR. PRIDE: AND DURING THE TIME THAT STACY WAS IN
2 PUBLIC SCHOOLS, DID YOU EVER HAVE ANY COMPLAINTS IN TERMS
3 OF DISCIPLINARY PROBLEMS WITH STACY?

4 MS. RAYSOR: NONE WHATSOEVER, NO, SIR.

5 MR. PRIDE: THANK YOU VERY KINDLY, JUDGE. THAT
6 WOULD BE THE EXTENT OF THE COMMENTS SHE HAS.

7 EXCUSE ME ONE MOMENT.

8 THE COURT: YES, SIR. TAKE YOUR TIME, MR. PRIDE.

9 MS. RAYSOR: JUDGE, YOUR HONOR, I REALIZE THAT
10 THIS EVENT HAPPENED, BUT, JUDGE, YOUR HONOR---

11 THE COURT: I'M SORRY, I CAN'T HEAR YOU.

12 MS. RAYSOR ---I SAID I REALIZE -- I ASK YOU TO
13 HAVE MERCY AND PLEASE BE LENIENT ON MY SON, DEAR GOD, IN
14 THE NAME OF JESUS CHRIST I ASK THIS OF YOU.

15 THE COURT: ALL RIGHT. THANK YOU.

16 MS. RAYSOR: BECAUSE I KNOW HE HAS ASKED GOD FOR
17 FORGIVENESS AND WE HAVE ALSO AND I PRAY FOR EVERYBODY. AND
18 I'M SORRY ABOUT WHAT HAPPENED.

19 THE COURT: ALL RIGHT. THANK YOU.

20 MS. RAYSOR: THANK YOU, JUDGE.

21 MR. PRIDE: YOUR HONOR, THIS IS MS. GLENDIS.

22 MISS PEARSON: MISS.

23 MR. PRIDE: MISS. EXCUSE ME, I'M STARTING OFF
24 WRONG.

25 THE COURT: MISS -- YES, MA'AM.

1 YOUR FULL NAME.

2 MS. PEARSON: GLENDIS PEARSON.

3 THE COURT: SMITH.

4 MS. PEARSON: GLENDIS B. PEARSON.

5 THE COURT: OKAY. PEARSON, I'M SORRY.

6 MS. PEARSON: I WAS SAYING MS.

7 THE COURT: WE DON'T WANT TO GET YOUR CATEGORY
8 MESSED UP, MA'AM.

9 I'M SORRY. BE HAPPY TO HEAR FROM YOU.

10 MS. PEARSON: YES. I HOPE IT'S NOT INAPPROPRIATE
11 FOR ME TO FIRST SAY TO THIS FAMILY THAT IN NO WAY DO I WANT
12 THEM TO FEEL THAT WHAT I HAVE DONE TO TRY TO HELP STACY
13 SHOULD BE INTERPRETED AS A DIMINISHMENT OF MY DEEP
14 COMPASSION AND SORROW OVER YOUR LOSS. I HAVE A DAUGHTER
15 AND AS A MATTER OF FACT, MY DAUGHTER DATED STACY. I CAME
16 TO KNOW STACY BECAUSE THEY WENT TO ELEMENTARY SCHOOL
17 TOGETHER. THEY DATED IN HIGH SCHOOL AND ON ONE OCCASION,
18 WHEN MY DAUGHTER, WHO WAS GIVEN A FELLOWSHIP TO STUDY IN
19 AFRICA, STACY ACTUALLY LIVED WITH ME FOR A SUMMER. AND ALL
20 OF THE YEARS THAT I'VE KNOWN THIS YOUNG MAN, I HAVE NEVER
21 SEEN ANY SIGN THAT THERE WAS SOMETHING IN HIM THAT COULD DO
22 WHAT HE DID.

23 WHEN I -- I LEARNED OF THIS FROM THE NEWSPAPERS
24 AND WHEN I READ IT, I WAS ABSOLUTELY ASTOUNDED TO SEE HIS
25 NAME CONNECTED WITH AN ACT SUCH AS THIS. I'M A VERY DEEPLY

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1 SPIRITUAL PERSON AND I FELT VERY LED TO TRY AND SECURE HELP
2 FOR HIM AND I MADE AN EFFORT TO WRITE -- I DID WRITE HIM
3 SHORTLY AFTER HE WAS IN PRISON IN RICHLAND COUNTY DETENTION
4 CENTER.

5 SO, I GUESS, I'M HERE TO ASK FOR MERCY FOR STACY
6 FROM THE COURT. I SUPPOSED IF THIS HAD BEEN A PATTERN OR
7 IF I HAD SENSED, I MEAN, RIGHT NOW, I WOULD NOT BE FEARFUL
8 IN ANY WAY TO HAVE STACY LIVE WITH ME. HE DATED MY
9 DAUGHTER. I NEVER HAD ANY REASON TO BE CONCERNED ABOUT IT.
10 AS A MATTER OF FACT, I ACTUALLY SAW HIM -- HE WAS VERY
11 PROTECTIVE OF HER AND SHE'S MY OWN CHILD AND I THOUGHT VERY
12 MUCH ABOUT THIS FAMILY AND HOW I WOULD FEEL AND SO, I CAN
13 REALLY RELATE TO IT. I HAVE BEEN REALLY TORN ABOUT THIS,
14 BUT I DID WANT THE COURT TO KNOW THAT I'M NOT RELATED TO
15 STACY. WE ARE NOT KIN. I KNOW HIM I THINK WELL. I ONLY
16 KNOW HIS FAMILY -- I MEAN, I KNOW HIS FAMILY BECAUSE I MET
17 THEM IN THE COURSE OF GETTING TO KNOW HIM. SO THERE'S NO
18 BLOOD RELATIONSHIP HERE, BUT HE IS ONE WHO I FEEL REALLY
19 DESERVES THE MERCY OF THIS COURT. THERE WAS JUST NOT THIS
20 PATTERN, THERE WAS JUST NOT THIS VIOLENCE IN HIS NATURE AT
21 ANY TIME IN HIS LIFE AS I WAS ABLE TO PERCEIVE THAT. SO
22 THAT'S THE REASON I CAME TODAY AND I THANK YOU FOR AN
23 OPPORTUNITY TO SPEAK TO THE COURT.

24 THE COURT: THANK YOU FOR YOUR WORDS, MA'AM.

25 MR. PRIDE: YOUR HONOR, I MIGHT TELL YOU THAT MS.

1 PEARSON CAME TO SEE ME AND SHE WAS JUST AMBIVALENT AND
2 SHOCKED TO KNOW THAT STACY HAD BEEN CHARGED AND THAT HE WAS
3 INVOLVED IN A MATTER LIKE THIS. SHE HIRED ME AND I THOUGHT
4 AT FIRST THAT SHE MIGHT HAVE BEEN KIN TO HIM, BUT SHE JUST
5 FELT THAT STRONGLY ABOUT HIM AS A YOUNG MAN AND SO SHE
6 PROVIDED LEGAL SERVICES FOR HIM IN THIS MATTER.

7 THE COURT: ALL RIGHT.

8 MR. PRIDE: WOULD YOU INDULGE ME A MOMENT,
9 PLEASE.

10 THE COURT: YES, SIR.

11 AND, MR. JOHNSON, OF COURSE, I'LL GIVE YOU A
12 CHANCE TO REPLY OR RESPOND IF YOU'D LIKE TO AT SOME POINT
13 IF YOU THINK IT'S NECESSARY.

14 MR. JOHNSON: YOUR HONOR, WE HAVE SEVERAL OTHER
15 WITNESSES IN THIS CASE IN THE COURTROOM. I DO NOT KNOW IF
16 THEY WISH TO SPEAK. I COULD GIVE YOU THEIR NAMES -- SOME
17 DO, YOUR HONOR.

18 MR. PRIDE: YOUR HONOR, THIS IS MS. LINCOLN.

19 THE COURT: YES, MA'AM.

20 MS. LINCOLN: YOUR HONOR, I THANK YOU FOR THE
21 OPPORTUNITY TO BE HERE TODAY. AND, AGAIN, AS I SAID, TWO
22 YEARS AGO, I'M VERY SORRY ABOUT WHAT HAPPENED. I'M JUST
23 VERY TORN. I'VE BEEN PRAYING FOR YOU AND, AGAIN, I'M VERY
24 SORRY. BUT I'M HERE TO SUPPORT STACY. I LOVE HIM WITH ALL
25 OF MY HEART. HE WAS MARRIED TO MY DAUGHTER AND HIS

1 FIVE-YEAR-OLD GRANDDAUGHTER LIVED WITH ME FOR FOUR YEARS
 2 OUT OF HER LIFE. I WAS JUST DEVASTATED WHEN I HEARD THIS
 3 BECAUSE OUT OF THE SIX TO SEVEN YEARS I HAVE KNOWN STACY,
 4 HE HAS NOT DISPLAYED ANY NATURE OF THIS.

5 AS A MATTER OF FACT, HE'S BEEN A PROTECTOR TO ME
 6 AND HAVE BEEN COUNSELING ME OVER THE YEARS ABOUT SOME
 7 CONCERNS THAT I'VE HAD. SO I'M JUST REALLY SHOCKED.

8 AGAIN, HE'S VERY EASYGOING. HE LOVES HIS FAMILY.
 9 HE WOULD DO ANYTHING FOR HIS FAMILY AS HE DID FOR ME AND MY
 10 FAMILY. AND SO, I'M HERE TODAY IN THE NAME OF JESUS ASKING
 11 FOR MERCY FROM THE COURT FOR HIM AND HIS LIFE BECAUSE IT
 12 HAS BEEN A VERY TRYING AND LEARNING EXPERIENCE. SO THAT'S
 13 WHY I'M HERE TODAY.

14 THE COURT: ALL RIGHT.

15 THANK YOU, MA'AM.

16 MR. PRIDE: THANK YOU.

17 JUDGE, I'D JUST LIKE FOR YOU TO SEE THE NUMBER OF
 18 PEOPLE THAT HAVE COME -- WOULD YOU ALL STAND UP IN THE
 19 BACK?

20 (WHEREUPON, A NUMBER OF PEOPLE STAND AT
 21 THIS TIME.)

22 MR. PRIDE: I THINK IT WOULD BE REPETITIOUS TO
 23 ASK YOU TO HEAR ANY ADDITIONAL WITNESSES. I WOULD LIKE FOR
 24 STACY TO ADDRESS YOU.

25 THE COURT: ALL RIGHT, SIR.

1 THE DEFENDANT: PLEASE BEAR WITH ME.

2 TO GET STARTED, I WOULD LIKE TO SAY TO JACK, TO
3 BARBARA, TO DON AND LAZETTA(PHONETICALLY), TO RAY, TO
4 KAREN, TO LEE, TO TIFFANY---

5 A FAMILY MEMBER: YOU CAN'T SAY ANYTHING TO ME.

6 THE DEFENDANT: PLEASE, I BEG OF YOUR
7 FORGIVENESS.

8 THERE WAS NEVER ANY INCLINATION FOR THIS TO COME
9 ABOUT. NEVER. I LOVE NIELLE WITH ALL OF MY HEART, WOULD
10 DO ANYTHING FOR HER, ABOVE AND BEYOND. ANYTHING. AND IF I
11 WERE HAVE SAW THIS COMING, I WOULD HAVE RAN AWAY. IF I
12 WOULD HAVE SAW THIS COMING. I DID NOT SEE THIS COMING,
13 YOUR HONOR. I DID NOT.

14 THE RELATIONSHIP SPAN -- WE MET IN 1992, APRIL
15 17TH OF 1992 -- AND THE RELATIONSHIP SPAN FOR 7 YEARS, FOUR
16 MONTHS, AND FOUR DAYS, YOUR HONOR, AND THIS A VERY ATYPICAL
17 RELATIONSHIP, YOUR HONOR.

18 WHEN COUNSELOR JOHNSON SAID THAT NIELLE WAS THE
19 PRIMARY BREADWINNER THAT WAS A TRUE STATEMENT, YOUR HONOR,
20 BUT THE STORY BEHIND THAT IS, IS THAT AFTER I GOT OUT OF
21 THE MILITARY, I GOT A TECHNICAL JOB THAT WAS PAYING PRETTY
22 WELL AND ME AND NIELLE EVENTUALLY ENDED UP BACK TOGETHER
23 AND SHE DIDN'T LIKE THE FACT THAT I WAS PAYING MY DAUGHTER
24 SO MUCH CHILD SUPPORT. SO ME, BEING MR. FIX-IT, SAID THAT
25 I WOULD LEAVE MY JOB AND GO TO ANOTHER JOB, A LESSER PAYING

1 JOB, AND THIS IS HOW SHE ENDED UP BEING A PRIMARY
2 BREADWINNER AND THIS WAS AGREED UPON BY OF BOTH. A LOT OF
3 THINGS HAPPENED IN THAT HOUSEHOLD THAT A LOT OF PEOPLE
4 DON'T KNOW ABOUT, THAT A LOT OF PEOPLE DON'T KNOW ABOUT AND
5 I DO NOT WISH TO DWELL ON THE NEGATIVE. I DO NOT WISH TO
6 DWELL ON THE NEGATIVE. I'M SORRY FOR WHAT I HAVE DONE.
7 AND AS I SAID BEFORE, IF THERE WAS ANY INCLINATION TOWARD
8 THIS HAPPENING, THEN I WOULD HAVE JUST RAN AWAY. I WOULD
9 HAVE JUST RAN AWAY. NEVER HAVE I IMAGINED -- I STILL FIND
10 MYSELF BAFFLED THAT IT EVEN HAPPENED. I STILL FIND MYSELF
11 BAFFLED THAT IT EVEN HAPPENED.

12 THE COURT: ALL RIGHT.

13 THANK YOU, MR. RAYSOR.

14 ANYTHING FURTHER, MR. PRIDE?

15 MR. PRIDE: YOUR HONOR, WHEN THIS MATTER
16 HAPPENED, IT WAS STACY THAT CALLED THE POLICE. WHEN HE
17 FOUND -- BECAME CONSCIOUS OF WHAT HAD HAPPENED IN THAT
18 ROOM. HE TRIED TO KILL HIMSELF. HE CUT HIS WRIST AND I
19 THINK HE STABBED HIMSELF. SO WHEN THE POLICE GOT THERE AND
20 LOOKED THROUGH THE WINDOW, HE WAS PRETTY MUCH OUT OF THAT
21 BECAUSE HE LOST A LOT OF BLOOD.

22 BUT, AGAIN, JUDGE, YOU KNOW, AND I WANT TO SAY TO
23 THE MARTINS ALSO THAT HOW SORRY I AM. WE ALL HAVE CHILDREN
24 AND HAVE LOST LOVE ONES AND I CAN'T IMAGINE WHAT IT MUST BE
25 LIKE FOR THEM AND I'M SORRY THAT IT WAS THEIR DAUGHTER.

1 BUT HE'S ALWAYS TOLD ME THAT HE LOVED HIS WIFE VERY MUCH.
2 HE'S ALWAYS ACKNOWLEDGED THAT THERE WAS MUTUAL JEALOUSY IN
3 THE RELATIONSHIP BETWEEN THE TWO OF THEM. THERE WAS A
4 PRIVY OF PROMISCUOUS BEHAVIOR AND I SAY THAT RESPECTFULLY
5 AND NOT DISRESPECTFULLY IN ANY RESPECT. THAT WAS A PROBLEM
6 IN THE MARRIAGE. I CAN'T TELL YOU BECAUSE STACY HAS NEVER
7 BEEN ABLE TO TELL ME WHAT HAPPENED THAT NIGHT THAT CAUSED
8 HIM TO GO OFF LIKE THAT BECAUSE HE REALLY DOESN'T KNOW. I
9 WOULD SAY TO YOU, JUDGE, THAT YOU DON'T HAVE TO PUT A MAN
10 AWAY SO FAR THAT HE CANNOT SEE ANY HOPE IN HIS LIFE IN
11 ORDER FOR HIM TO REPENT FOR WHAT HE DID FROM ONE BAD DAY IN
12 HIS LIFE BECAUSE STACY IS NOT A BAD MAN. HE'S NOT A BAD
13 FELLOW AT ALL. HE'S LIVED A CREDITABLE LIFE. HE'S NOT A
14 MAN THAT HAS GONE AROUND AND TAKEN ADVANTAGE OF WOMEN OR
15 BEAT THEM. HE HAS NEVER DEMONSTRATED ANY VIOLENT
16 PROPENSITIES AT ALL. I DON'T KNOW. I MEAN, WE HAVE TALKED
17 ABOUT IT. WE HAVE TRIED TO TALK ABOUT IT. HE'S TRIED TO
18 TALK ABOUT IT WITH DR. MCKEE, BUT HE DOESN'T KNOW WHAT
19 HAPPENED THAT NIGHT. BUT HE DOES -- WE DO KNOW THAT HE DID
20 TRY AND KILL HIMSELF. WE DO KNOW THAT HE DID CALL THE
21 POLICE. WE DO KNOW THAT HE SHOWED REMORSE IMMEDIATELY AND
22 HE DEMONSTRATED THAT BY SAYING -- TELLING THE POLICE, I
23 KILLED HER. THAT'S AS FAR AS HE WENT. HE DIDN'T TELL THEM
24 WHY OR WHAT HAD HAPPENED BECAUSE HE DIDN'T KNOW. HE IS
25 REMORSEFUL. HE'S SORRY ABOUT WHAT HAPPENED. I KNOW THAT

1 HE CANNOT BRING HIS WIFE BACK AND I KNOW THAT HE HURT HIS
2 WIFE'S FAMILY AND THEIR FRIENDS AND HIS FAMILY AND THE
3 PEOPLE THAT LOVE HIM VERY BADLY, BUT HE HAD ONE BAD NIGHT
4 IN HIS LIFE, JUDGE.

5 HE'S 29-YEARS OLD. HE HAS ABSOLUTELY NOT A
6 SCINTILLA OF A CRIMINAL RECORD. NONE WHATSOEVER. THAT'S
7 SORT OF REMARKABLE IN SOME RESPECTS, BUT BY THE SAME TOKEN,
8 JUDGE, HE WASN'T A WIFE BEATER, HE WASN'T A VIOLENT MAN.
9 HE HAD AN AUTONOMIC REACTION. WE DON'T KNOW WHEN WE BLINK
10 OUR EYES. IT JUST HAPPENS AND THAT'S WHAT HAPPENED THAT
11 NIGHT AND THAT'S THE BEST THAT I CAN GIVE YOU AS A LAWYER.

12 THE COURT: ALL RIGHT.

13 MR. PRIDE: THANK YOU.

14 THE COURT: THANK YOU, MR. PRIDE.

15 MR. JOHNSON: JUDGE, JUST BRIEFLY, IN RESPONSE.

16 THE COURT: YES, SIR.

17 MR. JOHNSON: WANDA IS GOING TO SPEAK FOR ALL OF
18 THE OTHER FRIENDS AND FAMILY, MS. TIFFANY JENNINGS, MS.
19 KAREN TAYLOR, AND RAY, THEY DON'T WISH TO SPEAK, BUT THEY
20 THINK THAT WANDA WILL DO A PRETTY GOOD JOB IN ADDRESSING
21 THOSE THREE THINGS AND THEN I JUST WANT TO ADDRESS TWO --
22 TWO ADDITIONAL MATTERS.

23 YOUR HONOR, HE WAS EXAMINED BY WILLIAM S. HALL.
24 THE ONLY THING THAT THEY ADDRESS IN THAT PARTICULAR
25 EVALUATION, THEY FOUND AN ALCOHOL DEPENDENCY. THEY DID NOT

1 FIND ANY OTHER DISORDERS THAT THE DEFENSE COUNSEL HAS
2 MENTIONED---

3 MR. PRIDE: EXCUSE ME, JUDGE. HE WAS EXAMINED
4 FOR COMPETENCY. LOOK AT THE ORDER. HE WASN'T EXAMINED FOR
5 ANYTHING ELSE BUT---

6 MR. JOHNSON: AND CRIMINAL RESPONSIBILITY, YOUR
7 HONOR.

8 MR. PRIDE: WELL, I---

9 THE COURT: BOTH OF YOU, GENTLEMEN, RELAX A
10 LITTLE BIT. I THINK I'VE BEEN PATIENT. I WILL CONTINUE TO
11 BE PATIENT. AND SO ONE OF YOU GO AT A TIME. I'LL LET THE
12 OTHER ONE RESPOND. I'LL HEAR ALL OF IT.

13 NOW, WHERE WERE WE? WHO WAS TALKING?

14 MR. JOHNSON: I BELIEVE I WAS, YOUR HONOR.

15 THE COURT: ALL RIGHT.

16 Y'ALL JUST RELAX. I'M GOING TO HEAR EVERYBODY.

17 GO AHEAD, MR. JOHNSON.

18 MR. JOHNSON: I'LL LET WANDA SPEAK AT THIS TIME.

19 MS. WINGATE: MY NAME IS WANDA WINGATE.

20 NIELLE MARTIN WAS MY BEST FRIEND. I HAVE ALWAYS
21 BEEN A LONER ALL MY LIFE AND WHEN NIELLE CAME INTO MY LIFE,
22 SHE INSPIRED ME TO GO BACK TO SCHOOL, TO GET MY DEGREE WITH
23 HER. I WAS DOWN AND OUT, HAD TWO CHILDREN ON MY OWN. SHE
24 INSPIRED ALL OF US.

25 WE ALWAYS WERE THERE FOR YOU AND NIELLE AND IF

1 THERE WAS EVER A PROBLEM, WE WERE ALWAYS THERE FOR NIELLE
2 AND STACY. AND AS HARD AS I TRY TO BE FORGIVING, I CANNOT
3 FORGET THAT THERE'S ALWAYS AN AVENUE THAT MUST BE TAKEN.
4 YOU MAY NOT CHOOSE TO TAKE THAT AVENUE, BUT IT'S THE RIGHT
5 AVENUE THAT SHOULD HAVE BEEN TAKEN AND WHEN YOU TOOK NIELLE
6 FROM THIS WORLD, YOU DIDN'T ONLY TAKE HER, YOU TOOK A PART
7 OF MY LIFE AND EVERYONE'S LIFE IN HERE AND I WILL NEVER,
8 EVER BE ABLE TO GET OVER THAT. THERE'S NOT A DAY THAT GOES
9 BY -- AND I'M JUST THANKFUL THAT WE ARE HERE TO CARRY ON
10 HER TORCH THAT SHE STARTED AND I JUST HOPE THAT YOU WILL
11 UNDERSTAND THE FEELINGS THAT EVERYONE HAS AND YOU WILL
12 CONSIDER THAT, TOO, JUDGE.

13 THE COURT: VERY WELL. THANK YOU.

14 THE DEFENDANT: I'M SORRY, WANDA.

15 THE COURT: ANYTHING FURTHER FROM THE STATE, MR.
16 JOHNSON?

17 MR. JOHNSON: NOTHING, YOUR HONOR.

18 THE COURT: ARE YOU SURE?

19 MR. PRIDE: JUDGE, I'M CERTAIN YOU'LL GIVE
20 WHATEVER EVALUATION YOU DEEM APPROPRIATE AS IT RELATES TO
21 THE REPORT OF COMPETENCY. I TELL YOU THAT COMPETENCY WAS
22 NOT AN ISSUE IN THIS MATTER AND OUT OF AN ABUNDANCE OF
23 CAUTION, I FILED A MOTION TO HAVE HIM EXAMINED BECAUSE I
24 THOUGHT IT WAS APPROPRIATE UNDER THE CIRCUMSTANCES.

25 THE COURT: IT WAS, MR. PRIDE, AND YOU

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1 ADDITIONALLY WENT FURTHER AND YOU ASKED THE GENTLEMAN FROM
2 COLUMBIA, MISSOURI, THE DOCTOR, FORENSIC PSYCHOLOGIST, TO
3 COME IN AND I THINK YOU'VE MADE AN EXCELLENT PRESENTATION.

4 MR. PRIDE: THANK YOU.

5 THE COURT: YES, SIR.

6 MR. JOHNSON:, YOUR HONOR, THAT'S ALL WE HAVE.

7 THE COURT: ANYTHING FURTHER FROM THE DEFENDANT?

8 MR. PRIDE: THANK YOU FOR YOUR PATIENCE, JUDGE.

9 THE COURT: ALL RIGHT. VERY WELL.

10 INDICTMENT NUMBER 99-44509, THE STATE VERSUS
11 STACY RAYSOR, IT'S AN INDICTMENT FOR MURDER, PROFFERING A
12 PLEA TO VOLUNTARY MANSLAUGHTER, THE SENTENCE OF THE COURT,
13 THAT YOU, STACY RAYSOR, BE COMMITTED TO THE SOUTH CAROLINA
14 DEPARTMENT OF CORRECTIONS FOR A PERIOD OF TWENTY-NINE (29)
15 YEARS. YOU GET CREDIT FOR THE TWO PLUS YEARS YOU'VE
16 ALREADY SERVED, MR. RAYSOR, AND I WISH YOU THE VERY BEST OF
17 LUCK.

18 WISH YOU ALL THE VERY BEST OF LUCK. WE'LL BE AT
19 EASE FOR A FEW MOMENTS.

20 MR. JOHNSON: THANK YOU, YOUR HONOR.

21 **
22
23
24
25

ROBBIE KOON DeFRESE, CIRCUIT COURT REPORTER
142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075

1 STATE OF SOUTH CAROLINA)

2 CERTIFICATE

3 COUNTY OF RICHLAND)

4

5

6 I, THE UNDERSIGNED ROBBIE KOON DEFREESE, OFFICIAL

7 COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE

8 OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS

9 A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL

10 THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF

11 THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE GENERAL

12 SESSIONS COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE

13 13TH DAY OF AUGUST, 2001.

14 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,

15 COUNSEL NOR INTEREST TO ANY PARTY HERETO.

16

17 OCTOBER 7, 2001

18 

19 ROBBIE KOON DEFREESE
20 CIRCUIT COURT REPORTER

21

22

23

24

25

ROBBIE KOON DeFREESE, CIRCUIT COURT REPORTER
142 GEORGE ADDY ROAD, LITTLE MOUNTAIN, SC 29075

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State,

Respondent,

v.

Stacy Raysor,

Appellant.

Appeal From Richland County
L. Casey Manning, Circuit Court Judge

Unpublished Opinion No. 2002-UP-765.
Submitted October 22, 2002 – Filed December 11, 2002

APPEAL DISMISSED

Assistant Appellate Defender Tara S. Taggart, of
Columbia; for Appellant.

Attorney General Charles M. Condon; Chief Deputy
Attorney General John W. McIntosh; Assistant
Deputy Attorney General Charles H. Richardson, of
Columbia; Warren Blair Giese, of Columbia; for
Respondent.

PER CURIAM: Stacy Raysor appeals his guilty plea to voluntary manslaughter. Counsel for Raysor attached to the final brief a petition to be relieved as counsel. Raysor filed a separate pro se response.

After a review of the record as required by Anders v. California, 386 U.S. 738 (1967) and State v. Williams, 305 S.C. 116, 406 S.E.2d 357 (1991), we hold there are no directly appealable issues that are arguable on their merits. Accordingly, we dismiss Raysor's appeal and grant counsel's petition to be relieved.

APPEAL DISMISSED.

CONNOR, STILWELL, and HOWARD, JJ., concur.

54
03CP 405846

STATE OF SOUTH CAROLINA)

In the Court of Common Pleas

County of Richland)

Stacy Raysor #277550)

Full name and prison number, if any, of applicant)

v.)

The State of South Carolina)

Name of Respondent)

Respondent)

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
03DEC-8 AM 11:19
BARBARA A. SCOTT
C.C.C. & G.S.

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 it clear to which question any such continued answer refers.

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

If the applicant 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 applicant was convicted.

1. Place of detention South Carolina Department of Corrections, Evans Correctional Institution, 510 Hwy. 9 West, Bennettsville, S.C. 29512
2. Name and location of Court which imposed sentence Richland County Court of General Sessions, Columbia, S.C.
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 99-GS-40-44509
 - (b) _____
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) August 13, 2001. Sentenced to twenty-nine years
 - (b) _____
 - (c) _____

- 5. Check whether a finding of guilty was made
 - (a) after a plea of guilty After a plea of guilty
 - (b) after a plea of not guilty N/A
 - (c) after a plea of nolo contendere N/A

6. Did you appeal from the judgment of conviction or the imposition of sentence? YES

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. State of South Carolina Court of Appeals
- ii. N/A
- iii. N/A

(b) the result in each such Court to which you appealed:

- i. Appeal Dismissed
- ii. N/A
- iii. N/A

(c) the date of each such result:

- i. December 11, 2002
- ii. N/A
- iii. N/A

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. Unpublished Opinion No. 2002-UP-765
- ii. N/A
- iii. N/A

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) N/A
- (b) N/A
- (c) N/A

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

- (a) (SEE ATTACHED SHEET)
- (b) _____
- (c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9)

(a) (SEE ATTACHED SHEET)

(b)

(c)

11. Prior to this application have you filed with respect to this conviction

(a) any petition in a State Court under South Carolina Law?

YES

(b) any petitions in State or Federal Courts for habeas corpus or post-conviction relief?

NO

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)

NO

(d) any other petitions, motions or applications in this or any other Court?

YES

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. Appeal

ii. Petition for Rehearing - Opinion No. 2002-UP-765

iii. N/A

iv. N/A

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

i. South Carolina Court of Appeals - Columbia, S.C. 29211

ii. South Carolina Court of Appeals - Columbia, S.C. 29211

iii. N/A

iv. N/A

(c) the disposition thereof:

i. Appeal Dismissed

ii. Denied Petition for Rehearing

iii. N/A

iv. N/A

(d) the date of each such disposition:

- i. December 11, 2002
- ii. February 21, 2003
- iii. N/A
- iv. N/A

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

- i. Unpublished Opinion
- ii. Unpublished Opinion
- iii. N/A
- iv. N/A

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed? NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A

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

- i. N/A
- ii. N/A
- iii. N/A

15. If any ground set forth in (9) 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) (SEE ATTACHED SHEET)
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? YES
- (b) your trial, if any? N/A
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence?
YES
- (e) preparation, presentation or consideration of any petitions, motions, or application with respect to this conviction, which you filed? NO

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Hemphill P. Pride, II, Esquire, Columbia, S.C.
- ii. Hemphill P. Pride, II, Esquire, Columbia, S.C.
- iii. Tara S. Taggart, S.C. Appellate Defense, Columbia, S.C.

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

- i. Plea
- ii. Sentencing
- iii. Appeal

18. State clearly the relief you seek in filing this application.

Vacate Conviction and Sentence

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

NO

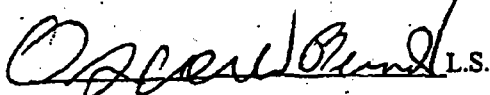
9. (a) Judge L. Casey Manning, Judicial Misconduct
 - (b) Assistant Solicitor, Daniel E. Johnson, Prosecutorial Misconduct
 - (c) Trial Counsel, Hemphill P. Pride, Ineffective Assistance of Counsel.
 - (d) Trial Counsel, Hemphill P. Pride, Ineffective Assistance of Counsel.
 - (e) Trial Counsel, Hemphill P. Pride, Ineffective Assistance of Counsel.
 - (f) Assistant Appellate Defender, Tara S. Taggart, Ineffective Assistance of Appellate Counsel.
-
10. (a) Trial Judge held an Unconstitutional victim impact testimony proceeding with the victims family and friends, in chambers, unknowing to trial counsel and defendant, before the commencement of the plea.
 - (b) Assistant Solicitor participated in an Unconstitutional victim impact testimony proceeding before the commencement of the plea.
 - (c) Ineffective Assistance of Counsel for failing to object to the trial judge allowing an Unconstitutional victim impact testimony proceeding, which requires recusal.
 - (d) Ineffective Assistance of Counsel for failing to object to the trial judge's participation in the plea and being a party to the negotiations, which requires recusal.
 - (e) Ineffective Assistance of Counsel for failing to object to excessive sentence, which was the result of the trial judge's partiality stemming from the Unconstitutional victim impact testimony proceeding before the commencement of the plea.
 - (f) Ineffective Assistance of Appellate Counsel for failing to raise or brief the issue of the trial judge holding an Unconstitutional victim impact testimony proceeding, before the commencement of the plea.
-
15. (a) Judicial Misconduct, Post-Conviction Relief Remedy.
 - (b) Prosecutorial Misconduct, Post-Conviction Relief Remedy.
 - (c) Ineffective Assistance of Counsel, Post-Conviction Relief Remedy.
 - (d) Ineffective Assistance of Counsel, Post-Conviction Relief Remedy.
 - (e) Ineffective Assistance of Counsel, Post Conviction Relief Remedy.
 - (f) Ineffective Assistance of Appellate Counsel, Post-Conviction Relief Remedy.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) VERIFICATION

I, Stacy Raysor, 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.



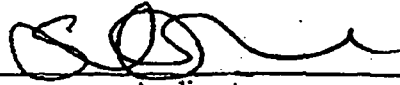
Sworn to and subscribed before me
This 5th day of Dec, 2007

 L.S.
Notary Public for South Carolina
My Commission Expires 08-06-2009

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

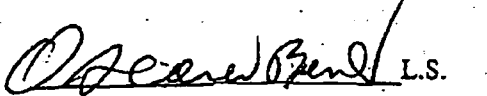
I, Stacy Raysor, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty or perjury that the following facts are true:

- (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 proceeding or give security therefor.



Applicant

Sworn to and subscribed before me
This 5th day of Dec, 2007

 L.S.
Notary Public for South Carolina
My Commission Expires: 08-06-2009

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

STACY RAYSOR, 277550)
)
Applicant,)

AMENDMENT TO APPLICATION FOR
POST-CONVICTION RELIEF

v.)

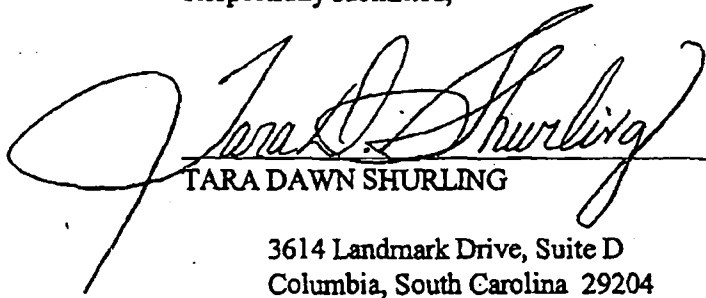
03-CP-40-5846

STATE OF SOUTH CAROLINA,)
)
Respondent.)

This matter comes before the Court by way of an Application for Post-Conviction Relief filed in Richland County on December 8, 2003. The Applicant, acting by and through his undersigned counsel, now asks that his *pro se* Application for Post-Conviction Relief be amended to include the following additional allegation:

The trial court lacks subject matter jurisdiction to enter judgment against the Applicant where his indictment for murder was fatally defective in that it failed to state the time and place of death of the victim.

Respectfully submitted,



TARA DAWN SHURLING

3614 Landmark Drive, Suite D
Columbia, South Carolina 29204
(803) 738-8622

ATTORNEY FOR THE APPLICANT

This ^{2th} day of January, 2005.
Columbia, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

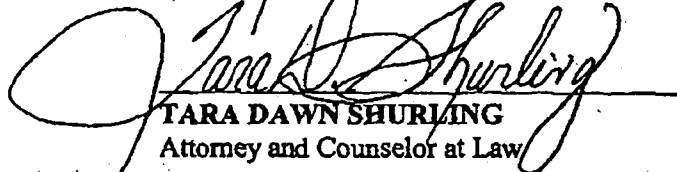
IN THE COURT OF COMMON PLEAS

Stacy Raysor, 277550,)
)
Applicant,)
v.)
)
State of South Carolina,)
)
Respondent.)

Certificate of Service

03-CP-40-5846

The undersigned attorney hereby certifies that one copy of the Applicant's Amendment to Application for Post-Conviction Relief in the above-entitled cause has been served upon opposing counsel, Arie D. Bax, by hand delivery this 6th day of January, 2005.


TARA DAWN SHURLING
Attorney and Counselor at Law

3614 Landmark Drive, Suite D
Columbia, S.C. 29204
(803) 738-8622
(803) 738-1600 Fax
690-4170 Digital Pager

ATTORNEY FOR THE APPLICANT.

SWORN TO BEFORE ME this 6th day of
January, 2005
Connie E. Page (L.S.)
Notary Public for South Carolina
My Commission Expires: March 22 2009

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS .
COUNTY OF RICHLAND)	
)	
STACY RAYSOR, 277550)	03-CP-40-5846
)	
Applicant,)	
)	
v.)	AMENDED APPLICATION
THE STATE,)	FOR POST-CONVICITON RELIEF
)	
Respondent.)	
)	

At the instruction of the Applicant in the above-captioned matter, his undersigned counsel, asks that his Application for Post-Conviction Relief be amended to include the following additional allegations:

1. The Trial Court lacked subject matter jurisdiction to enter judgment against the Applicant where the indictment for murder was fatally defective in that it failed to state the time and place of the death of the victim. Winns. v. State, (2003 WL 23279854 (S.C.Cim.Pl.))
2. Trial counsel was ineffective for failing to object when in chambers, the Court allowed an ex parte hearing involving victim impact testimony before the commencement of the plea. Applicant has witnesses and the record itself to show that the judge met with family members and friends of the victim in his chambers prior to the plea.
3. Trial counsel was ineffective for failing to object to the trial judge's participation in the negotiation of the plea.
4. Trial counsel was ineffective for failing to object to the excessive sentence, which was a direct result of the trial judge's lack of impartiality which stemmed from the ex parte, in-chambers, hearing involving victim impact

64

testimony.

The Applicant asserts that the combined effect of the errors alleged in his original Application for Post-Conviction Relief as well as the amendments contained herein, establish that he received ineffective assistance of counsel both prior to and during his trial in violation of his rights pursuant to the Sixth and Fourteenth Amendments to the United States Constitution as well as Article I, Section 14 of the South Carolina Constitution.

Respectfully submitted,

Tara Dawn Shurling

for

Tara Dawn Shurling
Attorney and Counselor at Law

3614 Landmark Dr., Ste. D
803-738-8622
803-738-1600 (Fax)

ATTORNEY FOR APPLICANT.

This 1th day of January, 2005.
Columbia, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)


IN THE COURT OF COMMON PLEAS

Stacy Raysor, 277550,)
)
Applicant,)
v.)
State of South Carolina,)
)
Respondent.)

Certificate of Service

03-CP-40-5846

The undersigned attorney hereby certifies that one copy of the Applicant's Amendment to Application for Post-Conviction Relief in the above-entitled cause has been served upon opposing counsel, Arie D. Bax, by hand delivery this 7th day of January, 2005.


for TARA DAWN SHURLING
Attorney and Counselor at Law

3614 Landmark Drive, Suite D
Columbia, S.C. 29204
(803) 738-8622
(803) 738-1600 Fax
690-4170 Digital Pager

ATTORNEY FOR THE APPLICANT.

SWORN TO BEFORE ME this 7th day of
January, 2005.

 (L.S.)
Notary Public for South Carolina

My Commission Expires: January 4, 2010

STATE OF SOUTH CAROLINA

County of Richland

Stacy Raynor # 277550
Full name and person number (if any) of Applicant.

vs.

The State of South Carolina
Name of Respondent.

Attorney General of S. C.

03CP405846

In the Court of Common Pleas

Amendment to: Post-Conviction
Relief Application number 03-C,
40-5846; filed, December 8th,
2003; at 11:19 a.m.

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
RICHLAND COUNTY
MAR 14 PM 2:19
J. A. SCOTT
CLERK
C.C. & G.S.

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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention B.R.C. de Murray B-743-4460 Broad River Rd.,
Columbia, South Carolina 29210
2. Name and location of Court which imposed sentence Richland County Court of
General Sessions, (Richland) Columbia, South Carolina 29202
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 99-B5-40-44509 murder-plead to voluntary-
 - (b) manslaughter
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) August 13, 2001 twenty-nine (29) years sentence
 - (b) for voluntary manslaughter
 - (c) _____

5. Check whether a finding of guilty was made
- (a) after a plea of guilty after a plea of guilty
 - (b) after a plea of not guilty N/A
 - (c) after a plea of nolo contendere N/A
6. Did you appeal from the judgment of conviction or the imposition of sentence?
- yes
7. If you answered "yes" to (6), list
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
 - ii. N/A
 - iii. N/A
- (b) the result in each such Court to which you appealed:
- i. Appeal dismissed
 - ii. N/A
 - iii. N/A
- (c) the date of each such result:
- i. December 11, 2002
 - ii. N/A
 - iii. N/A
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. Op. of No. 2002-UP-765
 - ii. N/A
 - iii. N/A
8. If you answered "no" to (6), state your reasons for not so appealing:
- (a) N/A
 - (b) N/A
 - (c) N/A
9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Unconstitutional ex parte victim witness testimony hearing
 - (b) Ineffective assistance of trial counsel
 - (c) Judicial bias and misconduct
10. State concisely and in the same order the facts which support each of the grounds set out in (9):
- (a) See: Initial Brief, hereto affixed
 - (b) _____
 - (c) _____

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? yes
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? no
- (d) any other petitions, motions or applications in this or any other Court? yes

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. Appeal
- ii. Petition for Rehearing - Va. Op. No. 2002-2LP-765
- iii. N/A
- iv. N/A

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

- i. South Carolina Court of Appeals - Columbia, S.C. 29211
- ii. South Carolina Court of Appeals - Columbia, S.C. 29211
- iii. N/A
- iv. N/A

(c) the disposition thereof:

- i. Appeal Dismissed
- ii. Petition for Rehearing denied
- iii. N/A
- iv. N/A

(d) the date of each such disposition:

- i. December 11, 2002
- ii. February 21, 2003
- iii. N/A
- iv. N/A

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

- i. Va. Op. No. 2002-2LP-765
- ii. Va. Op. No. 2002-2LP-765
- iii. N/A
- iv. N/A

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

all grounds in (9) are first time challenged (one)

(a) which grounds have been presented:

- i. N/A
- ii. N/A
- iii. N/A

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

- i. N/A
- ii. N/A
- iii. N/A

15. If any ground set forth in (9) 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) all grounds set forth in (9) are first time challenges
- (b) _____
- (c) _____

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

- (a) your arraignment and plea? yes
- (b) your trial, if any? N/A
- (c) your sentencing? yes
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? no

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

- i. Hemphill P. Pride, III, Esquire-Columbia, D.C.
- ii. Hemphill P. Pride, III, Esquire-Columbia, D.C.
- iii. Tara S. Taggart, D.C. Appellate Defense-Columbia, D.C.

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

- i. Plea
- ii. sentencing
- iii. Direct Appeal

18. State clearly the relief you seek in filing this application.

vacate conviction and sentence

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

no

STATE OF SOUTH CAROLINA

VERIFICATION

County of Richland

I, Stacy Kayser #277550, 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 23rd

day of February, 2006.

[Signature] (L.S.)
Notary Public

My Commission Expires
My Commission Expires: August 25, 2015

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

I, Stacy Kayser #277550, 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 therefor.



Applicant

SWORN or affirmed to and subscribed before me this

23rd day of February, 2006.

[Signature]
Notary Public

My Commission Expires
My Commission Expires: August 25, 2015

Date: February, 2006.

Dear Mrs. Scott,

_____ Please find enclosed my Amended Post-Conviction Relief Application, with Initial Brief, Motion, and Certificate of Service, and copy thereof.

Please file the original, clock the copy, and return to me in the envelope provided for that purpose.

Thank you for most kind services.

RICHLAND COUNTY
FILED
2006 MAR 14 PM 2:19
BARBARA A. SCOTT
B.R.C.I. & G.S.

Ms. Scott,

Could you also ~~send~~ send a copy to Attorney General ~~Mr~~ Mr Massee in the provided envelope!

Stacy

Respectfully Submitted By,

Stacy Raysor 2/25/06

Stacy Raysor, #277550
B.R.C.I., Murray 243
4460 Broad River Road
Columbia, S.C. 29210

(1A)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

03-CP-40-5846

Stacy Raysor, No. 277550,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

RETURN

The Respondent, making its Return to the application for post conviction relief (PCR) filed December 8, 2003, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was indicted at the September 1999 term of the Richland County Court of General Sessions for murder (99-GS-40-44509). He was represented by Hemphill P. Pride, Esquire. On August 13, 2001, the Applicant pled guilty to voluntary manslaughter. He was sentenced by the Honorable L. Casey Manning to confinement for a period of twenty-nine (29) years.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Raysor, Op. No. 2002-UP-765 (S.C. Ct. App. filed December 11, 2002).

Attached herewith and incorporated herein by reference are the records of the Richland County Clerk of Court regarding the subject convictions, the Applicant's records from the South

Carolina Department of Corrections, the guilty plea transcript, and the Applicant's appellate records.

Any of the above not so attached will be forwarded upon receipt.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel;
2. Ineffective assistance of appellate counsel;
3. Prosecutorial misconduct; and
4. Judicial misconduct.

III.

First, the Respondent contends that the Applicant's trial attorney provided effective assistance of counsel. In a post-conviction relief action, the Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, Id.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, Id. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

Second, the Respondent contends that the Applicant's appellate attorney provided effective assistance of counsel. "A defendant is constitutionally entitled to effective assistance of appellate counsel. Evitts v. Lucey, 469 U.S. 387, 105 S.Ct. 830, 83 L.Ed.2d 821 (1985). "However, appellate counsel is not required to raise every non-frivolous issue that is presented by the record." Thrift v. State, 302 S.C. 535, 539, 397 S.E.2d 523 (1990). Appellate counsel has a professional duty to choose among potential issues according to their merit. Jones v. Barnes, 463 U.S. 745 (1983).

Where the strategic decision to exclude certain issues on appeal is based on reasonable professional judgment, the failure to appeal all trial errors is not ineffective assistance of counsel. Griffin v. Aiken, 775 F.2d 1226 (4th Cir. 1985).

The Applicant must show that appellate counsel's performance was deficient and that he was prejudiced by the deficiency. Thrift, Id. at 537. When a claim of ineffective assistance of counsel is based upon failure to raise viable issues, the court must examine the record to determine "whether appellate counsel failed to present significant and obvious issues on appeal." Gray v. Greer, 800 F.2d 644, 646 (7th Cir. 1986). Generally, the presumption of effective assistance of counsel will be overcome only when the alleged ignored issues are clearly stronger than those actually raised on appeal. Id.

The Respondent contends that the Applicant's appellate attorney rendered effective assistance of counsel. However, this ground for relief may raise factual issues that are not conclusively refuted by the record. The Respondent requests an evidentiary hearing on this allegation. Sharper, Id.

V.

Finally, the Respondent submits that the Applicant's allegations of prosecutorial and judicial misconduct are without merit. The respondent moves for summary dismissal pursuant to South Carolina Code Ann. §17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that these allegations should be dismissed as a matter of law.

VI.

The State therefore requests that this Court convene an evidentiary hearing solely on the issues of ineffective assistance of trial and appellate counsel[s]. As to all other allegations, the State moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no

genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VII.

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

VIII.

WHEREFORE, having made its Return, the State requests that a hearing be held.

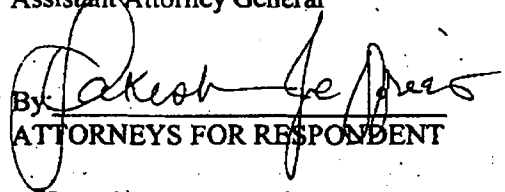
Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

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By: 
ATTORNEYS FOR RESPONDENT

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July 22, 2004

ORIGINAL

STATE OF SOUTH CAROLINA)	COURT OF COMMON PLEAS
COUNTY OF RICHLAND)	2003-CP-40-5846
Stacy Raysor,)	
)	
Applicant)	
vs.)	TRANSCRIPT OF RECORD
)	(Post Conviction Relief)
State of South Carolina,)	
)	
Respondent.)	

September 11, 2006
Columbia, South Carolina

BEFORE:

THE HONORABLE JOHN HAYES, JUDGE

APPEARANCES:

Joshua Kendrick, Attorney at Law
Attorney for the Applicant

Robert L. Brown, Assistant Attorney General
Attorney for the State

JENNY H. WILLIAMS
Official Circuit Court Reporter
(803) 576-1743

1 Monday, September 11, 2006

2 **MR. BROWN:** We're going to do Stacy Raysor
3 first, Your Honor.

4 **THE COURT:** All right. Stacy Raysor. All
5 right. Does anybody want to say something?

6 **MR. BROWN:** Your Honor, before we get started,
7 Mr. Kendrick has a motion.

8 **MR. KENDRICK:** Your Honor, I'd move for a
9 summary judgment in this matter. Do you have a copy
10 of the motion I've filed? I've got an extra one.

11 **THE COURT:** I've got it right here. A motion
12 for summary judgment. All right.

13 **MR. KENDRICK:** Thank you, Your Honor. Just real
14 briefly -- and I know that's a fairly thick looking
15 motion -- a lot of that is just background paperwork
16 just to show whether he is properly here in front of
17 the court right now which would obviously be a hitch.

18 Your Honor, there's a case called Locklear v.
19 Harvey from 1979 which according to Westlaw has never
20 received any negative treatment from any later cases
21 where the facts are fairly similar. There was an ex
22 parte meeting between the prosecuting witness, the
23 judge, and I believe in this case the prosecutor.

24 The Court at one point -- it is a very short
25 opinion, just one page -- the court says: "Because

1 defense counsel is excluded from the meeting and
2 because the discussion was off the record, this court
3 has no way of knowing whether the rights of the
4 appellant were prejudiced. While it is unlikely
5 anything improper was said, it is the possibility of
6 prejudice we are concerned with."

7 In this case, Your Honor, you can see from what
8 I've attached to my motion the judge said that he did
9 meet with the victim's family. Neither the defendant
10 nor his attorney were present at that meeting. Your
11 Honor, it's my position that is enough to vacate the
12 sentence and allow a new sentence.

13 And again, there really is no argument under our
14 case law as to whether that meeting was prejudicial,
15 and I certainly I don't have any position on it, Your
16 Honor. I think that's our problem. We can't tell if
17 it was prejudicial or not because none of us were
18 there and there is no record of it.

19 **THE COURT:** Was Locklear a trial or a plea?

20 **MR. KENDRICK:** Your Honor, apparently this
21 was -- I believe it was a trial. But what they were
22 discussing was the amount of time the defendant would
23 get depending on what happened. There was a general
24 discussion, according to the record, of what time he
25 would get. And the court in Locklear said that he

1 had been denied his Sixth Amendment right to counsel
2 at sentencing because of that, because he wasn't
3 present at a discussion which may or may not have had
4 some bearing on the sentence. But because we have a
5 general idea how to deal with sentencing, in our case
6 we're positive it had to do with sentencing because
7 this was a guilty plea, it's a similar situation.

8 Without his counsel being there, Your Honor,
9 there is just no way to tell what was said or whether
10 that prejudiced his rights. Again, the Supreme Court
11 is very clear in the Locklear case that they're not
12 concerned with whether prejudice occurred or not but
13 the possibility it could have because they don't have
14 a clear record to determine that. And they never
15 would with an ex parte situation.

16 Which, as Your Honor is aware from experience,
17 and I am, I think that ex parte meetings are not
18 really encouraged in this state. But if they ever do
19 happen, it usually comes about from the defense based
20 on some type of privilege issue.

21 And that's the difference between the State's
22 position and the defense position when it comes to
23 any criminal procedure. The defense is of course
24 bound by the rules to keep certain things to himself;
25 whereas, the State in general is required to do all

1 their work in the light of the record.

2 *THE COURT:* Well, I want to hear from Mr. Brown.
3 I'm not trying to make his argument. I'm trying to
4 get my arms around this. This is of course a guilty
5 plea, and that may or may not form some distinction.
6 This was a recommendation by the State. Did the
7 Court follow the recommendation?

8 *MR. KENDRICK:* In the Raysor case?

9 *THE COURT:* In this case.

10 *MR. KENDRICK:* In Mr. Raysor's case, Your Honor,
11 it was a straight up plea to manslaughter for zero to
12 thirty. I think the State asked for something on the
13 high end and the defense asked for something on the
14 low end.

15 *THE COURT:* It's marked as a recommendation.

16 *MR. KENDRICK:* Well, I'll have to look back.
17 I've got a whole transcript. I don't believe he ever
18 specifically recommended any particular term. The
19 ultimate sentence was one year under the maximum. So
20 the judge obviously sentenced him to more rather than
21 less, if that has a bearing on it.

22 *THE COURT:* He was charged with murder?

23 *MR. KENDRICK:* Yes, sir. And again, I'm not
24 challenging the plea that he entered.

25 *THE COURT:* I know. I'm just, like I say,

1 trying to get my arms around this, as they say.

2 **MR. KENDRICK:** Yes, sir.

3 **THE COURT:** And the other thing; in Locklear,
4 prior to trial, was Locklear aware of the meeting
5 here? There's no question on the record that the
6 Court did make everybody aware that he had met with
7 the victim's family and nobody raised any issue at
8 that time.

9 **MR. KENDRICK:** Well, he did, Your Honor. I
10 guess that would be -- my concern is that obviously
11 arguing it as a violation of the Sixth Amendment
12 right to counsel at sentencing, it would be
13 impossible in my view for Mr. Raysor to have waived
14 an objection to this meeting because he wouldn't have
15 known what he was waiving objection to.

16 The judge gives a general idea that he had
17 discussed with the family the amount of the sentence,
18 but he doesn't actually say what that discussion was,
19 what it entailed. So Mr. Raysor wouldn't have been
20 able to waive that because I think it's clear that
21 the waiver would have required a knowing and
22 voluntary waiver. He doesn't know what he was
23 waiving if he did in fact waive it.

24 Which I think I'd say that the language on the
25 record stops short of being an affirmative waiver of

1 a right to counsel; which as Your Honor is aware, is
2 probably one of the more serious waivers one could
3 ever be faced with.

4 I think that the fact that Locklear was a trial,
5 too, the Court's concern is simply the effect on the
6 sentencing phase. So I think it's very similar to
7 this because whether it's a plea or trial doesn't
8 matter; it was the sentencing that we ultimately got
9 to, which is why I specifically asked in the motion
10 I'm not looking to overturn his plea, simply the
11 sentence.

12 **THE COURT:** All right. Again, thinking out
13 loud, because I've never seen this before --

14 **MR. KENDRICK:** Yes, sir.

15 **THE COURT:** -- but the judge -- and I'm not sure
16 yet what judge it was because I don't have the front
17 page -- but went into quite a bit of colloquy with
18 Mr. Pride at the plea and Mr. Raysor. And he
19 discussed everything basically that he told -- that
20 he discussed in the private meeting, we'll call it.

21 And he said, "Do you understand that", meaning
22 what he says he did. The defendant said "Yes." The
23 Court says, "All right. Understanding that, do you
24 still want to proceed with this guilty plea here this
25 morning?" Defendant: "Yes, Your Honor." "You

1 understand I can give you 29; I can give you 30?
2 I've already indicated to the victims that I probably
3 wouldn't give you 30, which is going to be
4 substantial. Do you understand?" "Yes, sir."

5 Okay.

6 **MR. KENDRICK:** Yes, sir, Your Honor. And I
7 agree that that's what it says. In fact, that's what
8 I was kind of addressing before. I just don't think,
9 number one, we don't know if the judge said what all
10 was discussed there. Again, a sentencing proceeding
11 is almost always held on the record for this exact
12 reason. Anything that may be prejudicial needs to be
13 on the record so the court can determine it.

14 In this case, of course what was said back in
15 that room that ultimately resulted in a 29-year
16 sentence, Your Honor, I dare say that nothing the
17 defense said was taken as much in mitigation by the
18 judge other than to give a year's worth of credit for
19 whatever reason.

20 But again, something made this judge give a much
21 higher sentence as opposed to the range he was
22 facing. And I would like to be able to look at a
23 record and say, okay, here is five facts right here
24 the judge probably looked at and here's some
25 mitigation and here's the weight they used. And of

1 course I'm not brilliant at that, but a court would
2 maybe be better. But we can't do that, Your Honor,
3 because there was an ex parte meeting which I think
4 is never going to be proper in a sentencing
5 procedure.

6 **THE COURT:** Well, what's your take on what Mr.
7 Raysor is facing if this is set aside?

8 **MR. KENDRICK:** Your Honor, I have specifically
9 asked in my hearing for you to vacate the sentence,
10 which is what the Locklear opinion did. I am simply
11 challenging -- I agree that the plea was properly
12 entered. So I think that now he would simply be
13 resentenced. I think that there would be no actual
14 reversal of the plea because the waiver and the
15 problem that I have a problem with was the fact that
16 his sentence was based on something that we cannot
17 review.

18 **THE COURT:** But if -- so if the Court grants his
19 request and sends it back for a resentencing, then he
20 is looking at up to 30 years then.

21 **MR. KENDRICK:** Absolutely, Your Honor. And I'll
22 tell you this just like I told my client, because I'm
23 like this in every case; it isn't that I am disputing
24 what sentence he deserved, because I don't know
25 enough about this case, Your Honor. I don't have the

1 discovery. I didn't do any plea negotiations. I
2 don't think I was practicing law when this happened.
3 But my position is that we don't know why he received
4 that sentence.

5 Now, he is well aware that he could get 30 years
6 or 29 years or the exact same sentence. But if
7 everything that went into that sentence is put on the
8 record, then I think that our concern with how the
9 system works has been addressed. We realize he could
10 get a higher sentence, Your Honor, and I've explained
11 that to him in a letter and in conversation.

12 Mr. Raysor I'll tell Your Honor is a very
13 intelligent man. He knows the law fairly well. He's
14 a law library clerk over at the Department of
15 Corrections. And I've explained to him that this is
16 kind of what will happen and that we would go back in
17 a perfect -- if we win, of course we would go back
18 and face zero to thirty years and have a new
19 sentencing hearing. And when I say "we", whoever he
20 either hires or whoever the court appoints him. And
21 we are well aware of that, Your Honor.

22 **THE COURT:** Well, I'm just thinking out loud
23 because I'm going to hear from the State. But I have
24 read Locklear. Of course that was a trial. If I
25 determine -- if the Court determines that it has to

1 set the whole plea aside, then have you advised him
2 that he could possibly be facing the murder charge
3 again?

4 **MR. KENDRICK:** I have, Your Honor. But I have
5 also advised him that my understanding of the law is
6 that at this point we would only I guess be expecting
7 what we ask for. And I think that were you inclined
8 to even grant us that relief, the Attorney General
9 would probably agree that it would only be a
10 resentencing rather than going all the way back.

11 So I guess in all honesty with the Court, we
12 have discussed that, but it is my position that that
13 is not a very likely possibility because the actual
14 waivers that a plea requires under U.S. Supreme Court
15 law were properly done. The problem I have I guess
16 is with the thought that went into sentencing and
17 what we cannot see.

18 **THE COURT:** Well, but I don't know how the
19 statute comes to mind, but I'm thinking of what the
20 options are that are given by statute. Of course it
21 is a creature of statute. And I don't remember there
22 being one that can send it back. I mean, if the
23 sentence is violative of -- I don't recall there
24 being the category of sending back for resentencing.

25 **MR. KENDRICK:** Yes, sir. I believe that again

1 the difference would be in what -- I guess this is a
2 very rare situation where I would have a legitimate
3 argument for a resentencing, because my position has
4 always been, Your Honor, that any sentence in any
5 statute is proper, except for the fact that we have
6 this case law. And I think just the general
7 knowledge we all have is that an ex parte meeting
8 between victims and a judge raises a huge question as
9 to whether the defendant received what he should
10 have.

11 So I would -- I believe you can vacate it and
12 just have a resentencing. But I think it's such a
13 rare occasion. It's not anything I've ever dealt
14 with, Your Honor, absolutely. It's a strange
15 procedural position to be in because, just thinking
16 out loud myself, I think this is probably one of the
17 only types of situations where we would ever be faced
18 with only arguing that the sentence was improper as
19 opposed to -- unless of course it was statutorily
20 incorrect.

21 But I think Your Honor would have the power --
22 you know, if the judge had given him 35 years, you
23 would certainly have the power to send him back just
24 for resentencing. And I wish I had something to cite
25 for Your Honor, but I do not.

1 **THE COURT:** Well, with that falling into one of
2 the categories where it says there is a category for
3 a sentence exceeding that allowed by law. Anyway,
4 let me hear from the State.

5 **MR. KENDRICK:** Okay. Thank you, Judge.

6 **MR. BROWN:** Your Honor, I think there are three
7 issues that need to be addressed. First is the issue
8 of whether summary judgment should be granted. And
9 as Your Honor is well aware, summary judgment,
10 viewing the evidence in the light most favorable to
11 the non-moving party, is there any evidence that
12 would warrant going forward? I think the fact that
13 there is a waiver, as Your Honor has already pointed
14 out, is just enough to get us past the summary
15 judgment issue.

16 Getting into the merits of the argument, Your
17 Honor, I think that this waiver is sufficient. Mr.
18 Raysor was clearly apprised that an ex parte meeting
19 had occurred. It was placed on the record very
20 succinctly by Judge Manning who in my short
21 experience as a PCR attorney makes one of the most
22 complete records. In fact, I would point out that
23 Judge Manning asked Mr. Raysor no less than four
24 times if he still wanted to plead guilty, including
25 this time after being told of that specific ex parte

1 event. So it's clear that he did make that waiver
2 and wanted to continue to go forward.

3 As to that issue, Your Honor, I would point out
4 Whetsell v. State. I do not have a copy of that on
5 me. I can give you the citation, Your Honor.

6 **THE COURT:** All right.

7 **MR. BROWN:** It is 277 s.e.2d 891. And what
8 Whetsell essentially stands for is that you can waive
9 non-jurisdictional issues when you can show a
10 voluntary guilty plea. And that includes all
11 Constitutional issues. Whether it be Fourth
12 Amendment, Sixth Amendment, all of those issues can
13 be waived. And so I think that would clearly be that
14 if this is determined to be a waiver in itself, it's
15 clear that he could waive specifically his right to
16 proceed on or to object to that ex parte
17 communication.

18 As to the last issue, I think that Locklear is
19 different in two respects. First of all, it is a
20 trial. He was convicted of what he was indicted for.
21 He went up on resentencing for that issue. I think
22 that here the applicant is trying to have his cake
23 and eat it, too, if you will. He is trying to take
24 the benefit of getting this lesser charge that the
25 solicitor agreed to as well as get a chance at a

1 lower sentence.

2 I think in a guilty plea versus a trial that you
3 have to vacate the entire guilty plea. We would
4 start over from scratch. As Your Honor said, there
5 is no statute that specifically grants him the right
6 for a resentencing. And I think in a situation where
7 he is taking advantage of a plea deal, the whole plea
8 should fall.

9 And I believe that would cover all of the
10 arguments that Mr. Kendrick has made on behalf of
11 Mr. Raysor. And clearly, I think we need to go
12 forward on an evidentiary hearing.

13 *THE COURT:* Any follow-up, Mr. Kendrick?

14 *MR. KENDRICK:* Your Honor, I'll be brief because
15 I hate to beat a dead horse here. But I think we're
16 playing a dangerous game if we're going to say that,
17 number one, he's trying to have his cake and eat it,
18 too. The solicitor decided to drop charges for
19 whatever reason.

20 *THE COURT:* It's always a quid pro quo.
21 Generally there is.

22 *MR. KENDRICK:* And I believe, Your Honor, if you
23 go through the record -- and I am far more I guess
24 subjected to PCR's in representing people on this.
25 So I know criminal defense a little bit. If you look

1 on the record, the original deal was -- and this is
2 in the record that you have in front of you -- to
3 plead to 30 years on a manslaughter charge, and that
4 was rejected by Mr. Raysor through Mr. Pride.

5 And what they finally agreed upon was we will
6 plead to a manslaughter straight up and leave the
7 sentencing solely to the judge. As far as if the
8 solicitor wanted 30 years, then he should have either
9 done a negotiation, which he did, and was rejected;
10 or he should have tried the case and gotten the
11 minimum 30. He didn't do that. We don't know why.

12 It's a little bit I guess collateral to what I'm
13 trying to argue right now because my position is
14 not -- you know, it's kind of strange that we would
15 be in a situation where the Attorney General might
16 say now we want you to vacate the whole plea knowing
17 full well that when that happens they always appeal
18 it saying you can't do that. Because now that kind
19 of gives us a little power, that if he wants to start
20 messing with the defense, we're going to take it all
21 the way for them to start back over. I mean, I
22 think --

23 **THE COURT:** There's nothing -- I'm not sure
24 that's really unfair when you say take advantage of
25 somebody, quote, messing with the sentence and

1 starting over. I think that's -- when you receive a
2 sentence and you are dissatisfied for whatever
3 reason, you take your chances. You get what you
4 believe you're entitled to and you have to either
5 enjoy or suffer whatever the consequences are.

6 *MR. KENDRICK:* And I agree with you to a point,
7 Your Honor. Because half way, that's right. He
8 bargained for the benefit of a statute that would
9 give him a range of zero to thirty and then something
10 happened that was improper after that bargain was
11 reached and that plea was entered.

12 And when we talk about waivers, Your Honor, I'm
13 a fan of Franz Kafka who likes to write about these
14 governments that we don't see, we can't follow. If
15 you were to look at me and say, Josh, I need you to
16 waive argument 371, I don't even know what that is,
17 but sure I'll waive it. And if you asked me five
18 times if I was sure I was going to waive it, I might
19 have waived it; but, Your Honor, without knowing what
20 I waived, how is that waiver ever going to be
21 appropriate?

22 I think that the main -- the U.S. Supreme Court
23 cases that come out are very clear mostly when
24 talking about pleas. But any Constitutional waiver
25 requires an affirmative showing that you waive

1 something but also knowingly you know what you're
2 waiving. The judge puts on the record that he's had
3 a meeting, but we weren't at the meeting.

4 So, again, I think there is a huge problem
5 asking a defendant, Do you waive your right to have
6 counsel present at sentencing even though you don't
7 exactly know what it is you're waiving; you didn't
8 see it happen; you don't know what we did back there
9 in that room.

10 Which is why Your Honor very rarely finds a
11 position where an ex parte situation is appropriate
12 unless there is some privilege issue. And in my
13 opinion that's usually it. If I have an issue that
14 the State can't know about because of the privilege
15 that the South Carolina Supreme Court forces upon me,
16 then I go ex parte to a judge to work that out.

17 That same right does not lie with the victim or
18 a victim's family to go in and talk to a judge
19 without the other parties there present to get
20 some -- again, I don't know what kind of influence
21 they had, Your Honor. I don't know if something
22 improper happened in there or if something
23 prejudicial happened in there, and we never will,
24 short of vacating it and doing a new sentencing. And
25 again, that's all we're asking for.

1 The plea was properly entered under Alvin
2 Johnson v. Zerts (phonetic), is the case I usually
3 use out of the U.S. Supreme Court. But the waivers
4 required to plead guilty were properly made because
5 he was aware of his right to a jury trial and
6 everything else and that he was waiving those.

7 As far as having a counsel present at
8 sentencing, there was a whole portion of sentencing
9 that no one ever saw. I think it's absolutely per se
10 prejudicial. It just is because it is. I mean, it
11 doesn't matter what we develop on the record with
12 testimony, Your Honor, because there is nothing
13 anyone can come in here and say to convince us that
14 he didn't have a right to know exactly what was said.

15 **THE COURT:** All right. Well, I'm going to take
16 this one under advisement.

17 **MR. KENDRICK:** Thank you, Judge.

18 **MR. BROWN:** Thank you, judge.

19 **THE COURT:** Thank you.

20 **MR. KENDRICK:** Do you want --

21 **MR. PRIDE:** I can be excused?

22 **THE COURT:** Well, I don't know. Let's see.

23 **MR. BROWN:** If we haven't gotten past the
24 summary judgment issue, I don't think we can get to
25 the merits of the case.

1 **THE COURT:** Yeah. I think I need to study on
2 this a little bit. So we're not going to need
3 testimony, Mr. Pride.

4 **MR. PRIDE:** Thank you very much.

5 **THE COURT:** All right. Thank you.

6 (Whereupon, the proceedings are concluded)

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RS

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Stacy Raysor, 277550,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina)
)
 Respondant.)
 _____)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO. 03-CP-40-5846

ORDER

RICHLAND COUNTY
 FILED
 2006 SEP 15 PM 1:40
 BARBARA A. SCOTT
 C.C.C. & G.S.

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was indicted at the September 1999 term of the Richland County Court of General Sessions for murder (99-GS-40-44509). He was represented by Hemphill P. Pride, Esquire. On August 13, 2001, the Applicant pled guilty to voluntary manslaughter. He was sentenced by the Honorable L. Casey Manning to confinement for a period of twenty-nine (29) years.

A timely Notice of Appeal was filed on Applicant's behalf and an appeal was perfected. The South Carolina Court of Appeals affirmed Applicant's conviction and sentence. State v. Raysor, Op. No. 2002-UP-765 (S.C. Ct. App. Filed December 11, 2002).

This case came before the undersigned on September 11, 2006. At this stage the only issue before the court is Applicant's Motion for Summary Judgment based on the trial judge's conference with the solicitor and the victim's family outside the presence of the Applicant's trial counsel.

gc # #

At first blush it seems Applicant is entitled to summary judgment and a remand for resentencing. See Locklear v. Harvey, 273 S.C. 58, 245 S.E.2d 293 (1979). However, the court is faced with the fact that this issue was raised by the applicant in his direct appeal, and the Court of Appeals found "no directly appealable issues." UP No. 2002-UP-765 (Ct. App. 2002).

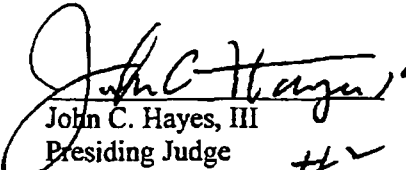
Locklear is an appeal from a post conviction hearing and silent as to any prior appeal. A review of the South Carolina Digest 2d's Table of Cases reveals no prior published case bearing the name Locklear. Section 17-27-20, S.C. Code of Laws, 1976, as amended, provides for relief by way of post conviction proceeding from a sentence in violation of the State of Federal Constitution.

Locklear makes it clear that *ex parte* conferences, such as was present here, are violative of a defendant's Sixth Amendment right to counsel.

The result of the court's analysis is that Applicant was deprived of his right to counsel, is entitled to summary judgment, and is entitled to a remand for resentencing.

Therefore, it is ordered that Applicant is granted summary judgment, his current sentence is set aside, and this case is remanded to the Court of General Sessions for Richland County for the purpose of resentencing applicant.

IT IS SO ORDERED.


John C. Hayes, III
Presiding Judge

Columbia, South Carolina
September 12, 2006

ORIGINAL

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

1999-GS-40-44509

State of South Carolina)

vs.)

TRANSCRIPT OF RECORD
(Re-sentencing)

Stacy Raysor,)

Defendant.)

February 9, 2010
Columbia, South Carolina

BEFORE:

THE HONORABLE G. THOMAS COOPER, JR., JUDGE

APPEARANCES:

AARON JOHPLIN, ASSISTANT SOLICITOR
Attorney for the State

NICOLE SINGLETARY, DEPUTY PUBLIC DEFENDER
Attorney for the Defendant

JENNY H. WILLIAMS
Official Circuit Court Reporter
(803) 576-1743

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THE COURT: What is this?

MR. JOHPLIN: The State calls Stacy Raysor.

THE COURT: Stacy Raysor.

THE CLERK: Raise your right hand.

STACY RAYSOR, after being duly sworn, is
resentenced as follows:

THE COURT: Yes, sir.

MR. JOHPLIN: Thank you, Your Honor. Standing
before you is Stacy Raysor. He is represented by
Ms. Nicole Singletary, of the Public Defender's
Office. Mr. Raysor was charged in indictment number
99-GS-40-44509 with the charge of murder. The victim
was his wife, Nielle Martin Raysor. The defendant
pled guilty on August 13th, 2001. At that time the
State reduced the charge to voluntary manslaughter
and he pled guilty on that day to that charge. It
was a guilty plea without recommendation or
negotiation.

After a PCR hearing --

THE COURT: Hold it. Hold it. What happened
then? What happened --

MR. JOHPLIN: At that time the State asked for
30 years. The defense attorney, I believe, after
reading the transcript is asking for a range of about
the 20-year range to be sentenced, and Judge Manning

1 sentenced the defendant to 29 years in prison.

2 **THE COURT:** That's on 4-13-01?

3 **MR. JOHPLIN:** Yes, sir.

4 **THE COURT:** Manning accepted the plea?

5 **MR. JOHPLIN:** Yes, sir.

6 **THE COURT:** And he sentenced the defendant to 29
7 years?

8 **MR. JOHPLIN:** Yes, sir.

9 **THE COURT:** All right.

10 **MR. JOHPLIN:** Subsequent to that --

11 **THE COURT:** Was that appealed?

12 **MR. JOHPLIN:** I believe there was an appeal.

13 **THE COURT:** Direct appeal?

14 **MR. JOHPLIN:** I believe there was. There were
15 direct appeals?

16 **DEFENDANT:** Yes.

17 **MR. JOHPLIN:** They were dismissed. And the
18 defendant then filed a PCR hearing or a PCR
19 application. At that time a hearing was held before
20 Judge Hayes in September -- I'm sorry. Yes -- in
21 September of 2006. At the hearing it never made it
22 to a full-blown PCR hearing. A motion for summary
23 judgment was filed by the Applicant.

24 At that time it was raised that there was some
25 discussions back in Judge Manning's chambers before

1 the guilty plea with the solicitor at the time along
2 with the defense attorney, Hemphill Pride, and the
3 victim's family.

4 It is my understanding after talking to both the
5 defense attorney, Mr. Hemphill Pride, and the
6 solicitor at the time, Dan Johnson, the family was
7 not comfortable having the charge reduced from murder
8 to voluntary manslaughter.

9 **THE COURT:** This is the victim's family?

10 **MR. JOHPLIN:** Yes.

11 **THE COURT:** Represented by Hemphill Pride?

12 **MR. JOHPLIN:** No. The defendant was represented
13 by Mr. Hemphill Pride.

14 **THE COURT:** Well, who went back in chambers?

15 **MR. JOHPLIN:** Hemphill Pride, Solicitor Dan
16 Johnson, and the victim's family.

17 **THE COURT:** The victim's family?

18 **MR. JOHPLIN:** Yes, sir. I talked to Hemphill.
19 He said he did. The family was having some
20 misgivings about having a reduction in the charge.
21 Mr. Pride asked if the family could go back and talk
22 with the judge about how the proceeding would go, the
23 guilty plea would proceed, and that he would give a
24 fair ear, you know, for lack of a better word, to
25 both sides, and he would consider both sides equally

1 fair, not only the prosecution, but the defense.

2 During the PCR hearing and during the guilty
3 plea, Judge Manning made the fact of this meeting
4 aware to the defendant approximately four times and
5 gave him a chance to stop the plea and back out if he
6 chose to. The defendant chose to proceed. However,
7 during the PCR hearing it was brought about that the
8 defendant was not made part of this meeting back in
9 chambers.

10 **THE COURT:** The defendant was not?

11 **MR. JOHPLIN:** The defendant was not in chambers
12 during this meeting. The PCR judge, Judge Hayes,
13 felt this violated his Sixth Amendment rights and
14 that he should have been made aware of what was being
15 said. He was denied any kind of fair proceeding by
16 not being allowed into that meeting, and accordingly
17 vacated the sentence on the summary judgment motion.

18 **THE COURT:** Have you got a copy of that?

19 **MR. JOHPLIN:** Yes, sir.

20 **THE COURT:** PCR order?

21 **MR. JOHPLIN:** The defense has a copy of it as
22 well, Your Honor.

23 **THE COURT:** All right. Then what happened?

24 **MR. JOHPLIN:** At that time I believe the State
25 did file a petition for a Writ of Certiorari to the

1 Supreme Court. However, in July of 2009 the Supreme
2 Court dismissed the Grant of Certiorari as improperly
3 granted, and accordingly the remittitur was sent to
4 our court. And we are here before you today to
5 re-sentence Mr. Raysor.

6 **THE COURT:** So the Supreme Court did not take
7 it?

8 **MR. JOHPLIN:** Correct.

9 **THE COURT:** Mr. Pride did not go back there?

10 **MR. JOHPLIN:** I have read the transcript of the
11 PCR hearing. There was no testimony taken.

12 **THE COURT:** Judge Hayes says the only issue
13 before this court is Applicant's motion for summary
14 judgment based on the trial judge's conference.
15 That's Manning with the solicitor. That's Johnson
16 and the victim's family outside the presence of
17 Applicant's trial counsel. So neither the Applicant
18 or his trial counsel was present at that conference.

19 **MR. JOHPLIN:** Your Honor, I will have to bow
20 down to the findings of fact in the Order. I have
21 talked to Mr. Pride. He said he was present.
22 However, age does -- you know, this length of time
23 between the actual plea and now can --

24 **THE COURT:** He is pretty old, too.

25 **MR. JOHPLIN:** Can--

1 **THE COURT:** Tell him I said so.

2 **MR. JOHPLIN:** I will -- can cause some
3 difference in facts. But, you know, I know I must
4 concede to the findings of fact there.

5 (Pause)

6 **THE COURT:** Did we get a remittitur from the
7 Supreme Court?

8 **MR. JOHPLIN:** Yes, sir.

9 **THE COURT:** Got something from the Supreme
10 Court?

11 **MR. JOHPLIN:** Here is their Order dismissing it
12 and their remittitur dated July 29th, 2009.

13 (Document handed to the Court)

14 **THE COURT:** Okay.

15 (Pause)

16 **THE COURT:** All right. Okay. Now, the
17 sentencing. As to sentencing, what's the State's
18 position?

19 **MR. JOHPLIN:** Your Honor, if I may, if you'll
20 allow me, I'd like to go into--

21 **THE COURT:** Tell me the facts.

22 **MR. JOHPLIN:** -- the facts of the case and allow
23 the victim, Nielle, her family, her parents are both
24 here today. Ms. Martin, Mr. Martin, Mr. Jack Martin,
25 I believe they would like to address the Court at the

1 appropriate time. And then we'll ask Your Honor for
2 what sentence we think is appropriate.

3 **THE COURT:** Tell me about it. Tell me the
4 facts.

5 **MR. JOHPLIN:** Thank you, Your Honor. The
6 incident occurred August 21st of 1999. The dispatch,
7 emergency dispatch was alerted around 9:30 that
8 evening. [REDACTED] is an apartment, [REDACTED],
9 City of Columbia, Richland County. At that time 911
10 received a phone call from the residence. However,
11 when they -- no one was speaking into the phone. The
12 operator couldn't hear anything except for a TV or a
13 radio in the background. At that time the 911
14 operator froze the line and dispatched police to the
15 location because they weren't aware of what was going
16 on at the time.

17 When the officers arrived on the scene they
18 peered through the windows and observed the defendant
19 lying on the couch with multiple wounds to his arms.
20 The officers entered through an unlocked front door,
21 and when clearing the house they then found the
22 defendant's wife and victim, Nielle, laying face down
23 on her bed. She was surrounded and spattered with
24 blood over her entire body.

25 And, Your Honor, if I can hand up two photos at

1 this time. I've already shown defense counsel. This
2 was the scene that officers walked into of the victim
3 lying on the bed. And this is the defendant's
4 body -- it is rather gruesome -- of when they turned
5 her over. Apparently she had been in the face-down
6 position for some time, so much so that the blood and
7 fluids had coagulated in her body already from her
8 lying on her face. And of course the victim, Nielle,
9 was found to be unresponsive at the time from the
10 police.

11 The defendant was taken to Richland Memorial
12 Hospital at the time. He was very blood soaked and
13 virtually unconscious I think at the time. Upon
14 examination, medical personnel -- we have medical
15 records in the file that show they noted what
16 appeared to be some type of secretions in his penile
17 area, scratches on his neck, chest and arms, and cuts
18 to the tops of both wrists.

19 While at the hospital, investigators advised the
20 defendant of his Miranda Rights when he came to. At
21 that time the defendant stated: I killed her. And
22 then he stated: Stacy tried to kill himself,
23 referring to himself. After asking what would happen
24 upon leaving the hospital from the investigators, the
25 defendant then stated he did not want to talk any

1 more.

2 The next day the defendant asked to speak to
3 investigators again. The defendant spoke of several
4 personal issues that had transpired between he and
5 Nielle, including his kissing of another woman and
6 his belief that Nielle was dating another man. He
7 also stated that approximately two hours had lapsed
8 between the murder and his calling of 911.

9 He described how he had stuck a knife in his ear
10 and tried to fall on the knife. He also described
11 how he used a screwdriver to jam in his eye and head
12 during that two-hour period. And, Your Honor, if I
13 can hand up these photos? I've shown defense counsel
14 the screwdriver that was found on the scene with
15 blood on it, several pictures of several knives that
16 were strewn around the apartment all with blood on
17 them, and the scene of the bathroom which was sprayed
18 with blood.

19 At the time forensics didn't know what had
20 happened. The forensics team didn't know what had
21 happened. They had found all these knives. They
22 found the screwdriver with the blood at the scene and
23 then they saw this bathrobe. The victim did have one
24 puncture wound. They weren't sure who caused what.
25 Several samples were taken. They were given to SLED.

1 A majority of those samples of blood that were taken,
2 the knives, all came back to the defendant. The
3 pathology -- and they also determined that the victim
4 was most likely asleep at the time of the murder.

5 **THE COURT:** What was the cause of death?

6 **MR. JOHPLIN:** Strangulation. The pathology
7 report came back. She had multiple contusions to the
8 lips and both eyes. She had a superficial stab wound
9 to the back of her neck and then she had several
10 defensive wounds on her left hand.

11 And, Your Honor, I would just stress that this
12 isn't something like a gunshot wound or a knife
13 stabbing where it may take three seconds to kill
14 somebody. It was a strangulation of his wife, while
15 she is laying there asleep; that, you know, he has to
16 hold her neck and strangle her and just keep holding
17 and holding and holding and holding until she's dead.

18 He leaves her there for two hours. He didn't
19 call 911 to get help for Nielle. He calls 911 to get
20 help for himself. She has been dead on the bed for
21 two hours while he's walking around the house cutting
22 himself trying to kill himself until finally, once
23 he's almost succeeded, he decides to call 911 for his
24 own safety.

25 The defendant has no prior record. The State

1 feels he received a benefit in pleading by the
2 reduction from a murder to a voluntary manslaughter.
3 Going off to 29 years was a benefit that he has
4 already received. Arguably, I think 30 years is more
5 appropriate for this crime. He sat there and
6 strangled a woman while she's asleep in bed, naked
7 and asleep.

8 Your Honor, Ms. Martin would like to address the
9 Court and let you know how this has affected their
10 family.

11 **THE COURT:** Slide that way.

12 **MS. MARTIN:** Your Honor?

13 **THE COURT:** Yes, ma'am.

14 **MS. MARTIN:** I wasn't really expecting to talk
15 today.

16 **THE COURT:** I need your name, please.

17 **MS. MARTIN:** My name is Barbara Martin.

18 **THE COURT:** Yes, ma'am.

19 **MS. MARTIN:** I am the mother of the deceased,
20 the victim.

21 **THE COURT:** Go ahead.

22 **MS. MARTIN:** It has been ten years since this
23 has happened. But when it happened there was no
24 reason for him to kill her. They had just been
25 together that morning. She had talked to me that

1 morning. And for him to just all of a sudden turn
2 and kill her like this does not make sense.

3 I think the amount of time he got was too short.
4 Other offenses come much -- get more time for smaller
5 cases. And I think that had it not gone to a bench
6 trial, he would have gotten more time and he should
7 have gotten more time.

8 He has robbed us of a beautiful child who worked
9 very hard, who came back, got her degree, was
10 working, was a productive person in society, was
11 helping other people. And for him to just end her
12 life with no cause and so suddenly is a tragedy.

13 **MR. MARTIN:** My name is Jack Martin, the father
14 of Nielle Martin.

15 **THE COURT:** Yes, sir.

16 **MR. MARTIN:** It's been very devastating to the
17 whole family. In fact, our younger daughter, it's
18 very hard for her to come to Columbia and stay for a
19 while. She is residing in Atlanta now. It's been
20 very hurtful.

21 I retired shortly after that because it was just
22 a little bit more than I could bear at the time. It
23 brought back some of the traumas that I had gone
24 through in Vietnam, already diagnosed with Post
25 Traumatic Stress Disorder. So it sort of flared that

1 up again.

2 I think he should get the max as far as time on
3 this. As my wife mentioned, Nielle was a very
4 productive person. She had started working on her
5 Master's degree, graduated from USC. I think the max
6 should be imposed on Mr. Raysor. Thank you.

7 **THE COURT:** Thank you very much.

8 **MR. JOHPLIN:** And, Your Honor, I've spoken with
9 the Martins this afternoon. They've stressed how
10 they're hoping other members of the family could be
11 here, but because of the scheduling they couldn't
12 make it. I met with Mr. and Mrs. Martin several
13 times since the remittitur came back to our court.
14 They have been deeply distressed about this situation
15 every time I've met with them.

16 Again, like they said to you, having those
17 wounds opened up again after ten years, just to
18 basically be, you know, starting back at zero and
19 having to sit here and hear this recitation and
20 realize those photos were going up to you of what
21 that scene looked like that night has really took an
22 impact on them and their family. And we would ask
23 for Your Honor to impose the 30-year maximum.

24 **THE COURT:** Do you have his prior sentencing
25 sheet from Judge Manning?

1 **MR. JOHPLIN:** I don't. If you'll give us a few
2 minutes, Your Honor, I can go get something printed
3 off the CD. I believe it's on here.

4 **THE COURT:** What?

5 **MR. JOHPLIN:** I can go have it printed off of
6 here.

7 **THE COURT:** Jackie, how long do you all keep
8 those things?

9 **THE CLERK:** We should still have it downstairs.
10 But if he has it on his CD--

11 **MR. JOHPLIN:** Would you need the original or a
12 copy?

13 **THE COURT:** I just want to see it.

14 **THE CLERK:** Do you want me to see if I can get
15 it from downstairs?

16 **THE COURT:** It would probably be quicker. Do
17 you have it, Ms. Singletary?

18 **MS. SINGLETARY:** No, Your Honor. We do not.

19 **THE COURT:** She can go down to the Clerk's
20 Office and get it. All you need is his name for the
21 file. This says 99-44509. It would be under --
22 probably just under his name. All right. Ms.
23 Singletary.

24 **MS. SINGLETARY:** Thank you, Your Honor. If it
25 please the Court. Your Honor, standing in front of

1 you is Stacy Raysor, my client. Your Honor, in
2 talking to Mr. Raysor about this case and the
3 re-sentencing since I have been appointed to him back
4 in August, he has always been very remorseful for
5 what actually occurred back in 1999, Your Honor.

6 I will tell you that at the time that this
7 incident did occur my client was 27 years old. He is
8 now 38, Your Honor. And something that we just want
9 to clear up, that with the photos that were passed up
10 earlier, is to make sure that the Court understands
11 that the blood that was actually in those photos all
12 actually belonged to my client. It was not the blood
13 of the victim, Your Honor. And I just say that to
14 say that those were some gruesome pictures, as the
15 prosecutor actually stated.

16 Your Honor, also earlier we just want to clear
17 up the fact that the prosecutor said that he was
18 speculating as to the fact that my client actually
19 called 911 to actually help himself, because in his
20 recitation he stated that a 911 call was placed but
21 no one said anything on the phone, Your Honor. So we
22 just wanted to clear that up.

23 Your Honor, if I may approach, since the time
24 that my client has actually been incarcerated on this
25 crime which is August the 21st, 1999, I actually

1 pulled -- got his records from the South Carolina
2 Department of Corrections. Your Honor, if I may
3 approach. And there have been no type of
4 disciplinary actions, Your Honor, since my client has
5 been incarcerated.

6 He has actually been taking this tragedy and
7 trying to make some positive -- make something
8 positive out of it by actually working in the law
9 library assisting people, as well as working on
10 numerous other jobs, Your Honor. What I will tell
11 you is that prior to this incident my client did work
12 at the Adams Mark. He was working in shipping and
13 receiving there, Your Honor.

14 And as the prosecutor stated, prior to this he
15 had actually no record at all. And if you would look
16 at some of the underlying facts of this case, Your
17 Honor, I think truly that this is a voluntary
18 manslaughter situation, Your Honor. At his original
19 guilty plea he actually had a psychiatrist who
20 actually testified actually to the fact that when
21 this incident actually occurred it was basically a
22 heat of passion crime, Your Honor. So I believe that
23 the voluntary manslaughter plea is actually
24 appropriate in this matter.

25 Your Honor, my client was born and raised here

1 in Columbia. He spent six years in the military, and
2 was actually honorably discharged. He graduated from
3 Columbia High School and actually attended a little
4 college, Your Honor.

5 Here in support of him today is actually his
6 ex-wife who wants to speak on behalf of him, Your
7 Honor, as well as a person who he considers to be his
8 father. And at the appropriate time they would like
9 to address the Court.

10 Your Honor, my client would like that I ask you
11 for -- respectfully ask you for a time-served
12 sentence, Your Honor, given the fact that he has been
13 in jail for ten-and-a-half years. Your Honor, the
14 reason why he would ask for the time-served sentence
15 is going to the fact that, number one, his age at the
16 time this offense actually occurred. As I said
17 previously, he was 26. He has been in the Department
18 of Corrections for ten-and-a-half years, Your Honor.

19 Also given the fact that he did not have any
20 prior record at all and prior to this offense he was
21 actually a productive citizen in society. But as a
22 result of this he actually has been in the Department
23 of Corrections since then.

24 Your Honor, my client does have a 14-year-old
25 daughter with Ms. Lackey (ph) and at the time that

1 she was four he actually went to the Department of
2 Corrections. And even though he's been in the
3 Department of Corrections, in speaking with him and
4 speaking with his ex-wife, he has done everything
5 that he could do to actually continue to father her
6 even though he is in the Department of Corrections.
7 He writes her every week. He actually sees her every
8 two weeks, Your Honor.

9 This tragedy, which is a tragedy both for the
10 Martin family as well as my client's daughter and his
11 family, is truly something that if my client could
12 take it back, he would take it back, Your Honor.

13 But we are just respectfully, if you're not
14 inclined to go along with a time-served sentence,
15 Your Honor, we're actually asking for a range in this
16 matter that is lower than the 29 that was originally
17 given and obviously lower than the 30 that the
18 prosecutor's office is asking for, Your Honor, given
19 his record and given the time that he has spent in
20 jail, Your Honor.

21 And at both pleas, he actually accepted
22 responsibility. He was actually forthcoming when the
23 police officers initially approached him and told
24 them what he did, Your Honor. So based on that,
25 we're respectfully asking for something which is in

1 the range of -- if you're not inclined to go along
2 with a time-served sentence -- which is in the range
3 of 15 to 20 years, Your Honor.

4 And at the appropriate time he would like to
5 address the Court as well as his supporters, Your
6 Honor. And I will let you know, Your Honor, that his
7 sister-in-law was actually here earlier today but she
8 actually had to go back to work. And I've shown the
9 prosecutor this. But she would like for me to pass a
10 note up to Your Honor.

11 **THE COURT:** Yes, ma'am.

12 (Document handed to the Court)

13 **THE COURT:** All right. I'll be glad to hear
14 from your witnesses.

15 **MS. SINGLETARY:** Say your name for the record.

16 **MS. RAYSOP:** My name is Kristi Layton Raysor. I
17 am Stacy's ex-wife. I have known Stacy. We dated
18 two years before. We were married for almost four
19 years, during which time we never had any violence or
20 anything. When we went through our divorce, it was
21 just because we had a lot of disagreements on certain
22 things. We still remained close after that time and
23 still talked.

24 He has been a great father for that time and
25 still continues to do his best to be a good father

1 considering where he's at now. My daughter is
2 extremely close to her dad and tries to relate to
3 him. Considering where he's at right now, talking to
4 him on the phone, going down there to visit him, it's
5 been very difficult for my family. My family has
6 been supporting him. My mother, my father, my
7 grandmother, my sister have been visiting him on a
8 very regular basis and been supportive of him the
9 entire time he's been there.

10 I have never known Stacy to ever do anything
11 violent whatsoever. I have known him almost 20
12 years. And even though we are divorced, I've had to
13 forgive him for things that we haven't, you know,
14 gotten along with before. But I never could see him
15 ever doing anything to me during the time that we
16 were married. I still would trust him now.

17 We still talk. We try to be friends at this
18 point for our daughter's sake and try to raise her to
19 the best that we can. And the time that I talk to
20 him when I go to visit him, my daughter is very close
21 to her father. And I would really like for her to be
22 able to have a better relationship with her father,
23 especially being that she's 14. She's pretty much
24 grown up with him being incarcerated. Thank you,
25 Your Honor.

1 **THE COURT:** Yes, sir.

2 **MR. ADAMS:** My name is Anthony Adams. I wasn't
3 prepared to speak today. First I'd like to offer Mr.
4 and Mrs. Martin my continued condolences. I didn't
5 have a chance to do that. I apologize. I am Stacy's
6 adopted father, not legally, not by blood, but I have
7 raised Stacy since the time he was a very small
8 little boy. He growed [sic] up to be a fine man.

9 Stacy was very helpful in the neighborhood. He
10 always tried to do the right thing. He cut lawns.
11 He helped the elderly out in the neighborhood. I
12 taught him how to drive. He was a good kid, a very
13 good kid. When my niece came to live with me from
14 New York, she was having a little difficulty taking
15 care of her two kids, and Stacy would babysit the
16 kids for me. He was very good with kids. He had a
17 gentle soul.

18 He -- I wanted him to go in the Navy. I was
19 Navy. I'm ex-Navy. But he chose to go to the U.S.
20 Marine Corp. He did very well there. Him and Kristi
21 got married, married while he was still in service.
22 I was very proud that he graduated from Parris
23 Island. I went down to see him graduate. I was very
24 proud of him. He went on and came back home, and him
25 and Kristi separated.

1 He met Nielle. I would also like to say that
2 Nielle Martin Raysor not only was my daughter-in-law,
3 but she was also a friend of mine. I loved Nielle as
4 a daughter. I really miss her. We shared a birthday
5 month, which was July. Her birthday was in July, so
6 every July I go visit her gravesite.

7 I can't tell you what happened that night, Your
8 Honor. I don't know what took place. But I knew
9 that Nielle loved Stacy. I knew that Stacy loved
10 Nielle. And it's just a tragic, very tragic
11 situation that took place. Stacy has now served ten
12 years, and I think the person who was most hurt out
13 of all of this is his daughter, Sarah, who at the
14 time was four years old. And she is now 14.

15 Ten years is a long time. We can't take back
16 what has taken place, but we can find forgiveness and
17 move on. Thank you, Your Honor.

18 **MR. JOHPLIN:** Your Honor, if I may hand up the
19 sentencing sheet. And I would like to add a few
20 things at the appropriate time, Your Honor.

21 **THE COURT:** Yes, sir.

22 **MR. JOHPLIN:** Your Honor, I understand that
23 bringing in his records from the Department of
24 Corrections here before you is an attempt to try to
25 mitigate what happened ten years ago by his behaviors

1 in the past ten years. However, it should have no
2 impact on this proceeding here before you today.

3 We're not here -- that's for parole to take into
4 account hopefully on down the line. We're not here
5 to re-sentence him based on good behavior over the
6 past ten years. We're here -- the slate has been
7 wiped clean -- we're here before you for you to
8 decide a sentence based on the facts brought before
9 you today, not on what's transpired in the past ten
10 years, but what happened ten years ago.

11 Time served? A request for time served is
12 preposterous in this case. For someone who walked in
13 to a woman while she is sleeping and used his hands;
14 you know, he didn't use a gun, he didn't use a knife,
15 he didn't use a bat, he didn't use an iron pipe. He
16 used his hands to take the life, placed them on a
17 body and used his hands to take another woman's life,
18 his wife's life while she's asleep in bed.

19 I think it's not only offensive to me, but to my
20 office, to Nielle, and most of all to her parents. I
21 think they are the people who have hurt the most out
22 of this, as they lost their daughter ten years ago.

23 **THE COURT:** Ms. Singletary, does your client
24 want to speak?

25 **MS. SINGLETARY:** Yes, Your Honor. And I will

1 address the Court after my client speaks.

2 **THE COURT:** Yes, sir.

3 **DEFENDANT:** Your Honor, sir, it's been
4 ten-and-a-half years since this tragedy occurred.
5 And as for me today, I would like to say that sorry
6 will never be enough to express the remorse for my
7 untold pain and wrongfulness that I have caused. I
8 would like for the Martins' family and also for my
9 family to please find forgiveness in their heart. If
10 I could go back to 1999 and change the events, I
11 would.

12 **MS. SINGLETARY:** Your Honor, just to respond to
13 what the prosecutor just stated. Your Honor, the
14 defense is allowed to do whatever mitigation it deems
15 appropriate, Your Honor. The records were not to
16 show what my client has per se done since 1999.
17 However, it is to show that my client does not have a
18 history of violent acts. Prior to this he had no
19 record. This is an isolated incident, Your Honor,
20 and that's why we actually showed his records, to
21 show that he is still trying to be productive even
22 though he is in a bad situation.

23 Your Honor, as we stated earlier, this truly is
24 a tragedy, and we're not trying to minimize that
25 tragedy, Your Honor. My client just wanted me to

1 respectfully ask for a ten-year sentence, Your Honor.
2 However, if you're not inclined to go along with
3 that, we're asking for a range of 15 to 20 years,
4 Your Honor.

5 My client, if he could, I truly believe he
6 would, if he could go back in time and actually stop
7 what happened on that day, he truly would. He is
8 very remorseful and he's very sincere and very
9 apologetic for his actions on that date back in 1999,
10 Your Honor.

11 **THE COURT:** Well, I would venture to guess that
12 anybody in his situation -- I hear it frequently --
13 if given the opportunity to go back, would do things
14 differently. That's really not the issue. And I
15 find that it's a little bit at least interesting that
16 the fact that the State agreed to a voluntary
17 manslaughter charge, plea, and this whole business
18 about the victim's family going back to Judge Manning
19 obviously didn't convince Judge Manning of very much
20 because he only dropped the sentence from 30 to 29.
21 So it didn't have much of an impact.

22 But, Judge Hayes apparently felt it was
23 significant enough that -- and I don't disagree with
24 him, if there was a meeting with the State
25 Solicitor's Office and the victim's family, the

1 defendant should have been there and as should his
2 counsel. But what's done is done.

3 I have to -- as the solicitor said, this slate
4 is wiped clean. I have to evaluate this case based
5 on what I've heard today, not on what -- frankly, not
6 on his disciplinary record at the Department of
7 Corrections -- and I tend to have not considered that
8 in my judgment in this case. I have to base it on
9 what's been presented here this afternoon.

10 It does appear, there is certainly reason for
11 it, that the defendant is remorseful. He spent a lot
12 of time thinking about this, I'm sure. I have to
13 consider the living. Not only the Martins, but the
14 family of the victims is left without a father at
15 home. I realize, Mr. and Ms. Martin, that at
16 least -- I know this -- at least his family can visit
17 him, and you can't visit your daughter.

18 **MS. MARTIN:** That's right.

19 **THE COURT:** But that's a sad part of these
20 cases. Both families are affected.

21 Now, Judge Manning gave him credit for time
22 served from August 21st, 1999. So I am compelled to
23 do the same thing. All right. Mr. Raysor, the
24 sentence of the Court is that you be committed to the
25 State Department of Corrections for a period of 25

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years. Good luck to you, sir.

MS. SINGLETARY: Thank you, Your Honor.

MR. JOHPLIN: Thank you, Your Honor.

THE COURT: Anything further?

MR. JOHPLIN: No, sir.

(Whereupon, the proceedings are concluded)

STATE OF SOUTH CAROLINA

County of Richland

Stacy Raysor, #277550
Full name and prison number (if any) of Applicant,

vs.

The State of South Carolina
Name of Respondent.

In the Court of Common Pleas

2010CP400 0299

**APPLICATION FOR
POST-CONVICTION RELIEF**

2011 JAN 19 PM 1:08
FILED
RICHLAND COUNTY
CLERK OF COURT
C. P. & E.S.

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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention SCDC, McCormick Correctional Institution, F3B-146,
386 Redemption Way, McCormick, SC 29899
2. Name and location of Court which imposed sentence Richland County General Sessions
Court, P.O. Box 2766, Columbia, SC 29202-2766
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 99-GS-40-44509, voluntary manslaughter.
 - (b) N/A
 - (c) N/A
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) February 9, 2010, twenty-five (25) years
 - (b) N/A
 - (c) N/A

5. Check whether a finding of guilty was made

- (a) after a plea of guilty YES
- (b) after a plea of not guilty N/A
- (c) after a plea of nolo contendere N/A

6. Did you appeal from the judgment of conviction or the imposition of sentence?

NO

7. If you answered "yes" to (6), list

(a) the name of each Court to which you appealed:

- i. N/A
- ii. N/A
- iii. N/A

(b) the result in each such Court to which you appealed:

- i. N/A
- ii. N/A
- iii. N/A

(c) the date of each such result:

- i. N/A
- ii. N/A
- iii. N/A

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. N/A
- ii. N/A
- iii. N/A

8. If you answered "no" to (6), state your reasons for not so appealing:

- (a) Guilty plea counsel failed to file an appeal.
- (b) N/A
- (c) N/A

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

- (a) Ineffective Assistance of Counsel.
- (b) N/A
- (c) N/A

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

- (a) Ineffective assistance of counsel for failing to object to the
- (b) unconstitutional sentence. U.S. Const. amends. 5th, 8th & 14th.
- (c) _____

11. Prior to this application have you filed with respect to this conviction

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

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

(c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO

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

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

(c) the disposition thereof:

i. N/A

ii. N/A

iii. N/A

iv. N/A

(d) the date of each such disposition:

i. N/A

ii. N/A

iii. N/A

iv. N/A

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

i. N/A

ii. N/A

iii. N/A

iv. N/A

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

i. N/A

ii. N/A

iii. N/A

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

i. N/A

ii. N/A

iii. N/A

15. If any ground set forth in (9) 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) Ineffective assistance of counsel, PCR remedy.

(b) N/A

(c) N/A

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

(a) your arraignment and plea? YES

(b) your trial, if any? NO

(c) your sentencing? YES

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? NO

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

17. If you answered "yes" to one or more parts of (16), list:

(a) the name and address of each attorney who represented you

i. Nicole L. Singletary, Public Defender, 1701 Main Street,
Columbia, SC 29201

ii. N/A

iii. N/A

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

i. Plea & sentencing.

ii. _____

iii. _____

18. State clearly the relief you seek in filing this application.

Vacate sentence.

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

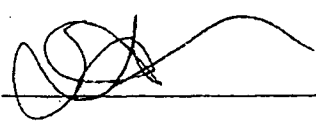
NO

STATE OF SOUTH CAROLINA

VERIFICATION

County of Richland

I, Stacy Raysor, #277550, 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 13

day of January, 19 2011

Joyce L Young (L.S.)
Notary Public

My Commission Expires: 8-28-2011

RICHLAND COUNTY
FILED
2011 JAN 18 PM 1:10
JENNIFER W. HOBBS
C.C.P. & G.S.

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

I, Stacy Raysor, #277550, 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 therefor.

Stacy Raysor
Applicant

SWORN or affirmed to and subscribed before me this

13 day of January, 19 2011

Joyce L Young
Notary Public

My Commission Expires 8-28-2011

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Stacy Raysor, #277550,

2010-CP-40-00299

2011

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

RICHLAND COUNTY
FILED
2012 FEB 13 AM 10:18
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

The Respondent, making its Return to the application for post conviction relief (PCR) filed January 18, 2011, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was true bill indicted at the September 1999 term of the Richland County Grand Jury for Murder (1999-GS-40-44509). He was represented by Hemphill Pride, II, Esquire, on the charge. On August 13, 2001, the Applicant was appeared before the Honorable L. Casey Manning where he pled guilty to the lesser included Voluntary Manslaughter and was sentenced to twenty-nine (29) years imprisonment.

A Notice of Appeal was filed on Applicant's behalf, but by order on or about December 11, 2002, the Court of Appeals dismissed the appeal. State v. Raysor, 2002-UP-765 (S.C. Ct. App. 2002)².

Applicant filed an application for post-conviction relief (PCR) on December 8, 2003. (2003-CP-40-5846). The State made its Return on July 29, 2004, and the matter was scheduled for evidentiary hearing before the Honorable L. Casey Manning. At the hearing, Judge Manning granted Applicant's motion for summary judgment thereby vacating Applicant's prior sentence, and ordered Applicant be sent back to General Sessions Court for resentencing. The State thereafter filed a timely Notice of Appeal and Petition for Writ of Certiorari in the South Carolina Supreme Court. The Court granted the Petition and the parties proceeded to briefing. Following the submission of briefs, the Court dismissed the appeal as improvidently granted by order on or about July 13, 2009. State v. Raysor, 2009-MO-0038 (S.C. 2009). The Remittitur was issued July 29, 2009.

Applicant appeared before the Honorable G. Thomas Cooper on February 9, 2010, represented by counsel, Nicole Singletary, Esquire, for re-sentencing. The State was represented by Aaron Johplin, Esquire, Assistant Solicitor for Richland County. Judge Cooper sentenced Applicant to twenty-five (25) years imprisonment with credit for time served since his original incarceration in 1999. This application for PCR follows.

² On information and belief, Respondent submits the direct appeal was signed in December of 2002 and filed sometime there shortly thereafter, however, the exact date of the filing and Remittitur date are uncertain.

II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the re-sentencing hearing transcript, and the Applicant's applicable direct appeal files.³ The Respondent reserves the right to amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

The application for post conviction relief (PCR) was filed January 18, 2011.

III.

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following:⁴

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

(a) Ineffective Assistance of Counsel.

(b) N/A

(c) N/A

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) Ineffective assistance of counsel for failing to object to the

(b) unconstitutional sentence. U.S. Const. amends. 5th, 8th & 14th.

(c) _____

³ The Respondent will utilize the Record on Appeal if the direct appeal was an Anders appeal.

⁴ Applicant later refers to "Counsel" in his application as Nicole Singletary, Esq., who served as counsel during his February 9, 2010, re-sentencing hearing. Therefore, Respondent submits the allegations set forth by Applicant are solely against re-sentencing counsel and not against prior plea/appellate/PCR counsel. Further, Respondent submits any allegations raised against plea/appellate counsel are barred as successive in nature and untimely at this time, and will be opposed at an evidentiary hearing as such.

IV.

For the purposes of this Return, the Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). «plea_standard»

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. **The Respondent requests an evidentiary hearing to fully resolve this issue.** See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied. The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis

that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held. The Respondent will coordinate with the Applicant's attorney who is, according to the Respondent's file, Robert C. Fitzsimmons, Esquire regarding when the hearing should be set.⁵

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney
General

ROBERT D. CORNEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737
rcorney@scag.gov

February 8, 2012

⁵ The current PCR Roster for the 5th Circuit is available at <http://www.scag.gov/criminal-litigation/postconvictionrelief>

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

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

Stacy Raysor, #277550,)

~~2010~~-CP-40-00299)
2011)

Applicant,)

v.)

CERTIFICATE OF SERVICE)

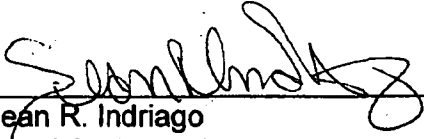
State of South Carolina,)

Respondent.)
_____)

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 a letter in the above-captioned matter on the following person(s) by routing the same to the United States mail, postage prepaid:

Mr. Robert C. Fitzsimmons, Esq.
1001 Beltline Blvd.
Columbia, South Carolina 29205

DATED February 9, 2012.



Jean R. Indriago
Legal Assistant

RICHLAND COUNTY
FILED
2012 FEB 13 AM 10:48
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) COURT OF COMMON PLEAS
2011CP400299

Stacy Raysor,)
Plaintiff,)
vs.) TRANSCRIPT OF RECORD
State of South Carolina,)
Defendant.)

September 10, 2012
Columbia, South Carolina

B E F O R E :

THE HONORABLE J. ERNEST KINARD, JR., JUDGE.

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

ROBERT C. FITZSIMONS, ESQ.
Attorney for the Plaintiff

ROBERT D. CORNEY, ASSISTANT ATTORNEY GENERAL
Attorney for the Defendant

DEBORAH M. McCURDY, RPR
Official Court Reporter

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NICOLE L. SINGLETARY

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Cross By Mr. Corney 17

SEPTEMBER 10, 2012

1
2 MR. CORNEY: This is the PCR of Stacy Raysor.
3 This is Docket Number 2010-CP-40-02099.

4 Mr. Raysor was true-bill indicted September of
5 1999 term of the Richland County Grand Jury for
6 murder. He was represented by Mr. Hemphill Pride
7 on the charge.

8 He pled guilty on August 13th, 2001, before
9 Judge Manning to the lesser included voluntary
10 manslaughter, at which time he was sentenced to 29
11 years' imprisonment.

12 A notice of appeal was filed, but the appeal
13 was dismissed by the Court of Appeals on
14 December 11th, 2002.

15 Mr. Raysor had a timely PCR application
16 December 9th, 2003. That was Docket
17 Number 2003-CP-40-5846.

18 An evidentiary hearing was held before Judge
19 Hayes, at which the Applicant's motion for summary
20 judgment was granted and sentence was vacated for a
21 new sentencing hearing.

22 And I believe that was based on some issue
23 with him not being allowed into chambers with the
24 Solicitor prior to the plea.

25 The State filed an appeal of that decision,

1 which was later dismissed by the South Carolina
2 Supreme Court by order on or about July 13th.
3 2009. Remittiture was issued July 29th, 2009.

4 Thereafter, the resentencing hearing that was
5 granted for his first PCR was held February 9th,
6 2010, before Judge Cooper, in which he was
7 represented by Nicole Singletary.

8 Mr. Raysor was resentedenced at that point in
9 time to 25 years' imprisonment, credit for time
10 served sentence in the 1999 incarceration date.

11 The current application was filed January
12 18th, 2011. And as footnoted in the State's return
13 to the application, the only application set forth
14 today is against that resentencing counsel, Nicole
15 Singletary, who represented him at his 2010
16 resentencing hearing.

17 And that is the allegation that the State is
18 prepared to go forward on today, Your Honor.

19 He is represented by Mr. Robert FitzSimons on
20 the application.

21 Thank you.

22 And I know that is a little bit lengthy. If I
23 need to slow down and clarify a little bit about
24 the procedural history I will be happy to do so,
25 Your Honor.

1 THE COURT: Well, as I understand, he is
2 represented by Hemphill Pride and he pled and he
3 got a sentence. And then that was set aside, and
4 so forth. And then he was shipped back down and
5 pled again under Judge Cooper, and Judge Cooper
6 gave him 25 years, less than the first sentence,
7 which is still more than he wanted, right? And
8 when he was originally charged, it looks like, with
9 murder of his then wife, is that basically --

10 MR. FITZSIMONS: That is correct, Your Honor.

11 THE COURT: It happened a long time ago,
12 right?

13 MR. FITZSIMONS: Yes, sir.

14 THE COURT: '99 or something like that?

15 MR. FITZSIMONS: Yes, sir.

16 THE COURT: And I take it he's been in jail
17 non-stop since then? I don't know.

18 MR. FITZSIMONS: That is correct, Your Honor.

19 THE COURT: All right. Now we are only
20 talking about, what, ineffective assistance of
21 counsel allegedly by Nicole Singletary?

22 MR. FITZSIMONS: That's correct, Your Honor.

23 THE COURT: All right, we are ready to
24 proceed. I haven't read his transcript yet, but it
25 won't take me but a little bit. Call him.

1 MR. FITZSIMONS: Thank you, Your Honor. At
2 this time we would call the Applicant to the stand.

3 (Witness approaches.)

4 THE COURT: All right, Mr. Raysor, you are the
5 one he refers to as the Applicant, do you
6 understand that?

7 THE WITNESS: Yes, sir.

8 THE COURT: Do you swear or affirm you are
9 going to truthfully testify?

10 THE WITNESS: Yes, sir.

11 THE COURT: Please take the stand.

12 (Witness complies.)

13 MR. FITZSIMONS: Thank you, Your Honor.

14 STACY RAYSOR,
15 after being duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. FITZSIMONS:

18 Q Sir, you are Stacy Raysor?

19 A Yes, sir, I am.

20 Q And you are housed at Kershaw Correctional, is that
21 correct?

22 A Yes, sir, I am.

23 Q And you heard Mr. Corney recite the procedural
24 history of this case. Is that your understanding
25 of the history of this case?

1 A Yes, it is.

2 Q Skipping then to your sentencing hearing where you
3 were represented by Ms. Nicole Singletary, do you
4 have complaints about Ms. Singletary's
5 representation of you at that hearing?

6 A Yes, sir, I do.

7 Q Do you have a complaint specifically about the
8 characterization of the facts and what
9 Ms. Singletary said or responded to about the
10 characterization of the facts of the case?

11 A The only complaint that I have today is in regards
12 to her failing to object to the resentencing when
13 the Court failed to take into consideration my
14 character base relevant and mitigation -- relevant
15 and mitigating evidence.

16 Q Okay. If I might --

17 THE COURT: Those are pretty big words, since
18 I don't know anything about what transpired, so
19 break it down.

20 Q You and I talked about two separate areas of
21 dissatisfaction, is that correct?

22 A Yes, we did.

23 Q Okay. One being testimony regarding your
24 character, and then one being a mischaracterization
25 of the actual facts which led to your plea, is that

1 correct?

2 A Yes, we did. But after review -- after we talked,
3 I thought it over, and you remember the one issue
4 you said that you liked?

5 Q Yes.

6 A That is the only one we are going with today.

7 Q Well, then if you would explain to the Court what
8 that issue is. You mentioned character. Are you
9 talking about your history in prison at the time of
10 your guilty plea?

11 A Right. When we -- I had gotten my sentence
12 overturned, and then I went back to the county jail
13 and I met --

14 Q Excuse me. If I might help you. How long had you
15 been in prison when you went back to the county
16 jail? When did you originally plead in front of
17 Judge Manning?

18 A I originally pled August 2001.

19 Q And when did you plead -- or when were you
20 sentenced in front of Judge Cooper?

21 A February of 2010.

22 Q Okay. So you had been in the Department of
23 Corrections from 2001 until 2010?

24 A Yes.

25 Q And had you adjusted well to prison life?

1 A Yes, sir, I did.

2 Q And did your counsel attempt to introduce evidence
3 of your adjustment to prison life at your plea?

4 A Yes, sir, she did.

5 Q And what happened?

6 A And then, I believe the Assistant Solicitor's name
7 is Mr. Joplin?

8 Q Yes, sir.

9 A Okay. He argued against it and stated that the
10 slate has been wiped clean. And then Ms. --

11 Q In effect saying that your behavior in prison was
12 irrelevant?

13 A Right. Right. And then Ms. Singletary came back
14 and said that the Defense is allowed -- and she was
15 speaking to the Court -- she said that the Defense
16 is allowed to do whatever mitigation it deems
17 appropriate.

18 Q And then what happened?

19 A And then towards the end of the resentencing
20 hearing, the Honorable G. Thomas Cooper ruled
21 that -- and this is a direct quote -- as the
22 Solicitor said, the slate is wiped clean. I have
23 to evaluate this case based on what I have heard
24 today, not on what -- frankly, not on his
25 disciplinary record at the Department of

1 Corrections. And I intend to not consider that in
2 my judgment in this case. I have to base it on
3 what has been presented here this afternoon.

4 Q However, in your research, and you have found
5 cases, admittedly capital cases, but cases in which
6 the Supreme Court specifically said that character
7 was a legitimate consideration in sentencing?

8 A Yes, sir, I have.

9 Q Okay. And do you believe that there is a
10 legitimate reason for your character and your
11 adaptation to prison life to have been considered
12 at your sentencing hearing?

13 A Yes, sir.

14 Q And do you believe that the fact that those cases
15 that you and I have discussed are capital cases
16 makes them inappropriate to your case?

17 A No, sir, I don't.

18 Q So that the case of Patterson versus State and the
19 case of State versus Koon, both of which stated
20 specifically that a prisoner's conduct was
21 considered in a capital case would also apply in
22 your case where you were facing a large sentence,
23 and you believe that the judge should have
24 considered your behavior prior to sentencing?

25 A Yes, sir. And that State versus Patterson is cited

1 by Skipper versus South Carolina, which is a
2 Supreme Court case.

3 Q And did Ms. Singletary pursue that line of
4 argument?

5 A She -- like I said, she introduced evidence to the
6 Court, and then the Assistant Solicitor came back
7 and said, well, no this is a new slate, it has been
8 wiped clean. And then she reintroduced it and said
9 that she can offer into mitigation whatever
10 evidence -- she is allowed to offer into mitigation
11 whatever evidence. And then that is when the judge
12 came back and sided with the Solicitor.

13 Q And did she offer any objection at that point?

14 A No, sir, she didn't.

15 Q Did she argue the point further?

16 A No further.

17 Q Did she appeal the case on your behalf based on
18 that point?

19 A No, sir, she didn't.

20 Q Is that the sum and substance of your application
21 today?

22 A Yes, it is.

23 Q Is there anything else you need to tell the judge?

24 A No, sir, there isn't.

25 Q Answer any questions Mr. Corney has, please.

CROSS-EXAMINATION

1

2 BY MR. CORNEY:

3 Q Just to make sure I'm clear, your allegation is not
4 that Ms. Singletary failed to present the evidence,
5 is that correct?

6 A Yes, sir.

7 Q It is that the judge didn't consider the evidence?

8 A Right. And there was no objection when the judge
9 did not consider the evidence.

10 Q Okay. So you are just alleging that the judge
11 should have considered this evidence when it was
12 presented or Ms. Singletary should have objected to
13 the judge saying he wasn't going to consider it?

14 A Right. She should have objected and she should
15 have objected based upon Skipper versus South
16 Carolina. That is 106 Supreme Court 1669.

17 MR. CORNEY: I don't have any further
18 questions, Judge. Thank you.

19 MR. FITZSIMONS: I haven't have any redirect.
20 Thank you, Your Honor.

21 THE COURT: Well, just sit up there a minute.
22 I'm a speed reader, but I am only down to Page 20
23 because I was trying to pay attention to what you
24 said.

25 THE WITNESS: I have an extra copy, Your

1 Honor.

2 THE COURT: I'm reading it.

3 (Pause.)

4 THE COURT: Okay, you can step down.

5 (Witness steps down.)

6 MR. FITZSIMONS: Your Honor, we would call
7 Nicole Singletary to the stand.

8 THE COURT: All right.

9 (Witness approaches.)

10 THE COURT: Ms. Singletary, do you swear or
11 affirm that you are going to truthfully testify?

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: Well, then take the stand.

14 (Witness complies.)

15 NICOLE L. SINGLETARY,

16 after being duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. FITZSIMONS:

19 Q Ma'am, you are Nicole Singletary?

20 A I am.

21 Q And you represented Stacy Raysor at his
22 resentencing hearing in front of Judge Cooper, is
23 that correct?

24 A I did.

25 Q Did you hear his testimony a moment ago?

1 A I did hear some of his testimony, yes.

2 Q Would you concur with his characterization of your
3 actions during his resentencing hearing?

4 A I would concur with what he actually testified to
5 the extent that I did actually try to admit the
6 evidence in the form of mitigation at the
7 resentencing, yes.

8 Q On the other hand, was he also correct in his
9 statement that Judge Cooper said on the record he
10 was not going to consider that evidence?

11 A Yes.

12 Q And did you do anything at that point to preserve
13 that issue for appeal?

14 A No, I did not. At the time I did not think that it
15 was actually an appealable issue due to the fact
16 that we did actually admit the evidence or we tried
17 to utilize the evidence of his, I guess if you
18 would like to say good conduct as it relates to the
19 duration of time that he had spent in the
20 Department of Corrections up to the point that his
21 initial PCR was granted, and then we went back in
22 front of the judge for resentencing.

23 So we did attempt to do that. However, it was
24 in the judge's discretion as to whether or not he
25 would actually utilize that in resentencing.

1 Q So you actually had some hope when Mr. Raysor was
2 resentenced that the Court would consider a time
3 served sentence, is that correct?

4 A Yes. We did -- well, let me rephrase that. I
5 won't say that I had some hope that the judge would
6 give him a time served sentence. I would say that
7 Mr. Raysor had some hope that the judge would
8 actually give him a time served sentence.

9 Based on my communications with Mr. Raysor, I
10 went up there and tried to represent him to the
11 best of my abilities and asked for what my client
12 specifically wanted. However, I never told him
13 that the judge would specifically give him a time
14 served sentence.

15 Q But you did ask for that?

16 A Yes, I did.

17 Q So you were afraid you were asking for something
18 you were not likely to get, I guess?

19 A Yes, that is correct.

20 Q But then when the time came to back that up based
21 upon his conduct and what we might call character
22 evidence?

23 A Uh-huh.

24 Q Whether it was in the form of mitigation or in the
25 form of argument, basically opposing counsel shut

1 you down and that is as far as you were able to
2 get, is that correct?

3 A Yes, that's correct. Yes.

4 Q And, again, you didn't see that as something that
5 you could appeal further?

6 A No, I did not see it as an appealable issue due to
7 the fact that sentencing is strictly up to the
8 discretion of the trial judge. Therefore, the
9 trial judge can consider whether or not -- let's
10 say, for example, if I would have put up witnesses
11 who wanted to attest to Mr. Raysor's character and
12 they were there in the courtroom live, I mean, the
13 trial judge could consider what they said to him in
14 mediation or mitigation for Mr. Raysor or the trial
15 judge could not consider their live testimony as to
16 his character in front of him.

17 So, therefore, as it relates to giving the
18 judge the actual, I guess the track record of his
19 behavior in the Department of Corrections, I knew
20 that that is something that the judge could in his
21 own discretion use to give him a lower sentence
22 than what the judge gave him or actually just keep
23 the sentence the way that it was when he was --
24 when he initially pled guilty.

25 Q But if the judge merely heard testimony and then

1 ruled, that would be one thing, but if the judge
2 heard the testimony and then announced he was
3 disregarding the testimony, would that not change
4 the character of his ruling?

5 A I would say that regardless of someone testifying
6 or me actually handing up an affidavit, or in this
7 case actually handing up the summary of
8 Mr. Raysor's actions in the Department of
9 Corrections, in my experience judges disregard or
10 they actually utilize that formation to their
11 discretion, so whether it is in the form of live
12 testimony or whether it is in form of an actual
13 document that is submitted up to a judge, in my
14 opinion that is their discretion. I mean, it makes
15 no distinction. There is no distinction, bottom
16 line, for me.

17 Q Thank you.

18 MR. FITZSIMONS: That's all the questions I
19 have.

20 MR. CORNEY: Very briefly, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. CORNEY:

23 Q Ms. Singletary, would you agree that the sentencing
24 judge has pretty broad discretion in sentencing
25 Defendants within statutory limits?

1. A Yes, I agree.

2. Q And the sentence that Mr. Raysor got in this case
3. was within the statutory limits for voluntary
4. manslaughter?

5. A Yes.

6. Q The evidence was admitted and Judge Cooper heard
7. the mitigating evidence, correct?

8. A Judge Cooper did hear the mitigation, yes.

9. Q Okay. And once that was presented, it is kind of
10. up to the judge how he wants to consider the
11. mitigating evidence, whether he thinks it is
12. persuasive or what weight he wants to assign to
13. that, is that correct?

14. A And that is correct. And one thing that I would
15. like to say is that, it is kind of like when you
16. are in trial and a witness on the witness stand
17. kind of blurts something out and the judge tells
18. them to strike that from the record or disregard
19. it.

20. Well, it is already out there. So in the back
21. of a person's mind, in my opinion, that is
22. something that they are going to consider because
23. they have already heard it.

24. Q Okay. You think that objecting to it or sort of
25. posing that argument to the judge would have been

1 beneficial in any way to what he was sentencing Mr.
2 Raysor to?

3 A I don't think that that would have been beneficial
4 at all because of the fact that, as we have said
5 repeatedly, the judge has the discretion. So at
6 that point I don't want to get in a, I guess a
7 argument or a disagreement with the judge when, I
8 mean, that wouldn't be in the best interest of my
9 client when my client is going in front of that
10 judge to sentence him.

11 MR. CORNEY: That's all the questions I have,
12 Your Honor. Thank you very much.

13 THE COURT: You can step down.

14 (Witness steps down.)

15 MR. FITZSIMONS: Your Honor, that is our case.

16 THE COURT: Okay. Well, here is how it shakes
17 down. I'm not going to help him out. I mean, what
18 happens, if I set it aside and send it back, the
19 next judge gives him 27, he just splits the
20 difference. He is lucky Judge Cooper didn't give
21 him as much as Judge Manning, knowing both of them.
22 And Judge Cooper did not say he was not aware of
23 it. What he actually said was, I tend to not
24 consider that in the factors that I take into
25 account. And one of the hardest things we have as

1 judges -- I have done it 12, 13 years longer than
2 Judge Cooper -- is whether somebody is remorseful
3 or not. Everybody says they are remorseful. You
4 know, it is just hard to say. But he evaluated the
5 feelings of the family, you know, and the victim
6 and the impact on the family and how you were. And
7 he was aware that you hadn't had any problems. And
8 Ms. Singletary pointed out that she was trying to
9 introduce the records just to show that you weren't
10 generally a violent person, that you had no violent
11 history before and you hadn't had any since then.
12 And Judge Cooper obviously was aware of that. He
13 just went through all that and he gave you a
14 sentence less than Judge Manning. And that is
15 within the sentencing range. He could have given
16 you all the way up to 30.

17 That's it.

18 MR. FITZSIMONS: Thank you, Your Honor.

19 MR. CORNEY: Thank you, Your Honor. I'll
20 prepare an order.

21 (WHEREUPON, the proceedings were concluded.)

22

23

24

25

(END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

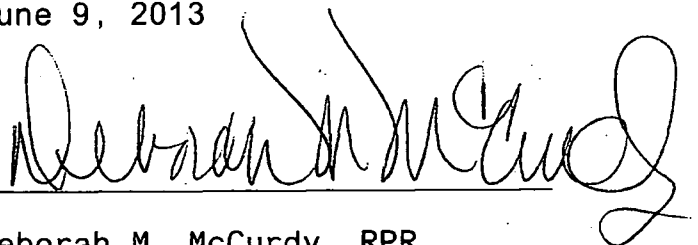
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STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth 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 evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 10th day of September, 2012.

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

June 9, 2013



Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

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STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
)
 Stacy Raysor, #277550,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE FIFTH JUDICIAL CIRCUIT

2010-CP-40-00299

ORDER OF DISMISSAL

RICHLAND COUNTY
 FILED
 2013 FEB -6 AM 10:29
 JEANETTE W. HERRIDG
 C.C.P. & G.S.

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed January 18, 2011. An evidentiary hearing into the matter was convened on Monday, September 10, 2012, at the Richland County Courthouse. The Applicant was present at the hearing with counsel, Robert FitzSimons, Esquire. The Respondent was represented by Robert D. Corney of the South Carolina Attorney General's Office.

At the hearing, Applicant testified on his own behalf. Also testifying was Applicant's resentencing counsel, Nicole Singletary ("counsel"). This Court also had before it a copy of the transcript of the proceedings against Applicant, the records of the Richland County Clerk of Court, and Applicant's records from the South Carolina Department of Corrections.

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was true bill indicted at the September 1999 term of the Richland County Grand Jury for Murder (1999-GS-40-44509). Hemphill Pride, II, Esquire, represented Applicant on the charge. On August 13, 2001, Applicant appeared before The Honorable L.

Casey Manning where he pled guilty to the lesser included voluntary manslaughter and was sentenced to twenty-nine (29) years imprisonment.

A timely Notice of Appeal was filed on Applicant's behalf, but later dismissed by the South Carolina Court of Appeals by Order dated December 11, 2002.

Applicant thereafter filed an application for PCR on December 9, 2003 (2003-CP-40-05846). He was represented by counsel on the action. An evidentiary hearing on the application was held before the Honorable John C. Hayes, III, at which Applicant's motion for summary judgment was granted, vacating his prior sentence and granting Applicant a re-sentencing hearing. Respondent's appeal of the PCR court's decision was dismissed by the South Carolina Supreme Court on July 13, 2009, and the matter was remitted to the General Sessions Court on July 29, 2009.

Applicant appeared with counsel, Nicole Singletary, Esquire, before the Honorable Thomas G. Cooper on February 9, 2010, for resentencing, where he received a twenty-five (25) year term of imprisonment on the charge with credit for time served since his initial 1999 incarceration. Applicant did not file a direct appeal, but timely filed the current application for PCR.

In the current Application, Applicant alleged he is being held in custody unlawfully for the following reasons:

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective Assistance of Counsel.
- (b) N/A
- (c) N/A
10. State concisely and in the same order the facts which support each of the grounds set out in (9):
- (a) Ineffective assistance of counsel for failing to object to the
- (b) unconstitutional sentence. U.S. Const. amends. 5th, 8th & 14th.
- (c) _____

¹ Both in its Return and at the start of the hearing, Respondent noted it would adamantly oppose any challenges brought against the underlying 1999 guilty plea as both untimely and successive in nature. This Court agrees.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the arguments presented by both parties at the evidentiary hearing. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that,

but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Ineffective Assistance of Re-Sentencing Counsel

At the PCR hearing, Applicant alleged counsel was ineffective for failing to object to the sentencing court's refusal to consider character evidence in mitigation. Particularly, Applicant alleged the sentencing judge failed to consider evidence of Applicant's accomplishments since being incarcerated on the underlying charge. Applicant stated that under several South Carolina cases, a sentencing judge may consider a defendant's behavior while in the Department of Corrections during the sentencing phase, but this particular judge specifically stated he would not consider such evidence. On cross-examination, Applicant reiterated it was not his contention that counsel failed to *present* the mitigating evidence, but rather that the sentencing judge failed to consider the evidence counsel presented.

Counsel testified she did try to submit mitigating evidence on Applicant's behalf at the re-sentencing hearing in the form of certificates Applicant received since being incarcerated, but that the sentencing judge said he wasn't going to consider that evidence. Counsel then noted she didn't object or otherwise think the judge's statement was "an issue" because the mitigating evidence had already been introduced, heard and admitted by the court and, much like objectionable statements in front of the jury, the judge could not "un-ring the bell" after he had heard about Applicant's accomplishments. Counsel went on to say sentencing is in the wide discretion of the judge, so long as the penalty is within the statutory limits, which Applicant's sentence was. She also said she didn't think arguing with the judge about the mitigating evidence would be beneficial to the sentence handed down by the judge so she decided to not contest his statement about the mitigating evidence.

After a thorough review of the record before this Court and the testimony presented at the hearing, this Court finds counsel was not ineffective in her representation in this regard. The Court initially notes that Applicant's claim as articulated at the hearing was based on the trial court's failure to consider mitigating evidence properly admitted by counsel; such a claim presents a direct appeal issue improperly brought through a PCR action. See S.C. Code Ann. § 17-27-20(b) (2003); see also Simmons v. State, 264 S.C. 417, 215S.E.2d 883 (1974) (post-conviction relief is not a substitute for direct appeal).

Regardless, this Court finds no deficiency on counsel's part in effectively presenting mitigating evidence on Applicant's behalf. Counsel presented the judge with a statement in mitigation during which she reviewed Applicant's background, work history, family life, absence of prior criminal record, and remorse for his actions leading to the charges. Additionally, counsel presented several documents from his time within the Department of Corrections, which she made clear were properly introduced for mitigation purposes. (Plea Tr. p. 25, ll. 12 – 22). The mitigating evidence was presented to the judge and heard in its entirety prior to a sentence being imposed. The sentencing judge's decision to give no weight to that evidence has no bearing on this Court's evaluation of counsel's performance. (Plea Tr. p. 27, ll. 7 – 8: "I tend to not have considered [Applicant's disciplinary record at the Department of Corrections] in my judgment in this case"). Further, counsel's decision not to argue with the sentencing judge about his consideration of the mitigating evidence immediately before the judge imposed Applicant's sentence was objectively reasonable based on prevailing professional norms. Accordingly, this Court finds Applicant's performance was objectively reasonable under prevailing professional norms.

Further, Applicant has failed to prove resulting prejudice. The sentencing judge heard the entirety of the mitigating evidence before sentencing Applicant and chose to assign it minimal weight. Therefore, it is clear the mitigating evidence had very little impact on the sentence imposed. Additionally, the sentence imposed by the sentencing judge was well within the statutory limits for Voluntary Manslaughter and, in fact, was lower than the sentence imposed by the original plea judge. Therefore, it cannot be said that the alleged deficiency resulted in prejudice to Applicant.

CONCLUSION

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


Except as discussed above, this Court finds that the Applicant failed to raise all additional allegations raised in his application at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

This Court notes Applicant must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCR, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 1 day of Feb, 2012.


 J. ERNEST KINARD, JR.
 Presiding Judge
 Fifth Judicial Circuit

Camden, South Carolina.

WITNESSES

(S) INV. B. BENSON - CPD
Bruce G. Benson

DOCKET NO. 99-GS-40-44509

The State of South Carolina
County of Richland

ARREST WARRANT NUMBER

G275186

102
SEPTEMBER TERM 1999

COURT OF GENERAL SESSIONS

ACTION OF GRAND JURY

TRUE BILL

STACY R. RAYSOR

THE STATE
vs.

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

Defendant

I, *Stacy R. Raysor*
hereby appear in my own proper person and plead guilty to the within indictment or to
Voluntary *Mandatorily*

Defendant

Witness:

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

ATTEST
A TRUE COPY

Richard P. Scott
C. C. C. P. & G. S.

Foreperson of Grand Jury
Date:

VERDICT

Indictment for

MURDER

SC Code: 16-3-10.20
CUR Code: 0116
Class FELX(MV)

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on September 15, 1999 the Grand Jurors of Richland County present upon their oath:

That Stacy R. Raysor did in Richland County on or about August 21, 1999, feloniously, wilfully and with malice aforethought, kill one Nielle Raysor by means of suffocation and that the said victim died as a proximate result thereof.

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

Warren B. Gliese
Warren B. Gliese, SOLICITOR

A T T E S T
A TRUE COPY

Richard C. Scott
R. C. S. & G. S.