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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Charleston County

Honorable Carmen T. Mullen, Circuit Court Judge

ALEXIS D. GRANT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001791

APPENDIX

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ATTORNEYS FOR RESPONDENT

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State of South Carolina)	Court of General Sessions
)	Ninth Judicial Circuit
County of Charleston)	Case No. 2017-GS-10-07036
)	
State of South Carolina,)	
)	
Plaintiff,)	
)	
-vs-)	Transcript of Record
)	
Alexis Denise Grant,)	
)	
Defendant.)	
)	

November 9, 2021
Charleston, South Carolina

B E F O R E:

The Honorable Deadra L. Jefferson, Judge

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

Deborah Herring Lash, Esquire
Attorney for the Plaintiff/State

Megan Ehrlich, Esquire
Attorney for the Defendant

Proceedings taken down electronically

Transcribed by:
Krystal J. Smith
Official Circuit Court Reporter III

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Entered)

COURT REPORTER LEGEND

dashes	--	intentional or purposeful interruption
		or change in thought
ellipses	. . .	trailing off
[ph]		phonetically written
[sic]		written as said

1 NOVEMBER 9, 2021

2 (WHEREUPON, the proceedings began at 1:12 p.m.)

3 GUILTY PLEA

4 THE COURT: This is the State versus Alexis Denise Grant,
5 2017-GS-10-7036, pleading to homicide by child abuse as
6 indicted. Are there any recommendations or negotiations, Ms.
7 Herring Lash?

8 MS. LASH: Yes, Your Honor. There's a negotiation.

9 THE COURT: And it is?

10 MS. LASH: Twenty years, and she will get credit for the
11 time that she served. And also, Ms. Ehrlich has figured out
12 the days, but the credit that she served on GPS-monitored
13 house arrest.

14 THE COURT: How many days is that, Ms. Ehrlich?

15 MS. EHRLICH: The house arrest, Your Honor?

16 THE COURT: Yes, ma'am.

17 MS. EHRLICH: Or the total?

18 THE COURT: No. I'm not --

19 MS. EHRLICH: The house --

20 THE COURT: -- calculating any time she spent at the
21 detention center. They'll send those records to R&E.

22 MS. EHRLICH: Yes, ma'am.

23 THE COURT: But I need to know how much she spent on
24 monitored house arrest.

25 MS. EHRLICH: The monitored house arrest was a total of

1 158 days.

2 THE COURT: Thank you. Okay. And this is correct you
3 all have entered into a negotiated plea of 20 years; correct?

4 MS. EHRLICH: Yes, Your Honor.

5 THE COURT: Does she have any record, Ms. Herring Lash?

6 MS. LASH: No, Your Honor.

7 THE COURT: And is there any victim that needs to be
8 notified?

9 MS. LASH: Your Honor, the victim's father is
10 represented. He is a co-defendant, and I spoke with his
11 lawyer. He did not want to appear, but he is aware of the
12 plea.

13 THE COURT: And so what is his name?

14 MS. LASH: His name is Vashawn Williams.

15 THE COURT: Could you spell that, please?

16 MS. LASH: I think it's V-a-s-h-a-w-n.

17 THE COURT: Williams?

18 MS. LASH: Yes.

19 THE COURT: You said he's a co-defendant?

20 MS. LASH: Yes, Your Honor. He's charged with --

21 THE COURT: Will his case be disposed of subsequent to
22 this case?

23 MS. LASH: It will be. He was charged with unlawful
24 conduct.

25 THE COURT: And was he a cooperating co-defendant?

1 MS. LASH: Yes, Your Honor.

2 THE COURT: So when is his plea going to be scheduled?

3 MS. LASH: I don't know. I have to get with his lawyer
4 to decide what we will do.

5 THE COURT: Okay. Ms. Ehrlich, you represent Ms. Grant;
6 is that correct?

7 MS. EHRLICH: I do, Your Honor.

8 THE COURT: Have you explained to her the charges
9 contained in the indictment, the possible punishment, and her
10 constitutional rights?

11 MS. EHRLICH: I have, Your Honor.

12 THE COURT: Do you believe she understands the charge,
13 the punishment, and her rights?

14 MS. EHRLICH: I do.

15 THE COURT: Does she wish to plead guilty or not guilty?

16 MS. EHRLICH: Guilty, Your Honor.

17 THE COURT: Do you agree with that decision?

18 MS. EHRLICH: I do.

19 THE COURT: To your knowledge, has she ever had to be
20 evaluated to determine her competency?

21 MS. EHRLICH: Not for competency, Your Honor.

22 THE COURT: But you had her evaluated by Dr. Mulbry [ph]
23 for mitigation; correct?

24 MS. EHRLICH: I did, Your Honor.

25 THE COURT: And you provided that to the Court. Did you

1 file that with her file?

2 MS. EHRLICH: I have not filed it at this time, Your
3 Honor.

4 THE COURT: I just want you to know that I don't plan to
5 file it. So if you want it to be a part of her record, then
6 you will have to do that.

7 MS. EHRLICH: I will discuss that with Ms. Grant
8 afterwards, since it contains some sensitive information about
9 her life, about whether or not she wants it filed.

10 THE COURT: Okay. Do you have any concerns about her
11 ability to communicate with you or to participate in her
12 representation?

13 MS. EHRLICH: I do not, Your Honor.

14 THE COURT: Have you explained to her the requirement of
15 registration on the central registry?

16 MS. EHRLICH: Yes, Your Honor, and she's already
17 registered through the DSS option.

18 THE COURT: And have you explained to her the violent and
19 most serious classifications?

20 MS. EHRLICH: I have, Your Honor.

21 THE COURT: Have you explained to her that if she
22 receives an additional most serious offense, she could face
23 life without the possibility of parole?

24 MS. EHRLICH: Yes, Your Honor.

25 THE COURT: And have you explained to her how the violent

1 classification affects the time she will serve?

2 MS. EHRLICH: I have, Your Honor.

3 THE COURT: Have you also fully explained to her what a
4 negotiated plea is?

5 MS. EHRLICH: I have.

6 THE COURT: Ma'am, raise your right hand to be sworn. Do
7 you swear or affirm the testimony you give will be the truth?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: I need you to speak up for me, please.

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: State your full name for the record.

12 THE DEFENDANT: Alexis Denise Grant.

13 THE COURT: How old are you?

14 THE DEFENDANT: Twenty-seven.

15 THE COURT: How far have you gone in school?

16 THE DEFENDANT: High school. I just couldn't graduate
17 from high school.

18 THE COURT: What do you do for a living?

19 THE DEFENDANT: Simple job, retail mostly. Yes, ma'am.

20 THE COURT: Are you married? Are you married?

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Do you have any children?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: How many?

25 THE DEFENDANT: Two living.

1 THE COURT: What are their ages?

2 THE DEFENDANT: Seven and four.

3 THE COURT: And who has custody of them?

4 THE DEFENDANT: With the foster family.

5 THE COURT: Has there been any movement to terminate your
6 parental rights?

7 THE DEFENDANT: I have a hearing coming up next month.

8 THE COURT: Are you represented in that action?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Who represents you?

11 THE DEFENDANT: Samantha Hattaway.

12 THE COURT: Samantha Hattaway?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Are you currently on probation or parole?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Have you ever been treated for the abuse of
17 drugs or alcohol or mental illness?

18 THE DEFENDANT: No, ma'am.

19 THE COURT: Are you --

20 THE DEFENDANT: Well, yes.

21 THE COURT: I'm sorry. Repeat that.

22 THE DEFENDANT: Mental health. I did do treatment.

23 THE COURT: Mental health treatment?

24 THE DEFENDANT: Since I was arrested until now.

25 THE COURT: And when was that? What was the date of your

1 arrest?

2 THE DEFENDANT: May 12th of 2017.

3 THE COURT: And you said you're still currently being
4 treated?

5 THE DEFENDANT: Yes, ma'am. I was receiving counseling
6 while I was out of jail.

7 THE COURT: And what is your diagnosis, if any?

8 THE DEFENDANT: Depression and anxiety.

9 THE COURT: Do you receive any medication or have any
10 medication prescribed for that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: What medication is that?

13 THE DEFENDANT: Prozac and Remeron.

14 THE COURT: Have you had those in the last 72 hours?

15 THE DEFENDANT: Prozac, I did.

16 THE COURT: Why have you not had the Remeron?

17 THE DEFENDANT: It makes me sleep, like, a lot. It keeps
18 me drowsy.

19 THE COURT: Do you take any other prescribed medications?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Have you had any other drugs or alcohol or
22 medication in the last 72 hours?

23 THE DEFENDANT: No, ma'am.

24 THE COURT: Do you know where you are and what you're
25 doing?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Have you been able to understand your lawyer?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Have you been able to assist in your
5 representation?

6 THE DEFENDANT: Can you say that again?

7 THE COURT: Have you been able to assist in your
8 representation?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And have you understood your talks with her?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: You understand you will be required to
13 register on the central registry?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Do you understand that this charge is
16 classified as violent and serious?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Do you understand that under South Carolina
19 law that affects how you will serve your time?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Do you understand that if you receive an
22 additional most serious offense, you could face life without
23 the possibility of parole?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you understand that the violent

1 classification affects how you serve your time?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: You may have discussed parole or parole
4 eligibility with your lawyer or with others, but until you're
5 sentenced, no one can tell you when, if ever, you'll be
6 eligible for parole or under what conditions. You should
7 assume that you will serve any time that you're sentenced to
8 day for day. Do you understand?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: On the charge of homicide by child abuse, how
11 do you plead?

12 THE DEFENDANT: Guilty.

13 THE COURT: Do you understand that carries a minimum of
14 20 years and a maximum penalty of life?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: I want you to listen carefully to the facts.
17 Ms. Herring Lash?

18 FACTS

19 MS. LASH: Yes, Your Honor. The victim in this case was
20 MINOR. He went by MINOR. He was born on February
21 the , 2016. So at the time of this, his death, it was May
22 the 11th of 2017. He was approximately 14 months or so.

23 THE COURT: You're sort of muffled a little bit, Ms.
24 Herring Lash. Tell me what he went by. Did you say ?

25 MS. LASH: MINOR

1 THE COURT: MINOR

2 MS. LASH: Yes, Your Honor.

3 THE COURT: Okay. You can continue.

4 MS. LASH: For [REDACTED].

5 THE COURT: Yeah, but [REDACTED] starts with a [REDACTED]. That's
6 why I was asking.

7 MS. LASH: [REDACTED]. [REDACTED] [REDACTED].

8 MS. EHRLICH: His name is MINOR [REDACTED], but --

9 THE COURT: I've got that part.

10 MS. EHRLICH: -- his dad went by Shawn. So that's why
11 they called him MINOR

12 THE COURT: I gotcha. Okay. I'm clear now. And he was
13 born on February [REDACTED] of 2016?

14 MS. LASH: Yes, Your Honor.

15 THE COURT: And his demise was on 5/11/17?

16 MS. LASH: Yes, Your Honor.

17 THE COURT: Okay. You may continue.

18 MS. LASH: In April -- on April the 24th of 2017, he was
19 diagnosed by his pediatrician and sent to the Medical
20 University for failure to thrive. He was not gaining weight.
21 I think Ms. Grant had expressed to them since about the age of
22 one she had had a really difficult time getting him to -- you
23 know, to eat and take food. So he stayed in the hospital, and
24 he was released on May the -- excuse me, April the 29th of
25 2017.

1 They had gone over with her some referrals. One of the
2 referral places that he was to go was to physical therapy to
3 help him with muscle tone. The family, Ms. Grant, Mr.
4 Williams, **MINOR** and his sister, Lola, which was two at the time,
5 were all living in Intown Suites in one -- one room. They had
6 one vehicle, and Mr. Williams worked. She told law
7 enforcement that they had some difficulty in getting him to
8 the physical therapy, and she had begun to do the physical
9 therapy on her own.

10 On the day that this occurred, she said that she was
11 attempting to do the physical therapy and got frustrated, and
12 that she hit him around five times in the head and knocked him
13 down twice. And in fact, he had multiple bruises on his skull
14 found at autopsy and two fractures, and that was the cause of
15 death.

16 She called his dad. His dad ran home from his place of
17 employment, which was right across Rivers Avenue. They called
18 9-1-1, but the baby was pronounced right after that, and she
19 was arrested.

20 THE COURT: You're saying Intown Suites was located on
21 Rivers Avenue?

22 MS. LASH: Yes, Your Honor. I think it's probably a
23 frontage road, but it's right on Rivers.

24 THE COURT: Is that the extent of the facts?

25 MS. LASH: That's the most significant facts, Your Honor.

1 We have been getting this for trial, and that's a lot of
2 facts, but I think that is the basis of the plea.

3 THE COURT: Ma'am, do you agree or disagree with the
4 facts?

5 THE DEFENDANT: I agree.

6 THE COURT: Ma'am, do you agree or disagree with the
7 facts?

8 THE DEFENDANT: I agree.

9 THE COURT: Do you feel anything needs to be changed or
10 added to the facts?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Are you pleading guilty because you're
13 guilty?

14 THE DEFENDANT: Yes, ma'am.

15 DEFENDANT'S RIGHTS

16 THE COURT: You're entitled to a jury trial. At a jury
17 trial, you're entitled to a presumption of innocence. The
18 State has the burden of proving your guilt beyond a reasonable
19 doubt. You would have the right to confront and cross-examine
20 the State's witnesses, call your own witnesses, present any
21 defenses, challenge any statements, and remain silent and your
22 silence could not be used against you. Do you understand your
23 rights?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Do you understand you're giving up those

1 rights?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Has your lawyer explained to you what a
4 negotiated plea is?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Do you understand that that means the State
7 and the defense have agreed to a penalty?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Do you understand that I have no discretion
10 in that penalty? My only option is to accept or reject it?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Do you understand that the negotiated plea
13 they have entered into is the minimum of 20 years?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Other than that, are there any other deals
16 you're relying on in pleading guilty?

17 THE DEFENDANT: No, ma'am.

18 THE COURT: I can't hear you.

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Have you been satisfied with your lawyer's
21 services?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Has she answered all of your questions?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Done everything you've asked or expected?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Any complaints about her services?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: Have you had enough time to make up your mind
5 about pleading guilty?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Has anyone promised you anything or held out
8 any hope of a reward to cause you to plead guilty?

9 THE DEFENDANT: No, ma'am.

10 THE COURT: Has anyone used threats, coercion, force,
11 pressure, intimidation, or duress to cause you to plead
12 guilty?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: Are you pleading guilty freely and
15 voluntarily and of your own will?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Have you understood my questions?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Do you need to ask any questions?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: Have you been truthful in your answers?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Did you answer, ma'am?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Have you been truthful in your answers?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Do you understand that you have the right to
3 appeal this guilty plea and sentence of the Court, but that
4 you must do that in writing within 10 days of today?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Do you understand that if you cannot afford
7 counsel, counsel will be appointed to you?

8 THE DEFENDANT: Yes, ma'am.

9 FINDINGS/ACCEPTANCE OF PLEA

10 THE COURT: I find there's a substantial factual basis
11 for the plea. That the defendant has entered the plea freely,
12 voluntarily, knowingly, and intelligently. That she has had
13 the advice and assistance of counsel, with whom she has
14 indicated to the Court she is satisfied, and I will accept the
15 plea.

16 Anything further from the State?

17 MS. LASH: No, Your Honor.

18 THE COURT: Anything further, Ms. Ehrlich? I have
19 accepted the negotiated plea.

20 MS. EHRLICH: Your Honor, if you've accepted the
21 negotiated plea, I don't have anything further to add.

22 THE COURT: Does she have any valuables that she needs to
23 leave with her family?

24 MS. EHRLICH: We've already done that, Your Honor.

25 THE COURT: Okay. And who is that that is present on

1 behalf of Ms. Grant?

2 MS. EHRLICH: That's her sister, Khadijah Grant.

3 THE COURT: I see two people. Who else is that?

4 MS. EHRLICH: That's also -- I'm sorry, Judge. That's
5 Tennille Barrons from our office, who has been working --

6 THE COURT: That's Tennille. I didn't recognize you.
7 Masks kind of obscure things. I apologize.

8 MS. EHRLICH: Yes, ma'am. She's worked with Ms. Grant
9 for most of the last four-and-a-half years. Thank you.

10 SENTENCE

11 THE COURT: Ma'am, consistent with the negotiated plea,
12 you're sentenced to the State Department of Corrections for a
13 period of 20 years. You'll get credit pursuant to 24-13-40 to
14 be calculated and applied by the Department of Corrections,
15 and I've given you 158 days credit for time spent on monitored
16 house arrest. And while you've already been listed on the
17 central registry, I'm required to also designate that your
18 sentence sheet.

19 MS. EHRLICH: Thank you, Judge.

20 THE COURT: Thank you.

21 MS. LASH: Thank you, Your Honor.

22 THE COURT: You're welcome, Ms. Herring Lash.

23 (WHEREUPON, the proceedings ended at 1:31 p.m.)

24

25 --- END REQUESTED TRANSCRIPT ---

FORM 5

2022-CP-10-5328

IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA)

County of Charleston)

Alexis Denise Grant 3860494)

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

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
2022 NOV 17 PM 4:23
JILLIE J. ARMSTRONG
CLERK OF COURT

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention South Carolina dept. of Corrections

2. Name and location of Court which imposed sentence Charleston
County General Sessions

3. Name(s) of co-defendant(s) (if any) N/A

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2017-G2-10-07036 Homicide by Child Abuse
 - (b) _____

(c) _____

5. The date upon which sentence was imposed and the terms of the sentence:

(a) November 9, 2021 / negotiated guilty plea

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

NO

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

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

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

(c) the date of each such result:

i. _____

ii. _____

iii. _____

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

i. _____

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) A guilty plea was entered

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) INEFFECTIVE ASSISTANCE OF COUNSEL
- (b) INEFFECTIVE ASSISTANCE OF COUNSEL
- (c) INEFFECTIVE ASSISTANCE OF COUNSEL
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) _____
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? NO
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. 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. _____
- ii. _____
- iii. _____
- iv. _____

- 11 a) Defendant was prejudiced by trial counsel erroneous advice of taking a guilty plea and comparing case of like nature to avoid a harsher sentence denied defendant of her Sixth Amendment
- 11 b) Trial counsel was ineffective for not consulting with a forensic pathologist and presenting a pathologist testimony at trial on behalf of the petitioner
- 11 c) Invalid indictment

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

No

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

(a) which grounds have been presented:

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

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

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

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

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

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

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

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

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

- i. Megan Ehrlich
O.T. Wallace Building 101 Meeting St.
- ii. Charleston, SC 29401
- iii. _____

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

- i. plea negotiation
- ii. _____
- iii. _____

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

new trial, vacated sentence

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

No

STATE OF SOUTH CAROLINA)
County of Charleston)

VERIFICATION

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

[Signature]

SWORN to and subscribed before me this 3rd day of October, 2022.

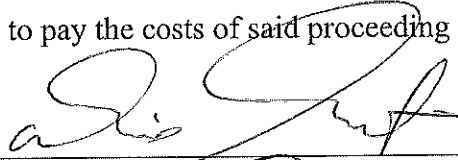
[Signature] (L.S.)
Notary Public

My Commission Expires: July 22nd, 2026

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

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

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



 Applicant

SWORN or affirmed to and subscribed before me this
3rd day of October, 2022.



 Notary Public

My Commission Expires: July 2nd, 2026

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)	FOR THE NINTH JUDICIAL CIRCUIT
)	
Alexis Denise Grant, #386494,)	CASE NO. 2022-CP-10-5328
)	
Applicant,)	
)	
v.)	
)	
State of South Carolina,)	RETURN AND
)	MOTION TO DISMISS
Respondent.)	(Counsel Appointed)

**RETURN AND
 MOTION TO DISMISS**
(Counsel Appointed)

JULIE J. ARMSTRONG
 CLERK OF COURT
 2023 AUG 11 AM 11:35
 FILED

In response to the untimely application for post-conviction relief (PCR) filed by Alexis Denise Grant on November 17, 2022, and received by Respondent on November 22, 2022, Respondent makes the following return and motion to dismiss:¹

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a twenty-year sentence. In 2017, Applicant was indicted for homicide by child abuse (2017-GS-10-7036). This charge arose from the death of her fourteen-old-month son on May 11, 2017. According to the State, Applicant hit the victim “around five times in the head and knocked him down twice,” causing his death.

On November 9, 2021, Applicant pled guilty pursuant to a negotiated plea before the Honorable Deadra L. Jefferson. Megan Ehrlich represented Applicant, and Deborah Herring Lash represented the State. Pursuant to the negotiated plea, Applicant was sentenced to twenty years;

¹ Respondent's return was due to be filed within sixty days after service of the application. See Rule 12(a), SCRCP (“[T]he State of South Carolina shall answer or otherwise respond to an application for [PCR] within 60 days after service of the application, if it arises out of a guilty plea”). Respondent submits the guilty plea transcript was necessary in order for Respondent to assess these claims and submit a return. Respondent requested the transcript of the guilty plea on December 16, 2022, and received it on May 2, 2023. Now, having completed the return and in light of no demonstrable prejudice to Applicant, Respondent asks this Court to accept this return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond); Guinyard v. State, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the time limit prescribed by the statute is discretionary and not mandatory, and the trial court may extend the time for filing).

she received credit for time served on house-arrest. Applicant did not file a direct appeal.

ALLEGATIONS

Applicant untimely filed this PCR action on November 17, 2022. In her application, Applicant alleges she is being held in custody unlawfully for the following reasons:

Ineffective assistance of counsel:

- a. Defendant was prejudiced by trial counsel erroneous advice of taking a guilty plea and comparing case of like nature to avoid a harsher sentence denied defendant of her Sixth Amendment.
- b. Trial counsel was ineffective for not consulting with a forensic pathologist and presenting a pathologist testimony at trial on behalf of the petitioner.
- c. Invalid indictment.

As relief, Applicant requests “new trial, vacated sentence.” Attached to this return and incorporated herein are the Charleston County Clerk of Court records regarding the subject conviction, Applicant’s records from the South Carolina Department of Corrections, the plea transcript, and the records from this current PCR action. Respondent reserves the right to supplement this return should it receive any additional relevant materials.

MOTION TO DISMISS

The State moves for summary dismissal pursuant to section 17-27-70 of the South Carolina Code because no genuine issues of material fact necessitate an evidentiary hearing. Because there are no questions of law or fact to necessitate a hearing, the State requests this Court issue a Conditional Order of Dismissal indicating the Court’s intent to dismiss the application and its reasons for doing so.² See S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary

² A proposed Conditional Order of Dismissal consistent with this return and motion to dismiss is concurrently submitted for the Court’s consideration.

disposition of PCR applications); Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (finding summary disposition appropriate when no facts need to be developed and the applicant is not entitled to relief). The State moves for summary dismissal for the following reason:

Statute of Limitations

Applicant’s application should be summarily dismissed for failure to comply with the filing procedures of the Uniform PCR Act.³ “An application for relief pursuant to this chapter *must* be filed within one year after the entry of judgment . . . or within one year after the sending of the remittitur” § 17-27-45(A). The statute of limitations applies to all PCR applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 470, 469 S.E.2d 606, 607 (1996). A motion for summary judgment may be used to raise the defense of statute of limitations. McDonnell v. Consol. Sch. Dist. Of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994). The circuit court may “grant a motion by either party for summary disposition of an application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” § 17-27-70(c).

Here, Applicant was sentenced on November 9, 2021. She did not file a direct appeal. The PCR application was therefore due on or before November 10, 2022. This application was filed on November 17, 2022—after the filing period expired. Accordingly, this application should be summarily dismissed as untimely.

[Conclusion and signature page follows]

³ S.C. Code Ann. § 17-27-10 to -160.

CONCLUSION

WHEREFORE, having made its return, the State moves to summarily dismiss the application because it is barred by the statute of limitations.

Respectfully Submitted,

ALAN WILSON
Attorney General

DON ZELENKA
Deputy Attorney General

DANIELLE DIXON
Assistant Attorney General

By:



Danielle Dixon
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

August 9, 2023

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
)
 ALEXIS DENISE GRANT, #386494)
)
) Applicant,)
)
) vs)
)
 STATE OF SOUTH CAROLINA,)
)
) Respondent,)
)
 _____)

IN THE COURT OF COMMON PLEAS

2022-CP-10-5328

CERTIFICATE OF SERVICE BY MAIL

FILED
 2023 AUG 1 AM 11:35
 JULIE S. ARMSTRONG
 CLERK OF COURT
 BY _____

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

Denise Grainger Swope, Esquire
The Swope Law Firm, PA
1525 Sam Rittenberg Blvd., Suite 208
Charleston, SC 29407

DATED this 9th day of August, 2023.

Vickie Hall

 Vickie Hall, Legal Assistant
 For Respondent

GS
SOL
AG
ATT

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

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

Alexis Denise Grant, #386494,)

CASE NO. 2022-CP-10-5328)

Applicant,)

**CONDITIONAL ORDER
OF DISMISSAL**

v.)

State of South Carolina,)

Respondent.)

FILED
2023 SEP -1 PM 2:15
JULIE J. AUSTIN
CLERK OF COURT
JR

This matter is before the Court by way of an untimely application for post-conviction relief (PCR) filed by Alexis Denise Grant on November 17, 2022. Respondent filed a return and moved to summarily dismiss this application. For the reasons discussed below, this Court grants Respondent’s motion to dismiss.¹

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a twenty-year sentence. In 2017, Applicant was indicted for homicide by child abuse (2017-GS-10-7036). This charge arose from the death of her fourteen-old-month son on May 11, 2017. According to the State, Applicant hit the victim “around five times in the head and knocked him down twice,” causing his death.

On November 9, 2021, Applicant pled guilty pursuant to a negotiated plea before the Honorable Deadra L. Jefferson. Megan Ehrlich represented Applicant, and Deborah Herring Lash

¹ Respondent's return was due to be filed within sixty days after service of the application. See Rule 12(a), SCRPC (“[T]he State of South Carolina shall answer or otherwise respond to an application for [PCR] within 60 days after service of the application, if it arises out of a guilty plea”). Respondent submits the guilty plea transcript was necessary in order for Respondent to assess these claims and submit a return. Respondent requested the transcript of the guilty plea on December 16, 2022, and received it on May 2, 2023. Now, having completed the return and in light of no demonstrable prejudice to Applicant, this Court accepts this return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing that the Court may fix the time in which the State must respond); *Guinyard v. State*, 260 S.C. 220, 195 S.E.2d 392 (1973) (holding the time limit prescribed by the statute is discretionary and not mandatory, and the trial court may extend the time for filing).

2017-GS-10-07036

represented the State. Pursuant to the negotiated plea, Applicant was sentenced to twenty years; she received credit for time served on house-arrest. Applicant did not file a direct appeal.

ALLEGATIONS

Applicant untimely filed this PCR action on November 17, 2022. In her application, Applicant alleges she is being held in custody unlawfully for the following reasons:

Ineffective assistance of counsel:

- a. Defendant was prejudiced by trial counsel erroneous advice of taking a guilty plea and comparing case of like nature to avoid a harsher sentence denied defendant of her Sixth Amendment.
- b. Trial counsel was ineffective for not consulting with a forensic pathologist and presenting a pathologist testimony at trial on behalf of the petitioner.
- c. Invalid indictment.

As relief, Applicant requests “new trial, vacated sentence.” Before this Court are the Charleston County Clerk of Court records regarding the subject conviction, Applicant’s records from the South Carolina Department of Corrections, the plea transcript, and the records from this current PCR action.

MOTION TO DISMISS

The State moved for summary dismissal pursuant to section 17-27-70 of the South Carolina Code, asserting no genuine issues of material fact necessitate an evidentiary hearing. Because there are no questions of law or fact to necessitate a hearing, the State requested this Court issue a Conditional Order of Dismissal indicating the Court’s intent to dismiss the application and its reasons for doing so. See S.C. Code Ann. § 17-27-70(b) (establishing procedure for summary disposition of PCR applications); Leamon v. State, 363 S.C. 432, 434, 611 S.E.2d 494, 495 (2005) (finding summary disposition appropriate when no facts need to be developed and the applicant is



not entitled to relief). This Court has reviewed the application and the records in this case and finds there are no genuine issues of material fact to warrant a hearing. Therefore, summary dismissal is appropriate. Set forth below are the Court's findings:

Statute of Limitations

Applicant's application should be summarily dismissed for failure to comply with the filing procedures of the Uniform PCR Act.² "An application for relief pursuant to this chapter *must* be filed within one year after the entry of judgment . . . or within one year after the sending of the remittitur . . ." § 17-27-45(A). The statute of limitations applies to all PCR applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 470, 469 S.E.2d 606, 607 (1996). A motion for summary judgment may be used to raise the defense of statute of limitations. McDonnell v. Consol. Sch. Dist. Of Aiken, 315 S.C. 487, 489, 445 S.E.2d 638, 639 (1994). The circuit court may "grant a motion by either party for summary disposition of an application when it appears from the pleadings . . . that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." § 17-27-70(c).

Here, Applicant was sentenced on November 9, 2021. She did not file a direct appeal. The PCR application was therefore due on or before November 10, 2022. This application was filed on November 17, 2022—after the filing period expired. Accordingly, this application shall be summarily dismissed as untimely.

CONCLUSION

WHEREFORE, pursuant to section 17-27-70 of the South Carolina Code and Rule 12(b)(6), SCRCF, this Court intends to dismiss this application with prejudice unless Applicant provides specific reasons, factual or legal, why the application should not be dismissed

² S.C. Code Ann. § 17-27-10 to -160.

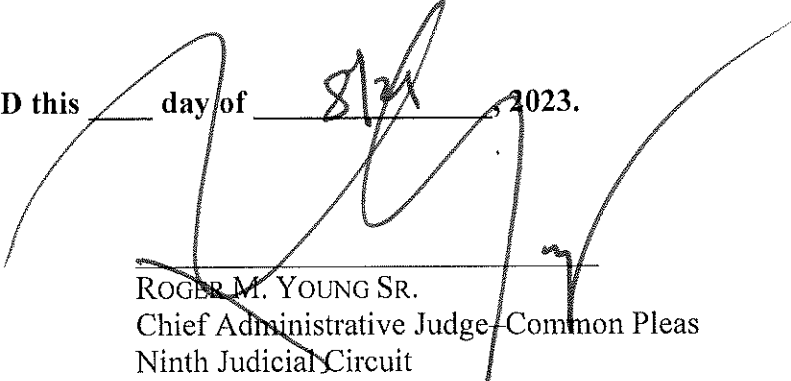


in its entirety. Applicant is granted twenty (20) days from the date of service of this Order upon her to show why this Order should not become final. Applicant shall file any reasons she may have, factual or legal, with the Charleston County Clerk of Court and shall serve opposing counsel at the following address:

Office of the Attorney General
Danielle Dixon, Esquire
PCR Division – Ninth Circuit
P.O. Box 11549
Columbia, South Carolina 29211

Applicant is cautioned that her response to this order must be actually received by the Charleston County Clerk of Court and opposing counsel within twenty (20) days from the date of the service of this Order, and the Court will not consider any issues raised in his response if not so timely filed and served.

AND IT IS SO ORDERED this 8/21 day of August, 2023.



ROGER M. YOUNG SR.
Chief Administrative Judge – Common Pleas
Ninth Judicial Circuit


_____, South Carolina

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 ALEXIS DENISE GRANT #386494 ,)
)
 APPLICANT,)
)
 V.)
)
 STATE OF SOUTH CAROLINA)
)
 RESPONDENT.)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 CASE NO. 2022-CP-10-5328

**MOTION TO SET ASIDE
 CONDITIONAL ORDER
 OF DISMISSAL**

FILED
 2023 SEP 19 PM 4:12
 JILL E. ARMSTRONG
 CLERK OF COURT
 ↗

TO: DANIELLE DIXON, ESQUIRE, ATTORNEY FOR THE RESPONDENT:

YOU WILL PLEASE TAKE NOTICE that the Applicant, by and through undersigned counsel, will move before the Honorable Roger M. Young, Sr., Presiding Judge of the Charleston Court of Common Pleas at the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina, on the tenth day after service hereof at 10:00 AM or, as soon thereafter as counsel may be heard for an Order reconsidering his Order filed September 1, 2023. Said Order directed that within twenty (20) days of service that the Applicant “shall file any reasons she may have, factual or legal” to show why the Order should not become final.

The PCR application stated that there was ineffective assistance of trial counsel due to erroneous advice related to the guilty plea, failure to consult with a forensic pathologist or present such testimony, and an invalid indictment. Additionally, the undersigned would note that no appeal was filed on behalf of the Applicant. The PCR application was due to be filed on November 10, 2023. Said application was filed *Pro Se* on November 17, 2023.

Undersigned counsel would state that there are material issues of fact that require a hearing in this matter. Further, the Applicant in this matter is incarcerated. Therefore, access to legal advice,

counsel, or research is more limited than a person who is not incarcerated. Likewise access to mail or the sending of same is slower and more limited than a litigant who is not incarcerated.

The filing of the PCR application was a mere seven (7) days late. Where a statute sets a limitation period for action, courts have invoked the equitable tolling doctrine to suspend or extend the statutory period to ensure fundamental practicality and fairness. *Hooper v. Ebenezer Sr. Services and Rehabilitation Center*, 687 S.E.2d. 29 (SC 2009). Further, Applicant would allege that the delay in filing was the result of “mistake, inadvertence or excusable neglect” as set forth in SCRCP Rule 60. See also *Micronics, Inc. v. South Carolina Department of Revenue*, 528 S.E.2d. 223 (SC 2001). It must also be noted that pursuant to SCRCP 12(a), the Respondent was required to respond to the PCR application within sixty (60) days of service (on or about January 22, 2023). The Respondent’s Return was filed on August 11, 2023. Undersigned counsel has no objection to the Court extending the time to file and accepting the Return. However, she respectfully requests that Applicant also be granted the same opportunity. Upon information and belief, due process, equity, and fairness require that the PCR application be accepted and a hearing be set. We only ask that this Honorable Court allow the Applicant to present her case and be heard before rendering a final decision.

SWOPE LAW FIRM, P.A.

S/Denise Grainger Swope

Denise Grainger Swope
1525 Sam Rittenberg Blvd., Suite 208
Charleston, South Carolina 29407
Ph.: (843) 852-4925
Fax: (843) 576-4654
Email: swopelawfirm@comcast.net
Attorney for Applicant

Charleston, South Carolina

September 18, 2023

AH
GS
SCL
AG

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
Case No.: 2022-CP-10-05328

Alexis D. Grant, #286494)

Applicant,)

v.)

The State of South Carolina,)

Respondent.)

ORDER FOR COMPETENCY TO STAND
TRIAL EVALUATION PURSUANT TO
STATE V. BLAIR

EVALUATION BY:
(Select Only One)

Department of Mental Health
(Mental Illness)

OR

Department of Disabilities and Special Needs
(Intellectual Disability or Related Disability)

JULIE L. ARMSTRONG
CLERK OF COURT

2024 MAR 12 PM 4:23

FILED

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This matter is before me for an order requiring Applicant **ALEXIS D. GRANT** (SCDC), pursuing a post conviction relief action, to submit to an evaluation for competency to stand trial pursuant to State v. Blair, 275 S.C. 529, 273 S.E.2d 536 (1981) and S.C. Code Ann. § 44-23-410 (1976).

BASIS FOR ORDER. I have considered the showing made in support of the motion requesting this evaluation and have reason to believe defendant may lack the competency to understand the criminal proceedings or to assist with the defense as a result of a lack of mental competence.

This order is issued for the following reasons: PCR counsel is concerned about the Applicant's competency/mental state and thus her ability to testify and assist in her case. A prior hearing was continued at the request of SCDC due to safety and security concerns associated with transporting Applicant.

THEREFORE, IT IS ORDERED: Defendant shall be examined and observed at an appropriate facility by two examiners of the Department of Mental Health if suspected of having a mental illness or by two examiners designated by the Department of Disabilities and Special Needs if suspected of having an intellectual disability or a related disability, to render an opinion whether defendant is competent to stand trial.

COMPLIANCE DEADLINE/TRANSPORT FOR EVALUATION. The examining facility shall schedule the ordered examination no later than thirty (30) days from the examining agency's receipt of this order. If defendant is currently free on bond or personal recognizance, defendant is responsible for making transportation arrangements to attend the examination. In the event defendant does not appear at the scheduled examination, upon written notice of such failure by the examining agency to the Sheriff of the county in which this case arose, defendant shall be taken into custody by the Sheriff and held until an examination can be scheduled and completed, and thereafter shall be released. Defendant's bond or bail is hereby revoked to the extent necessary to carry out the provisions of this order, and upon completion of the examination and release of defendant, any previous bail or bond issued by the Court shall remain in effect. If defendant is in custody at the time of the scheduled examination, the Sheriff is hereby authorized and required to transport defendant to and from the examination, arriving at the examining facility at the time established by confirmed appointment with the staff of the examining facility. In the event defendant is in custody of a law enforcement agency other than a Sheriff's department, nothing herein prevents such agency from carrying out the provisions of this order. **Applicant is currently in the custody of the SC Department of Corrections and a copy of her SCDC screen information is attached.**

TRANSFER TO ALTERNATE AGENCY. If the initial examination is performed by the Department of Mental Health, and examiners find indications of an intellectual disability or a related disability but not mental illness, the Department of Mental Health shall not render an opinion on mental competency, but shall inform the Court, prosecutor, and defense counsel that defendant is "not mentally ill" and shall provide a copy of such notification and a copy of this order to the Department of Disabilities and Special Needs. Likewise, if the initial examination is performed by the Department of Disabilities and Special Needs, and examiners find indications of mental illness but not an intellectual disability or a related disability, the Department of Disabilities and Special Needs shall not render an opinion on mental competency, but shall inform the Court, prosecutor, and defense counsel that defendant does "not have an intellectual disability or a related disability" and shall provide a copy of such notification and this order to the Department of Mental Health.

In either case, the examining agency shall make copies of any records gathered or created in connection with its examination available to examiners designated by the alternate agency, and

the alternate agency shall thereafter designate examiners to evaluate defendant as to competency to stand trial within thirty (30) days of receipt of the notification from the initial examining agency.

FINDING OF DUAL DIAGNOSIS. If examiners of either the Department of Mental Health or the Department of Disabilities and Special Needs find an indication of a dual diagnosis of mental illness and an intellectual disability or a related disability, no opinion on defendant's mental competency shall be rendered, and the dual diagnosis must be reported to the Court, prosecutor, and defense counsel. The examining agency shall also provide notification of the finding and a copy of this order to the other agency. Thereafter, the Department of Mental Health and the Department of Disabilities and Special Needs shall arrange for an examiner from each agency to further evaluate defendant to render a final report on defendant's mental competency. Both agencies are authorized and required to make copies of all relevant records within their possession or control available to examiners for purposes of completing the dual evaluation.

AUTHORIZATION FOR INPATIENT EVALUATION. In the event examiners from either agency determine defendant requires an inpatient examination, upon written notice to this Court from the director of the examining agency or his designee, defendant shall be committed to an appropriate facility of the requesting agency for no more than fifteen (15) days for examination and observation related to defendant's mental competency to stand trial.

REQUEST FOR EXTENSION. Before the expiration of the examination period or the examination and observation period, the Department of Mental Health or the Department of Disabilities and Special Needs, as appropriate, may apply to a judge designated by the Chief Justice of the South Carolina Supreme Court for an extension of time up to fifteen (15) days to complete the examination or the examination and observation.

DETENTION BEYOND EVALUATION PERIOD. If, in the judgment of the designated examiners, defendant is in need of immediate hospitalization or inpatient treatment, upon written request to this Court from the director of the examining facility or his designee, defendant may be detained by the requesting agency in a suitable facility for so long as deemed clinically necessary or until a hearing required and provided by S.C. Code Ann. § 44-23-430 (1976) may be conducted by this Court. An additional Court order **shall** be necessary for ongoing pre-trial inpatient detention of defendant as discussed in this paragraph.

ISSUANCE AND ADMISSIBILITY OF WRITTEN REPORT. Within ten (10) days of all examinations or the conclusion of the observation period, a written report shall be made to

the Court pursuant to S.C. Code Ann. § 44-23-420 (1976). A copy of the report shall also be forwarded to the prosecutor and defense counsel. This evaluation report shall be admissible as evidence in subsequent hearings pursuant to S.C. Code Ann. § 44-23-420(c) (1976); thus, the report is a statutory exception to the rule against hearsay and shall be admissible without need for foundational testimony. However, the report shall be inadmissible in any other proceedings except as expressly permitted by South Carolina law.

OWNERSHIP AND DISCOVERABILITY OF EXAMINING AGENCY FILES. The examining agency is an independent entity, conducting this evaluation pursuant to Court order, and is not aligned with any party before the Court. To promote full disclosure and to assure the cooperation of defendant during the evaluation process, ownership of the examining agency's files shall be vested with the examining agency, including clinician's notes, staff reports, evaluation documents, memoranda, test results, etc. Neither these files nor any of their contents shall be provided to any party except upon presentation of a Court order authorizing such or a release authorization signed by defendant. In the event the examining agency's evaluation opinion is contested, an examiner may be appropriately and fully questioned as to the basis for the examiner's opinion at any hearing pursuant to S.C. Code Ann. § 44-23-430 (1976). However, examiners and agency staff may not be compelled to testify regarding statements made during the competency examination for any purpose other than to establish competency. Also, statements made during the examination may not be used to impeach defendant at trial. Hudgins v. Moore, 337 S.C. 333, 524 S.E.2d 105 (1999).

MEDICAL PROVIDERS/SCHOOLS MUST RELEASE NECESSARY RECORDS. State agency examiners conducting the evaluation may need clinical and school records concerning defendant to assist in forming an opinion. It is therefore ordered, upon presentation by the examining agency of this order with a written request for specific records attached thereto, that any physician or clinician, licensed health care facility, licensed health care provider, or any school district is hereby authorized and required to furnish copies of all records concerning defendant to the Department of Mental Health or the Department of Disabilities and Special Needs, or both.

COUNSEL REQUIRED TO FURNISH NECESSARY RECORDS. Upon written request from the examining agency, counsel for the prosecution and defense shall furnish to the agency such records and information in counsel's possession as the agency requests, including but not limited to copies of law enforcement reports, investigations, witness statements, statements by

defendant (both written and electronic), defendant's medical records, and prior psychiatric or psychological evaluations of defendant. Nothing herein shall be construed to require counsel to divulge any information, documents, notes, or memoranda that are protected by attorney-client privilege or work-product doctrine.

DUTIES OF DEFENSE COUNSEL. Unless the prosecution is the party moving for this evaluation, defense counsel has the responsibility to file, serve, and transmit this order as outlined in the final paragraph below. Defense counsel does not have the right to attend any clinical interview scheduled pursuant to this Order, nor does defendant have a constitutional right to compel counsel's attendance. State v. Hardy, 283 S.C. 590, 325 S.E.2d 320 (1985). The Court recognizes, however, that circumstances may arise through which the examining agency may request counsel's attendance to facilitate the examination. In the event that such a determination is made, the examining agency may request counsel's attendance in writing, and counsel's level of participation shall be prescribed by the examining agency's written evaluation protocol. In this event, because of the substantial number of individuals awaiting examination, such interviews cannot be rescheduled, postponed, or canceled to accommodate counsel except upon presentation to the examining agency of a written statement from a circuit court judge that counsel's attendance is required in Court at the time the examination is scheduled. Whether or not defense counsel is requested to attend the clinical interview, defense counsel must meet with defendant prior to the interview to discuss this Court order, the evaluation process, the clinical interview, defendant's rights with regard to the clinical interview, and penalties associated with non-appearance and non-cooperation. Failure to comply with these requirements may result in sanctions for defense counsel. Defendant's refusal to participate at the interview because of the absence of counsel will be deemed non-cooperation. Failure of defendant to cooperate or participate in the interview may result in cancellation of the interview, examiners being unable to offer an opinion on competency to stand trial, and the case being called for trial without completion of the evaluation.

FILING, SERVICE, AND TRANSMITTAL OF ORDER. It is the responsibility of counsel for the party requesting the evaluation to file and serve this order as outlined herein. In the event the evaluation has been requested by consent, or the moving party cannot be determined, defense counsel shall be responsible. After being signed by the Court, the original order without attachments shall be immediately filed with the Clerk of Court and a certified copy served upon the opposing party. Further, within five (5) business days, a certified copy of this order, together with the attachments listed at the end of this order, must be served upon the examining agency at the address listed below. To expedite commencement of the evaluation process and scheduling of

the clinical interview, counsel is instructed to immediately contact the examining agency to advise of the issuance of this order and forthcoming service upon the agency:

Evaluation Order Service Information

Department of Mental Health
Forensic Evaluation Service Paralegal
S. C. Department of Mental Health
CBHS Forensic Center
7901 Farrow Road
Columbia, S.C. 29203-3220
(803) 935-5540 (Phone)
(803) 935-5544 (Fax)
Email: FES-PARALEGAL@SCDMH.ORG

Department of Disabilities and Special Needs
Office of Clinical Services
Department of Disabilities and Special Needs
Post Office Box 4706
Columbia, S.C. 29240
(803) 898-9694 (Phone)
(803) 898-9660 (Fax)
Email: OBSForensics@ddsn.sc.gov

AND IT IS SO ORDERED.

Charleston, South Carolina

Dated: 3/11/2024


Presiding Circuit Judge

WALTER McLEOD

Printed Name of Presiding Circuit Judge

I so move:

s/Denise Grainger Swope
Applicant's Attorney
Swope Law Firm
1525 Sam Rittenberg Blvd, Ste.208
Address
Charleston SC 29407
City, State, Zip
(843) 852-4925
Telephone
swopelawfirm@comcast.net
Email

I consent:

s/Danielle Dixon
Respondent's Attorney
Office of the Attorney General
Post Office Box 11549
Address
Columbia, SC 29211
City, State, Zip
(803) 734-3737
Telephone
DanielleDixon@scag.gov
Email

The following documents must be attached to this order upon submission to the Department of Mental Health or to the Department of Disabilities and Special Needs whichever is applicable:

1. Completed DMH/DDSN Outpatient Information Appointment Sheet
2. Copy of the indictment(s) (if issued)
3. Copy of the arresting agency's incident report
4. Copy of the warrant(s)

5. Law enforcement investigative reports
6. Defendant's statements to law enforcement, written or electronically recorded
7. Witness statements to law enforcement
8. Defendant's school psychological records (if available)
9. Autopsy reports (if applicable)

I N D E X

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E X H I B I T S

(There were no exhibits marked during the hearing)

The State of South Carolina v. Alexis Grant #386494

3

1 THE COURT: You are Alexis Grant, is that correct?

2 MS. GRANT: Yes, ma'am.

3 THE COURT: Ms. Grant, good afternoon. You came
4 from Graham. Is that correct?

5 MS. GRANT: Yes, ma'am.

6 THE COURT: All right. Thank you. You can go
7 ahead and be seated. Yes, ma'am.

8 MS. KANEALEY: May it please the Court. Kylee
9 Kanealey, Assistant Attorney General on behalf of the
10 state. This is the post conviction relief matter of Alexis
11 Grant versus the State. 2022-CP-10-5328. Applicant is
12 presently confined to the South Carolina Department of
13 Corrections serving a 20 year sentence. On November 9,
14 2021 applicant pled guilty pursuant to a negotiate plea
15 deal before the Honorable Deadre L. Jefferson. Megan
16 Ehrlich representative applicant and Deborah Herring Lash
17 represented the State. Pursuant to the negotiated plea
18 applicant was sentenced to twenty (20) years, she received
19 credit for time served and house arrest. Applicant did not
20 file a direct appeal. Applicant filed this PCR action on
21 November 17, 2022, and at this time I will turn it over to
22 Ms. Swope, who has indicated that she wishes to withdraw.

23 THE COURT: Okay. Yes, Ms. Swope.

24 MS. SWOPE: Your Honor, my client is going back
25 and forth on this issue whether she wishes to withdraw the

1 action because ultimately if we were to win the PCR she
2 would be back at 20 to life, whereas right now her sentence
3 is 20 years and she's going back and forth on that issue.
4 She seems very uncertain. We ask that she be evaluated for
5 competency. She was found competent, but the evaluation
6 does note that she has had issues with depression and
7 adjustment and so forth. I don't --- she is now saying
8 she's not sure what she wants to do and can she think about
9 it some more and come back on another day, I told her I
10 didn't know that anybody was going to be open to that and
11 she seems very uncertain as to what she wants to do. She
12 wanted me to ask for a postponement until August.

13 THE COURT: Okay, well, I can't postpone it.
14 We're ready to go. Ms. Ehrlich is here, correct ...

15 MS. KANEALEY: Yes.

16 THE COURT: ... and ready to go forward? If what
17 you would like me to do is this. I can hear the testimony
18 and I could take it under advisement until the end of the
19 week and then if she wishes to withdraw after that, and I
20 not rule, I can do that, if that is her choice. But I
21 think we're here, and I think we need to go forward.

22 MS. SWOPE: I understand, Your Honor.

23 THE COURT: Okay.

24 (Off the record discussions between counsel)

25 MS. SWOPE: I would call Ms. Grant to the stand,

Ms. Grant - Examination by Ms. Swope

1
2 please.

3 THE COURT: Okay. Come on forward Ms. Grant. We
4 are going to swear you in up here.

5 DEPUTY CLERK: Please raise your right hand and
6 place your left hand on the Bible. Do you swear to tell
7 the truth, the whole truth and nothing but the truth so
8 help you God?

9 MS. GRANT: Yes, ma'am.

10 DEPUTY CLERK: Please be seated. Please state
11 your full name, spelling your last name for the record.

12 MS. GRANT: Alexis Grant, G-R-A-N-T.

13 THE COURT: Thank you, ma'am.

Ms. Grant - Examination by Ms. Swope:

14
15 Q. Ms. Grant, we are here for your post conviction
16 relief and as we've discussed, what post conviction relief
17 is about is what your attorney did, didn't do, what they
18 could have done. And my understanding from you was that
19 you did not feel like you understood the plea. You felt
20 like you were pressured to take the plea. Can you explain
21 that to the court?

22 A. Well, I was offered this plea two times. I actually
23 went in front of the judge and I denied the plea and went
24 on bail, but the second plea came a week before trial and I
25 just felt like it was like I really couldn't tell I had

1 never been arrested before so I kind of felt like it was
2 like thrown on me again and trial was coming up so I just
3 really didn't know.

4 Q. So am I understanding you to say that you just felt
5 pressured or you didn't understand or both?

6 A. I kind of --- when someone keeps on coming at you
7 with something, you know, like I don't know how this court
8 system works so ...

9 THE COURT: Well, there's a decision to be made,
10 correct?

11 A. Yes, ma'am.

12 THE COURT: Whether or not you were to go to trial
13 of whether or not you were going to plead guilty, is that
14 correct? Okay. And my understanding is they offered you
15 the minimum in this case, is that correct Ms. Swope?

16 MS. SWOPE: That is correct.

17 THE COURT: And you obviously initially were
18 facing up to life, is that correct?

19 A. Yes, ma'am.

20 THE COURT: All right. When did this incident
21 allegedly occur?

22 MS. SWOPE: The date of the arrest was May 12,
23 2017.

24 THE COURT: Okay. And I see you plead guilty on
25 November 9th of 2021. I also did go through your records

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7

1 and saw that you were in jail for about six (6) months or
2 so, you weren't able to make your first bond, and then
3 additionally it was reduced to the point you could make it
4 and then you were released, is that correct?

5 A. I actually did bond out but it was like before ...

6 THE COURT: After. I understand that. Because
7 your bond was reduced to an amount you could make, correct?

8 A. (Nods head affirmatively)

9 THE COURT: That's a yes for the record?

10 A. Yes, ma'am.

11 THE COURT: Okay. Thank you. All right.

12 **Ms. Grant - Continue Examination by Ms. Swope:**

13 Q. Ms. Grant, just to clarify for the court, at the time
14 of the plea your child had died and you were pregnant
15 again. Is that correct?

16 A. Yes, ma'am.

17 Q. So you were, I would assume, overwhelmed, full of
18 hormones?

19 A. Yes. I was.

20 Q. Okay. And you just didn't feel like you understood. You
21 felt pressured.

22 A. Yes.

23 Q. And I'm looking at your evaluation that was done, it said
24 that you had diagnoses of adjustment disorder with mixed anxiety
25 and depressed mood, and that you were prescribed Zuranolone and

1 BuSpar, is that correct?

2 A. Yes ma'am.

3 Q. Are you still taking those medications?

4 A. Yes, ma'am.

5 Q. Did you feel like Ms. Ehrlich, your trial counsel, did
6 you feel like she answered all of your questions?

7 A. I really didn't have questions because I didn't know.
8 Like I thought the lawyer was supposed to explain
9 everything to me.

10 Q. And did she go over the discovery with you, did you
11 talk about the state's evidence?

12 A. I went over it, but most of the part we couldn't ---
13 It was just I was seeing her before court but she didn't
14 come and check on me.

15 Q. Okay.

16 A. We didn't go page by page through discovery. But
17 some stuff we went through, we did.

18 Q. Do you feel like you understood the state's evidence
19 completely before you made the decision about the plea?

20 A. No.

21 THE COURT: Ms. Swope, just so I'm clear. I
22 understand that she actually gave you a statement stating
23 she did in fact strike the child and that she had gotten
24 frustrated. Am I correct in all of that?

25 MS. SWOPE: She did. She confessed.

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1 THE COURT: Can you tell me when that confession
2 was given, if it was a statement to the investigating
3 officer or to whom specifically it was given.

4 MS. SWOPE: I can, just give me one second. It
5 was to law enforcement. That was my understanding as well.

6 THE COURT: Thank you. I'm sorry. Anything else
7 you want to ask her is fine?

8 Q. Is there anything else that you feel like you need to
9 bring to the attention of the court regarding your state at
10 the time and how you were feeling? I know you answered
11 my questions, but I want to make sure you have a chance to
12 speak fully if there's anything else that you want to
13 share, feel free to do that.

14 A. Yeah, you just --- the question that you asked. When
15 the officer asked me, do like my kids get popped? I said
16 that I like pop my kids. So whatever they took from it,
17 that's what they took from it.

18 THE COURT: Was this video recorded or was
19 it a written statement, does anyone know?

20 MS. SWOPE: Not that I've seen a written
21 statement, no. I don't ...

22 THE COURT: Was there a video recording of it?

23 MS. SWOPE: I don't have a Rule 5 still. My
24 understanding was that she confessed to law enforcement, at
25 least to some degree, and then at the plea they went over

1 the facts of the case and she indicated that those were the
2 correct facts.

3 THE COURT: I see that. It says the rendition of
4 the facts was on the date this occurred, she said that she
5 was attempting to do physical therapy on the child, got
6 frustrated and that she hit him around five times in the
7 head and knocked him down twice. And it says and what they
8 found were multiple bruises on the skull in autopsy and two
9 fractures and that was the cause of death.

10 MS. SWOPE: And then they questioned whether or
11 not she agreed with those facts and she said yes.

12 THE COURT: Yes.

13 MS. SWOPE: That's my understanding.

14 THE COURT: She did. Okay.

15 MS. SWOPE: Your Honor, I have nothing further of
16 this witness.

17 THE COURT: Okay. Anything further?

18 MS. KANEALEY: Nothing from the State, Your Honor.

19 THE COURT: All right. You may step down, ma'am.

20 MS. SWOPE: Court's indulgence, Your Honor.

21 THE COURT: Yes. Let's go ahead and call the
22 attorney.

23 MS. SWOPE: Okay.

24 THE COURT: Let's go ahead and do that.

25 DEPUTY CLERK: Do you swear to tell the truth,

1 **Ms. Ehrlich - Examination by Ms. Swope**

2 the whole truth and nothing but the truth so help you God?

3 WITNESS: I do.

4 DEPUTY CLERK: Please be seated. Please state
5 your full name, spell your last name.

6 WITNESS: Megan Ehrlich, E-H-R-L-I-C-H.

7 **Ms. Ehrlich - Examination by Ms. Swope:**

8 Q. Hello, ma'am. Thank you for your time coming today.
9 We appreciate it. Can you tell the court about the process
10 of the plea and how that was discussed with Ms. Grant?

11 A. Sure. I represented Alexis starting from the point
12 of her arrest, she was actually in custody. Close in time
13 to when her plea was she bonded out, I think, less than six
14 months before her trial date in 2021. That's my
15 recollection of it is that she was in SCDC for a very long
16 time. There was a trial date set for November of 2021,
17 and there was some discussion over whether or not there
18 would be another plea offer and also discussions with
19 Alexis over whether or not she wanted to consider a plea or
20 to proceed to trial. We were actually in full trial prep
21 mode at the time of her plea.

22 Q. Do you feel like you had enough time to discuss the
23 plea with her?

24 A. I do.

25 Q. And how many times would you say you met with her

1 regarding the plea?

2 A. I don't know how many times overall I met with her
3 regarding the plea but we were meeting consistently the
4 entire time I represented her. And leading up to the
5 trial, I believe, she was living in Marion, South Carolina
6 with a family member so we were meeting by zoom and then
7 when she could not come to Charleston I actually drove to
8 Marion and met with her at her family members house to
9 review discovery and discuss how she wanted to proceed. We
10 were also in communication by phone.

11 Q. Another issue that she raised was that there should
12 have been more investigation and so forth. Can you explain
13 to the court on the investigation that you did, forensic
14 investigation and so forth?

15 A. Are you talking specifically about the forensic
16 pathologist ...

17 Q. Yes.

18 A. ... or any other issues?

19 Q. Forensic pathologist was the issue that she raised
20 and we didn't go over it because I spoke with you about it,
21 but I want to make sure the record is clear.

22 A. So I met with the forensic pathologist from MUSC who
23 actually conducted the autopsy. I met with that doctor, Dr.
24 Batalis, as well as my investigator was present for that.
25 I also hired my own pathologist to review the records, that

1 was Dr. Kim Collins, who did a thorough review of the file,
2 the records, the photographs, and was able to give me
3 feedback. My recollection was that Dr Collins, her
4 testimony, should we have proceeded to trial, would have
5 been worse, in my opinion, than Dr Batalis. She was more
6 focused on potential issue related to failure to thrive, in
7 addition to the blunt force trauma to the head. So
8 there was some concern, on my part, that if I called Dr.
9 Collins she would make the case worse for Alexis at trial.

10 MS. SWOPE: Just one moment.

11 Q. Do you recall the discussion regarding the eventual
12 plea. I know the first plea offer was turned down and then
13 they offered it again, correct?

14 A. Actually I don't even remember the first plea offer,
15 but I trust that that occurred.

16 Q. It did.

17 A. There was discussion over whether or not we could get
18 a 15 year offer if they amended the charge from homicide by
19 child abuse to manslaughter, but that did not happen.

20 Q. And when you said you were in full trial mode, how
21 many days before trial do you think it was that you guys
22 had the discussion and decided to do a plea?

23 A. There were discussions throughout the process over
24 whether or not the case should be a trial or a plea. I
25 don't remember exactly how many days it was when she

1 decided to enter the plea, but there was --- any time I'm
2 prepping for trial as new evidence comes out, as the state
3 is disclosing new information, in this case, the co-
4 defendant was then cooperating. The father of [REDACTED] was
5 cooperating at that point, I'm always going to reveal that
6 information to a client and ask if there's any impact on
7 their decision. And I think that's the best practice is to
8 make sure that if the client has any hesitation about going
9 to trial that we explore all options for them?

10 Q. Absolutely. Were you aware of her diagnoses and
11 medications and so forth?

12 A. I knew that she had some mental health issues because
13 I had also an independent psychiatric evaluation done for
14 purposes of mitigation and to also explore if there were
15 any issues with postpartum depression that impacted
16 the case itself, and she --- my memory is that she was on
17 her medications and seeking counseling even when she was
18 out on bond.

19 THE COURT: Ms. Ehrlich, may I ask you, when you
20 said that the child's father was cooperating, and you
21 understood that he was cooperating with the state, in the
22 transcript that I read, he was not present when this
23 allegedly occurred?

24 A. That's correct. They were staying at In-Town Suites
25 and he was at work at the time that the alleged incident

1 would have occurred.

2 THE COURT: Right.

3 A. And then Alexis called him to come back to the hotel
4 room. But there was even some investigation into the card
5 key in the hotel, and if you could prove when he left and
6 when he was at work and all of that.

7 THE COURT: Okay.

8 Q. Just one last question. My client indicates to me
9 that she's saying that you discussed with her people who
10 had worse outcomes than she did, in terms of that she could
11 get a much longer sentence if she went to trial, and she
12 said that that made her feel pressured, that she was trying
13 --- that you were trying to talk her into the plea. Can you
14 describe your thought process when you were having those
15 conversations?

16 A. So I got the SCDC data on sentences for homicide by
17 child abuse for anybody who was serving a sentence so we
18 could get a concept of the range of what kind of sentences
19 are people serving. I reviewed that with her so she would
20 be fully aware of potential consequences regardless of what
21 her decision was going to be. There was a really wide range
22 of what people were sentenced to. Some people were
23 sentenced to under 20 years. Some people had 20 years. Some
24 people had life sentences. And I did that not to put any
25 pressure on anybody, but just to give her all of the

1 **Ms. Ehrlich - Cross by Ms. Kanealey**

2 information.

3 Q. I understand.

4 MS. SWOPE: Nothing further, Your Honor.

5 THE COURT: Okay.

6 MS. KANEALEY: May it please the court.

7 **Ms. Ehrlich - Cross Examination by Ms. Kanealey**

8 Q. How long have you been practicing law?

9 A. Since 2006.

10 Q. How much of that has been criminal law?

11 A. It's all criminal defense.

12 Q. Okay. Did you feel you had adequate time to meet with
13 applicant?

14 A. I did. There was a point in time where there's a
15 lack of contact when she was out on bond, I think, because
16 she was understandably stressed out but I feel like we had
17 plenty of time to discuss her case.

18 Q. Did you go over the discovery with her?

19 A. I reviewed discovery with her. Did I review every
20 single page of discovery, I'm sure I did not.

21 Q. Can you just briefly tell us what evidence the state
22 had against her?

23 A. They had medical evidence. They had her statement to
24 law enforcement, which was recorded. It was video --- a
25 audio recording. They had hospital records related to a

1 prior hospitalization, so their son was hospitalized for
2 failure to thrive. I can't remember the length of time
3 prior to his death but there was a hospitalization and some
4 medical records related to that that I think were relevant.
5 There were witness statements. Her child's father was
6 charged and close in time to trial started speaking with
7 the state and was providing additional background
8 information. I believe that the state found a neighbor
9 close in time to the incident as well, so the evidence was
10 pretty overwhelming in the case.

11 Q. In the application, she says invalid indictment. Did
12 you see any issues with the indictment or any basis to
13 challenge it?

14 A. I didn't, although, as we talked about on the phone
15 this morning, for a long period of time Charleston County
16 Solicitor's Office was not listing a witness on the
17 indictment they were just saying the police department,
18 and I believe that her indictment falls in that long
19 history of indictments without a witness listed on there.
20 One of our attorneys did challenge that at some point and
21 the judge did not do anything with that issue, but the
22 Solicitor's Office has since then changed their process and
23 listed the actual witness on there. But as far as a
24 challenge to the indictment, which is a notice document, I
25 don't --- I don't believe that there was anything that

1 would have changed the outcome in her case as far as the
2 indictment.

3 Q. Okay, and whose decision was it to plead guilty?

4 A. It was my clients.

5 Q. Okay. Was it in her best interest to plead guilty?

6 A. I can't --- I can't decide that for her.

7 Q. Okay. Do you stand by your representation today?

8 A. I don't --- I don't understand the question, I guess.
9 What are you asking?

10 MS. KANEALEY: No further questions.

11 MS. SWOPE: No questions, Your Honor.

12 THE COURT: Thank you. You may step down. Any
13 objection this witness being excused?

14 MS. SWOPE: None, Your Honor.

15 THE COURT: You are excused. Thank you. Anything
16 further?

17 MS. SWOPE: We are trying to get ... on a
18 background check which I was unaware of.

19 (Off the record discussion between counsel)

20 THE COURT: Your next witness.

21 MS. SWOPE: I would call Carolyn Grant to the
22 stand, please.

23 (Off the record discussions between counsel)

24 THE COURT: Come forward, ma'am.

25 DEPUTY CLERK: Please raise your right hand, place

Ms. Carolyn Grant - Examination by Ms. Swope

1
2 your left hand on the Bible. Do you swear to tell the
3 truth, the whole truth, and nothing but the truth so help
4 you God?

5 MS. CAROLYN GRANT: Yes.

6 DEPUTY CLERK: Please be seated. Please state
7 your full name, spelling your last name for the record.

8 WITNESS: Carolyn Grant, G-R-A-N-T.

Ms. Carolyn Grant - Examination by Ms. Swope:

9
10 Q. Ms. Grant, thank you for being here today for you
11 daughter. Just for clarity, for the record, the applicant
12 Alexis Grant is your daughter?

13 A. Yes, ma'am.

14 Q. Okay. And when you and I spoke you said that you had
15 concerns about her understanding regarding the plea and her
16 emotional state. Is that right?

17 A. Yes, ma'am.

18 Q. Can you explain to the court what your concerns were?

19 A. Yes because Alexis she has never been in trouble so
20 upon her getting in trouble on this, this first time, and
21 it's concerning her kids, she was under distress, she was
22 under postpartum distress, she also didn't have me because
23 I was going through breast cancer surgery, so I couldn't be
24 there to support her. So she didn't want --- she didn't

1 want this to fall on me and make me sick. So she was ---
2 Alexis was dealing with all kinds of things. She also ---
3 her attorney wasn't --- she didn't have a lot of
4 communication with her attorney. Matter of fact, I can
5 count on my hands almost five times, if you can present
6 some evidence about how many times she talked to her
7 attorney it wasn't --- it wasn't over five times. Until
8 Alexis got off bond and she went to my mom's house and it
9 got close to time before the trial she started getting
10 pressured. Look the State have this, the State have that?
11 She was up under so much stress she didn't know which way
12 to go. She has never been under anything like this. So I
13 know for a fact she need a trial because she innocent. So
14 we just want a chance for our day in court. She didn't ---
15 We had public defenders who really didn't want to do their
16 job. You heard her up here she said, I believe, I believe
17 we want to deal with the facts we don't want to go with, I
18 believe, I believe. She was under stress. She didn't have
19 an accurate attorney so we need a trial, because my child
20 is innocent. We just want our day in court.

21 Q. And you don't feel like ...

22 A. And I'm here today because I'm done went through my
23 surgeries and stuff, and I can support my daughter. I
24 couldn't do it in the hospital room, she didn't have
25 anybody.

1 Q. And you feel like, based on her emotional state ...

2 A. And also, I heard some, allegedly, some lies. The
3 baby's father was never going to be a state witness. But
4 also heard something about some of the state's evidence,
5 which I know they didn't have. So we dealing with some
6 allegedly stuff that some of her lawyers came up here and
7 said, and I thought, if you were somebody lawyer, you
8 couldn't tell client and attorney privilege. And I hear
9 y'all tell them everything. Look, all we want is a fair
10 day in court. She was dealing with stress. I was in the
11 hospital having breast cancer surgery. She was having
12 another baby. They was putting on all kinds of these
13 medicines. Her attorney was not getting back to her. She
14 did not have enough communication with her attorney to
15 understand anything. Anything else you want to ask?

16 Q. Nothing. Thank you for being here to support your
17 daughter, I'm sure it means a lot.

18 A. Yeah, and if you don't get it this time we are going
19 to keep on coming. I'm going to have to look up some judges
20 because I need y'all to be fair. I'm not asking for her to
21 be release. I'm asking for a fair day in court which you
22 heard from the attorney and you heard us. You can tell
23 this ain't fair.

24 Q. Thank you.

25 MS. SWOPE: I don't any further questions.

1 MS. KANEALEY: Just quickly, Your Honor.

2 THE COURT: Yes.

3 **Ms. Carolyn Grant - Cross Examination by Ms. Kanealey:**

4 Q. So you said you can count on your hand five times
5 that she spoke with her. Were you with Alexis 24/7
6 throughout this entire thing?

7 A. One thing I have, I have four kids. I'm the closest
8 to my kids that any mama ever gonna be. So I know
9 everything about my kids. You probably hear it from a lot
10 of parents but you didn't hear it from me. I was with her.
11 I wasn't with hers, I was with her and saw everything going
12 on when she got a chance to call me from that jail house to
13 the hospital she told me everything. I even tried to reach
14 out from my hospital bed.

15 Q. But you weren't with her 24/7?

16 A. Ma'am. I was in the hospital at the time doing
17 breast cancer surgery. I couldn't even zoom with her. All
18 I ...

19 Q. Yes or no? Were you with her 24/7 at this time?

20 A. I was in the hospital.

21 Q. So no?

22 A. I was in the hospital.

23 Q. Okay. So she could have talked to her counsel more
24 than five times?

25 A. No she didn't because I was myself, in my hospital

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23

1 room, trying to get in touch with this lady. We needed to
2 have a fair trial. This just wasn't about communication
3 ...

4 Q. Okay. Have you ever been convicted of anything?

5 A. Never, never, never.

6 MS. KANEALEY: No further questions.

7 THE COURT: Okay. Thank you.

8 MS. SWOPE: No further questions, Your Honor.

9 THE COURT: Okay. You may step down ma'am. Thank
10 you.

11 MS. SWOPE: Nothing further.

12 THE COURT: So do you want me to leave this open
13 for a specific amount of time?

14 MS. KANEALEY: Your Honor, if we could just leave
15 it open for 24 hours, we are running an NCIC currently, but
16 that should be plenty of time.

17 THE COURT: What do you need NCIC for?

18 MS. KANEALEY: The background check. We do a
19 background check on all the witnesses. We just didn't know
20 she was going to a witness today.

21 MS. SWOPE: I wasn't aware she was here.

22 THE COURT: My question is --- that is fine but my
23 understanding from Ms. Swope is that she also wanted me to
24 leave it open for her client to consider whether or not she
25 wants to withdraw her application.

1 MS. SWOPE: You may want to question my client
2 regarding this. She is saying that since we've already done
3 the hearing that she would just leave it in your judges
4 hands and ask Your Honor to make a decision.

5 THE COURT: Okay. And I'm happy to do that. You
6 understand what you're talking about is the consequence.
7 Because, again, if you are retried on this case, you
8 potentially could be facing life and I understand that.
9 But I can rule, after my full review of this case, and I
10 hear you saying to me that you want to go forward and have
11 me rule, is that correct?

12 MS. ALEXIS GRANT: Yes, ma'am.

13 THE COURT: All right, thank you. I appreciate
14 that.

15 MS. SWOPE: Thank you, Your Honor.

16 THE COURT: Absolutely. And if you want me to, I
17 will leave it open for 24 hours for you to pull any
18 background check you need to on Ms. Grant, the witness.

19 MS. KANEALEY: Thank you, Your Honor.

20 THE COURT: Okay.

21 MS. SWOPE: I have no objection to that, Your
22 Honor, and I will try in the future to give them 24 hour
23 notice. I didn't understand they wanted to do that.

24 THE COURT: All right. Anything further?

25 MS. SWOPE: Nothing, Your Honor.

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25

1 STATE OF SOUTH CAROLINA)

2) CERTIFICATE

3 COUNTY OF CHARLESTON)

4
5 Be it known that I, the undersigned Melissa R.
6 Singletary, Certified Verbatim Reporter, for the State of
7 South Carolina, do hereby certify that the foregoing
8 transcript represents a true, accurate and complete
9 transcript of record of the testimony and evidence
10 introduced in during this testimony of the captioned case,
11 before the Circuit Court for Charleston County, South
12 Carolina, so given on May 28, 2025 to the best of my skill
13 and ability;

14 That I am not related to nor an employee of any of
15 the parties hereto, nor a relative or employee of any
16 attorney or counsel employed by the parties hereto, nor
17 interested in the outcome of this action.

18 IN WITNESS WHEREOF I have here unto set my hand this
19 21st day of November, 2025.

20 *Melissa R. Singletary*

21 _____
22 Melissa R. Singletary, CVR
23 Certified Verbatim Reporter
24
25

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Alexis D. Grant, #386494,

Applicant,

v.

State of South Carolina,

Respondent.

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

CASE NO. 2022-CP-10-5328

ORDER OF DISMISSAL

FILED
2025 JUL 29 PM 3:07
JULIE J. ARMSTRONG
CLERK OF COURT

This matter comes before the Court by way of Alexis D. Grant’s application for post-conviction relief (PCR) filed on November 17, 2022. On May 28, 2025, an evidentiary hearing was held at the Charleston County Courthouse before the Honorable Judge Carmen T. Mullen. Applicant was present and represented by Denise Swope, Esquire. Assistant Attorney General Kylee Kanealey represented Respondent. Applicant proceeded forward on the allegations in her application. In support of these claims, Applicant testified on her own behalf, and presented the testimony of her mother. Respondent presented the testimony of Megan Ehrlich, Esquire (Plea Counsel).

Following a thorough review of the record, along with the testimony and evidence presented at the hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling her to relief and, accordingly, denies and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a twenty-year sentence. In 2017, Applicant was indicted for homicide by child abuse (2017-GS-10-7036). This charge arose from the death of her fourteen-old-month son on May 11, 2017. According to the State, Applicant hit the victim “around five times in the head and knocked him

down twice,” causing his death. On November 9, 2021, Applicant pled guilty pursuant to a negotiated plea before the Honorable Deadra L. Jefferson. Megan Ehrlich represented Applicant, and Deborah Herring Lash represented the State. Pursuant to the negotiated plea, Applicant was sentenced to twenty years; she received credit for time served on house-arrest. Applicant did not file a direct appeal.

CURRENT APPLICATION

Applicant filed this PCR action on November 17, 2022. In her application, Applicant alleges she is being held in custody unlawfully for the following reasons:

Ineffective assistance of counsel:

- a. Defendant was prejudiced by trial counsel erroneous advice of taking a guilty plea and comparing case of like nature to avoid a harsher sentence denied defendant of her Sixth Amendment.
- b. Trial counsel was ineffective for not consulting with a forensic pathologist and presenting a pathologist testimony at trial on behalf of the petitioner.
- c. Invalid indictment.

As relief, Applicant requested “new trial, vacated sentence.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the records before it, including the Charleston County Clerk of Court records of the underlying conviction, Applicant’s records from the South Carolina Department of Corrections, the plea transcript, and the records from this PCR action. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. After a careful review based on the Strickland standard set forth below, this Court finds Applicant has failed to carry her burden of

proof. Below are the Court's findings of fact and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel/ Involuntary Plea

In a PCR action, an applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). To prove ineffective assistance of counsel, the applicant must show counsel was deficient, and the deficiency prejudice applicant. Strickland v. Washington, 466 U.S. 668 (1984). When evaluating deficiency, courts measure an attorney's performance by its "reasonableness under prevailing professional norms." Cherry, 300 S.C. at 117, 386 S.E. 2d at 635 (quoting Strickland, 366 U.S. at 690). "Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Butler, 286 S.C. at 442, 334 S.E.2d at 814 (citing Strickland, 466 U.S. at 690). The applicant must overcome this presumption to received relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. To prove prejudice, an applicant must prove counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. Id. at 117-18, 386 S.E.2d at 625. When reviewing a guilty plea, the Strickland deficiency prong remains unchanged – Applicant must show that counsel's representation fell below an objective standard of reasonableness. Hill, 474 U.S. at 58-59. To show prejudice, Applicant must show a reasonable probability "that, but for counsel's [alleged] errors, he would not have pled guilty and would have insisted on going to trial." Id. at 59. To be knowing and voluntary, the defendant must be advised of the constitutional rights he is waiving, including the right to a jury trial, the right to confront one's accusers, and the privilege against self-incrimination. Boykin, 395 U.S. at 243.

Involuntary Guilty Plea

Applicant alleged she was “prejudiced by trial counsel erroneous advice of taking a guilty plea and comparing case of like nature to avoid a harsher sentence denied defendant of her Sixth Amendment”. This Court finds this allegation is without merit.

Counsel testified that they were in full trial preparation mode at the time of the plea and had discussions about whether to plea. Counsel testified that she had adequate time to discuss the plea and they met consistently. Counsel testified that she drove to Marion to review discovery with Applicant and had zoom meetings and phone calls. Counsel testified she reviewed the evidence as it came in with Applicant. Counsel testified she had Applicant have a psychological evaluation for mitigation purposes. Counsel testified she got South Carolina Department of Corrections data on sentences for homicide by child abuse and did so to provide Applicant with that information. This Court finds Counsel’s testimony credible. Based on this testimony, this Court finds Counsel’s representation and advice reasonable under prevailing professional norms. Applicant has presented no valid reason why she should be able to depart from the statements made during her guilty plea. See Crawford v. United States, 519 F.2d 347, 350 (4th Cir. 1975), overruled on other grounds by United States v. Whiteley, 759 F.2d 317 (4th Cir. 1985) (finding that the accuracy and truth of an accused’s statements at a guilty plea proceeding are “conclusively” established unless he makes some reasonable allegation why this should not be so). Applicant has not provided any evidence to prove counsel’s representation fell below an objective standard of reasonableness. Thus, based on the evidence presented at the plea proceeding and the evidentiary hearing, this Court finds Applicant freely, knowingly, and voluntarily pled guilty. Applicant has failed to prove deficiency and prejudice and thus, this claim is denied.

Failure to Present Testimony of a Forensic Pathologist

Applicant alleged Counsel was ineffective for not consulting with a forensic pathologist and presenting a pathologist testimony at trial on behalf of the petitioner. This Court finds this allegation is without merit. Counsel credibly testified that she met with a pathologist and hired a pathologist to review the records, and that the testimony from the pathologist would make the case worse if they proceeded to trial. Further, Applicant knowingly and voluntarily pled guilty, and Applicant told the plea court she understood she was giving up the right to present any defenses by pleading guilty. (Tr. 15). This Court finds Applicant has failed to prove deficiency and prejudice and thus, this claim is denied.

Invalid indictment

Applicant alleged her indictment was invalid. This Court finds this Allegation to be without merit. Counsel *credibly* testified that she did not see any basis upon which she could have moved for dismissal of the indictments. Further, this Court has reviewed the indictments and finds they were sufficient to put Applicant on notice of the charges she faced. Applicant did not allege any grounds at the evidentiary hearing on which the indictments could have been dismissed. This Court finds Counsel was not deficient in her performance with regard to this allegation because there was no meritorious motion Counsel could have made. Therefore, this Court finds Applicant has failed to show any deficiency by Counsel for failing to move to dismiss or any prejudice flowing therefrom, and this claim is denied.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant her

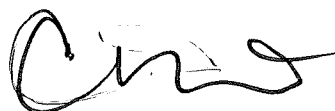
application. Therefore, this application for post-conviction relief is **DENIED and DISMISSED WITH PREJUDICE**.

Should Applicant wish to secure appellate review, she must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRPC, provides that PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf if the Applicant wishes to seek appellate review. Attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 14 day of July, 2025.



THE HONORABLE CARMEN T. MULLEN
Presiding Judge
Ninth Judicial Circuit

Beaufort

, South Carolina

DHL/0330169
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2017-013997

ARREST WARRANT NUMBER

2017A1010202798

DATE OF ARREST

05/12/2017

ACTION OF GRAND JURY

TRUE BILL

[Signature]
Foreperson of Grand Jury

DEC 05 2017 Date:

VERDICT

DOCKET NO. 2017-GS-10-07036

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

DECEMBER TERM 2017

THE STATE

VS.

ALEXIS DENISE GRANT

B/F [REDACTED]

Indictment for

HOMICIDE BY CHILD ABUSE

SC Code: § 16-03-0085(A)(1)(B)(1)

CDR Code: 2356

FILED

12/7/2017 2:32:31 PM

JULIE J. ARMSTRONG

CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened December 2017, the Grand Jurors of Charleston County present upon their oath:

HOMICIDE BY CHILD ABUSE

The defendant, Alexis Denise Grant, did on or about May 11, 2017, in Charleston County, South Carolina, cause the death of **MINOR VICTIM**, a child under the age of eleven (11), while committing child abuse or neglect, and the child's death occurred under circumstances manifesting an extreme indifference to human life. This is in violation of Section 16-3-85(A)(1) of the South Carolina Code of Laws (1976), as amended.

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



DEBORAH HERRING-LASH
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

VS.

INDICTMENT/CASE#: 2017-QS-10-07036

ALEXIS DENISE GRANT
AKA:

AW#: 2017A1010202798
Date of Offense: 05/12/2017

Race: Black/African American Sex: F Age: 27

S.C. Code §: 16-03-0085(A)(1)(B)(1)

DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: [REDACTED]
DL# [REDACTED] SID# SC02288184

CDR Code #: 2356

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the above indictment comes now the Defendant who was CONVICTED OF or PLEADS

TO: Homicide By Child Abuse

In violation of § 16-03-0085(A)(1)(B)(1) of the S.C. Code of Laws, bearing CDR Code # 2356

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

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

20 years

Deborah Herring-Lash 5083 SC Bar # Defendant MEGAN EHRLICH 75164 SC Bar #
Assistant Solicitor Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Correction County Detention Center,

for a determinate term of 20 days/months/years Time Served Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

The sentence shall run CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
days/months
 To include time spent on monitored house arrest prior to trial and sentencing. 158 days
 The Defendant Shall be Released from County Detention Center.

Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

STATE ALEXIS DENISE INDICTMENT/CASE#: 2017-GS-10-07036
VS. GRANT

SPECIAL CONDITIONS:

PTUP after _____ months/years

And Other Terms Listed Below:

- Substance Abuse Counseling Completion of GED Random Drug/Alcohol Testing
- Attend Voc. Rehab. Or Job Corp No Contact with Victim Domestic Violence Intervention Program
- Mental Health Counseling May serve W/E beginning: _____
- Sex Offender Registry pursuant to S.C. Code § 23-3-430 Public Service Employment _____ days/hours
- Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
- Other: _____

RESTITUTION: Deferred Def. Waives Hearing Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:		\$
Fine may be pd. in equal consecutve weekly/monthly prmts. of	\$ _____	Beginning _____
§14-1-206 (Assessments 107.5%)		\$ _____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$ <u>100.00</u>
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$ _____
§56-5-2995 (DUI Assessment)	\$12	\$ _____
§56-1-286 (DUI Breath Test)	\$25	\$ _____
§14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$ _____
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$ _____
§50-21-114 (BUI Breath Test Fee)	\$50	\$ _____
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ _____
3% to County (if paid in installments)	TBD	\$ <u>3.75</u>
<input type="checkbox"/> Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$ _____
<input type="checkbox"/> § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$ _____
TOTAL		\$ <u>128.75</u>

Clerk of Court/Deputy Clerk: _____
Court Reporter: _____

Sperland
D. SIMMONS

Presiding Judge: Dr. Jefferson
Judge Code: 2129
Sentence Date: 11/9/21