

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Charleston County

Honorable Carmen T. Mullen, Circuit Court Judge

DESIREE BROWN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-001795

APPENDIX

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 4 STATE OF SOUTH CAROLINA,)
)
 5 Plaintiff,)
)
 6 vs.) Case No. 2022-GS-10-05709
) 2022-GS-10-05710
 7 DESIREE NAJEE BROWN,)
)
 8 Defendant.)
 -----x

August 1, 2022

10 B E F O R E:

11 The Honorable Diane S. Goodstein, Presiding Judge

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

13 Jordan Norvell, Esq.
 14 Attorney for the Plaintiff

15 Melisa Gay, Esq.
 16 Attorney for the Defendant

22 Recorded by: DCRP/Caressa Johnson

23 Transcribed by: Bobbi Fisher
 24 SC Official Court Reporter III

25

1

I N D E X

2

DESCRIPTION

PAGE

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Plea/Proceedings

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E X H I B I T S

10

(None.)

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14

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16

17

18

19

COURT REPORTER LEGEND

20

Dash (--)

Indicates an interruption in speech

21

Ellipses (...)

Indicates trailing off in speech

22

(ph)

Indicates phonetic word

23

[Verbatim]

Indicates the word is said as written

24

(Indiscernible)

[Transcription] Indicates word(s) is
not known due to audio recording

25

quality

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

2 (The following proceedings started at 2:19 p.m.):

3 MS. NORVELL: The State calls Desiree Brown. This
4 is a jail plea, Your Honor. The victim is also appearing
5 virtually in this matter.6 THE COURT: Okay. All right. There's Ms. Brown and
7 the victim.

8 MS. NORVELL: Her name is Rondosia Holmes Brown.

9 THE COURT: Okay. I don't -- do you want to see if
10 you can find her? Because I don't see her on the...11 MS. NORVELL: Okay. My advocate advised that she
12 was online. It may be a phone number.

13 THE COURT: Yes. Rondosia Brown; right?

14 MS. NORVELL: Correct.

15 THE COURT: There she is.

16 MS. NORVELL: Thank you, Judge.

17 THE COURT: All right.

18 MS. NORVELL: Desiree Brown is appearing with her
19 attorney, Ms. Gay. She is here to enter a guilty plea to
20 two charges: attempted murder and arson in the third
21 degree. The State and the defense have negotiated a
22 20-year sentence on these charges, and they are the only
23 pending charges that she has at this time.

24 THE COURT: Okay. Got it.

25 Yes, ma'am, if you would raise your right hand.

1

DESIREE BROWN

2

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

3

4

THE COURT: All right. And you are Desiree Najee Brown?

5

6

THE DEFENDANT: Yes, ma'am.

7

8

THE COURT: All right. And you're represented by Ms. Gay?

9

THE DEFENDANT: Yes, ma'am.

10

11

THE COURT: I have some questions for Ms. Gay and then questions for you.

12

13

14

15

16

Ms. Gay, have you advised your client regarding the nature of these offenses, the maximum possible penalty and consequences, and her constitutional rights, including her right to have these matters submitted to the grand jury of Charleston County and a right to a jury trial?

17

MS. GAY: Yes, ma'am.

18

19

20

THE COURT: And, in your opinion, does she understand the nature of these offenses and the maximum possible penalty and her rights?

21

MS. GAY: Yes, ma'am.

22

23

THE COURT: Tell me how she wishes to proceed regarding the grand jury.

24

25

MS. GAY: She wishes to waive her right to the grand jury, Your Honor.

1 THE COURT: And how does she wish, then, to plead?

2 MS. GAY: Plead guilty.

3 THE COURT: Do you concur with her decisions?

4 MS. GAY: Yes, I do.

5 THE COURT: And do you have any concerns regarding
6 her competency?

7 MS. GAY: No, I do not.

8 THE COURT: All right. Now, Ms. Brown, I have a
9 number of questions to ask of you. If you do not
10 understand my question, please do not answer the question,
11 and if you need to take a break, I want you to feel free
12 to do that as well. If you need to speak with your
13 attorney, let me know. All right?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Tell me how old you are.

16 THE DEFENDANT: Thirty.

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

18 THE DEFENDANT: GED.

19 THE COURT: All right. How long have you been
20 detained?

21 THE DEFENDANT: A year and, like, two months.

22 THE COURT: All right. And have you -- before you
23 were detained, where were you working?

24 THE DEFENDANT: Already Home Care doing healthcare.

25 THE COURT: Okay. Have you ever been treated for

1 alcohol or drug abuse?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: When were you last treated?

4 THE DEFENDANT: That was 2020. I graduated April
5 the 28th in Cayce, South Carolina.

6 THE COURT: Have you ever been treated for any
7 mental health challenges?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: All right. Tell me when you were last
10 treated.

11 THE DEFENDANT: The last treatment I was with them,
12 it was virtual. That was, like, in January of 2020.

13 THE COURT: And do you have a diagnosis?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And what is that?

16 THE DEFENDANT: PTSD.

17 THE COURT: All right. And do you receive
18 medication for that?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: And what is the medication?

21 THE DEFENDANT: I take Remeron, Prozac, prazosin
22 (ph), and hydroxyzine. And the other medicine, I can't
23 pronounce the name.

24 THE COURT: And what is the other medicine for that
25 you cannot pronounce the name?

1 THE DEFENDANT: That one is for biplolarness.

2 THE COURT: Okay. All right. And did you have your
3 medicine yesterday?

4 THE DEFENDANT: Yes.

5 THE COURT: And today?

6 THE DEFENDANT: Yes.

7 THE COURT: Is there anything about the medications
8 or the underlying condition, the PTSD or the bipolar, that
9 would keep you from knowing what you are doing here today?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: All right. And just to be clear, you
12 are -- do you consent to us proceeding in this virtual
13 format?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. And do you also consent to
16 you being at the jail and your attorney, Ms. Gay, being
17 here in the courtroom?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: All right. Now -- and you had your
20 medicine yesterday and today as you normally would?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Okay. Very well.

23 Are you on probation and parole right now?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Which?

1 THE DEFENDANT: It's in Richland County.

2 THE COURT: Okay. And tell me, when did you go on
3 probation?

4 THE DEFENDANT: I went on probation -- that was
5 March the 6th, 2020.

6 THE COURT: All right. Do you understand that your
7 conviction here today will violate the terms of your
8 probation?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And could cause your probated sentence
11 to become an active sentence?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: All right. Are you prepared to handle
14 that today, Ms. Gay?

15 MS. GAY: Yes. That's fine. I think they just sent
16 some paperwork up to you.

17 THE COURT: Have you seen it?

18 MS. GAY: I can look at it.

19 THE COURT: Okay.

20 MS. GAY: Obviously, a conviction violates.

21 THE COURT: Obviously.

22 MS. NORVELL: Is it the ten years, Lisa?

23 MS. GAY: Yes.

24 THE COURT: Okay. Now, do you understand that you
25 could -- well, let me back up a little bit. You

1 understand that you received a ten-year sentence that was
2 suspended on the service of 155 days and five years'
3 probation?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Okay. And it's the ten years that could
6 become an active sentence today. You understand?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: Okay. All right. Now, with regards to
9 your current charges, you are charged with arson in the
10 third degree, which carries up to 15 years in prison. Do
11 you understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: All right. And you are also charged
14 with attempted murder, which carries up to 30 years in
15 prison. Do you understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: All right. Now, with regards to the
18 attempted murder, it has classifications that we must talk
19 about. Okay?

20 THE DEFENDANT: Okay.

21 THE COURT: For example, attempted murder is -- it
22 is -- has an additional classification. It is classified
23 as a violent offense. Do you understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right. And when a matter is

1 classified as a violent offense, it has an effect on folks
2 both within the Department of Corrections, if they are
3 sentenced to a prison term, and it also has effect on
4 folks once they come out of the Department of Corrections.
5 Do you understand that?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. Let me give you some
8 examples. When a person has been convicted of a violent
9 offense and they are incarcerated, they are incarcerated
10 in a facility which is intended for violent offenders.
11 That's the first thing to know.

12 Also, for folks who have been convicted of violent
13 offenses, they're not allowed to earn work credits or
14 educational credits. Do you understand that?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: All right. And there are other
17 consequences to the fact that you will have been convicted
18 of a violent offense. When you come out of the Department
19 of Corrections, it continues -- "it" being those
20 consequences. For example, currently, you would not be
21 allowed to hold a residential care or nursing home license
22 or be allowed to work in a school district in any
23 capacity, and there are other consequences. I will tell
24 you that, from time to time, they are changed by the
25 legislature. It's just simply going to be your

1 responsibility to know what are the consequences that you
2 must live under in that you will have been convicted of a
3 violent offense. Do you understand?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Now, attempted murder also has a
6 classification under 17-25-45, which is the statutory
7 provision, and it is classified as a most serious offense.
8 And what that means is, when a person has been convicted
9 of a most -- one most serious offense, if they stand
10 charged with a second most serious offense and the State
11 sends that person notice that the State intends to seek a
12 penalty of life without the possibility of parole and the
13 person is then convicted, then it is mandatory that that
14 person spend the rest of their life in prison. Do you
15 understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And do you understand that this is a
18 most serious offense?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And I'm going to begin with the
21 solicitor and then I'm going to speak with Ms. Gay but
22 most importantly you to establish what number strike --
23 what number serious or most serious offense this is for
24 you.

25 MS. NORVELL: Thank you, Judge.

1 THE COURT: Yes.

2 MS. NORVELL: These two charges stem from an
3 incident that occurred on June --

4 THE COURT: Hold on. Do you think this is a serious
5 -- do you think this is her first strike?

6 MS. NORVELL: No, it's not.

7 THE COURT: Okay.

8 MS. NORVELL: She has a prior domestic violence in
9 the first degree charge that is a serious offense.

10 THE COURT: Okay.

11 MS. NORVELL: Sorry.

12 THE COURT: So this is her first --

13 MS. NORVELL: Most serious.

14 THE COURT: And she has a serious offense.

15 MS. NORVELL: Correct. So any subsequent charge,
16 whether it's serious or most serious, will invoke --

17 THE COURT: Will result -- could result, I should
18 say -- we should say. Okay.

19 Do you concur with that, Ms. Gay?

20 MS. GAY: Yes, I do believe that that is consistent
21 with her record and what she's pleading guilty to today.

22 THE COURT: All right. Got it.

23 Now, most importantly, Ms. Brown, do you understand
24 that, because you have a conviction for domestic violence
25 -- high and aggravated?

1 MS. NORVELL: In the first degree.

2 THE COURT: In the first degree.

3 -- domestic violence in the first degree, that you
4 have a strike already under the -- because that is a
5 serious offense, which is another classification? Under
6 17-25-45, there are two classifications: most serious
7 offenses and serious offenses.

8 Under 17-25-45, if you have a serious offense --
9 another serious offense and then a serious or most serious
10 offense -- called the three-strike rule -- then, if the
11 State were to send notice that the State intends to seek a
12 penalty of life without the possibility of parole and
13 you're then convicted, you would then spend the rest of
14 your life in prison without the possibility of parole?

15 Now, what's important for you to know is that a most
16 serious offense will count as a serious offense also. So
17 if you were to be charged in the future with a most
18 serious offense and the State sent you notice that it
19 intended to seek a penalty of life without the possibility
20 of parole and you were then convicted, you would spend the
21 rest of your life in prison without the possibility of
22 parole because you hadn't -- after today, if I accept your
23 plea, you will have a serious strike and a most serious
24 strike if you were to be charged in the future with a
25 serious offense and the State sent you notice that the

1 State intended to seek a penalty of life without the
2 possibility of parole and you were then convicted, you
3 would spend the rest of your life in prison without the
4 possibility of parole because the most serious offense
5 would also act, in that instance, under the three-strike
6 rule, as a serious offense. Do you understand?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: In other words, if you were to have a
9 most serious or a serious offense in the future and the
10 State sent notice, you would spend the rest of your life
11 in prison without the possibility of parole if you were
12 convicted. Do you understand?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: All right. Do you understand that that
15 means you would go out horizontally? You would die in
16 prison?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: All right. So here's what you have told
19 me. You have told me that you understand the nature of
20 these offenses, the maximum possible penalty. You
21 understand, do you not, that I can give you 55 years in
22 prison today? Do you understand that?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: All right. I do know this is a
25 negotiated sentence, so I will thumbs it up or thumbs it

1 down, but it's important that you understand the gravamen
2 of the amount of time with which you are charged with.
3 And, again, you understand that; correct?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Tell me with regards, then, to arson in
6 the third degree, how do you plead?

7 THE DEFENDANT: Guilty.

8 THE COURT: With regard to attempted murder, how do
9 you plead?

10 THE DEFENDANT: Guilty.

11 THE COURT: Do you understand that, when you plead
12 guilty, you give up certain very important constitutional
13 rights?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: All right. We're going to talk about
16 some of them, but we will not talk about them all, but if
17 you have questions, I certainly want you to ask. For
18 example, you give up the right to remain silent, the right
19 against self-incrimination, the presumption of innocence.
20 You give up your right to require that the State prove you
21 guilty beyond a reasonable doubt, if the State can prove
22 you guilty beyond a reasonable doubt. You give up your
23 right to have your lawyer cross-examine witnesses who
24 would testify against you. You give up your right to have
25 your lawyer subpoena witnesses to testify in your defense,

1 you give up your right to present defenses. You give up
2 your right to have your lawyer challenge any incriminating
3 statements that you may have made to the government, and
4 those are statements made to law enforcement, for example,
5 a confession would show up or might show up at your trial.
6 And you give up your right to have your lawyer challenge
7 those.

8 You give up your right to have your lawyer challenge
9 any stops or searches or seizures that you think were not
10 appropriate. You give up your right to have your lawyer
11 file for you pretrial motions and the like. In other
12 words, you give up your rights both to pretrial matters
13 and to your constitutional rights associated with a trial
14 on these two charges when you plead guilty. Do you
15 understand?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And do you understand that, if you
18 wanted a trial, you would have a trial?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And do you understand that, at that
21 trial, it would be up to you to decide if you wanted to
22 testify or not, and in the event that you chose to go to
23 trial and not testify, it's important that you also
24 understand that the judge trying your case would tell the
25 jury that the jury could not consider the issue that you

1 chose not to testify on the issue of whether you're guilty
2 or not guilty? In fact, the judge would tell the jury
3 that the jury could not discuss your decision not to
4 testify as it deliberated on the issue of whether you were
5 guilty or not guilty because the burden is and remains on
6 the State to prove guilt beyond a reasonable doubt, and
7 the judge would tell the jury that, in the event that you
8 chose to go to trial and chose not to testify. Do you
9 understand those matters?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: And do you clearly understand that, when
12 you plead guilty, that you give up your right to have a
13 jury determine if you're guilty or not guilty?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: And do you understand that, if I accept
16 your plea, I'm going to sentence you?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: All right. Now, you've told me that you
19 understand the nature of these offenses, the maximum
20 possible penalty, the consequences of your plea, and you
21 have told me that you understand your constitutional
22 rights. Keeping all of these matters in the forefront of
23 your mind, do you still wish to continue with your plea?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: All right. I want you to listen very

1 carefully to what the solicitor is going to go over with
2 me because she is going to go over the facts that the
3 State is prepared to present at trial for the purpose of
4 proving guilt. When she is finished, I am simply going to
5 ask you is that what happened, and you need to correct
6 anything that needs correcting so that I have an accurate
7 picture of what occurred.

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Solicitor?

10 MS. NORVELL: Thank you, Judge. This incident --
11 these charges stem from an incident that occurred on June
12 the 18th of 2021 in the area of North Charleston in
13 Charleston County.

14 The defendant and the victim, Rondosia Brown, were
15 married at the time of this incident. They are now
16 divorced as of the last few weeks, just as a bit of
17 background.

18 The North Charleston Police Department responded to
19 a warehouse on Fain Street after an employee of that
20 warehouse was returning his work vehicle and observed the
21 victim, Rondosia Brown, laying in the middle of the
22 warehouse parking lot, suffering from 25 stab wounds and
23 calling for help. The victim was transported. She spent
24 11 days in the hospital before being released to a rehab
25 facility.

1 The victim, when she was able to be interviewed by
2 law enforcement, she provided the following information:
3 Her wife had asked her to drive from their home in
4 Columbia, South Carolina, down to the North Charleston
5 area. They had been -- the defendant and her wife had
6 been babysitting what the victim thought was a friend's
7 child. Ultimately, the victim learned that that child was
8 the co-defendant's daughter. The co-defendant has been
9 extended the same offer by the State, and they have not
10 chosen to move forward with that at this time. That
11 remains pending.

12 After driving down, leaving their shared residence
13 in Columbia, they drove straight to the co-defendant's
14 house in North Charleston. At that time, the child exited
15 the vehicle, and the co-defendant came out of the house
16 and got into the vehicle. The defendant was driving the
17 victim, whose car it was, was in the passenger seat, and
18 the co-defendant got into the rear seat behind the victim
19 in the passenger seat. The defendants, at that time,
20 asked to go to the store -- a convenience store, and so
21 they made their way with the victim thinking that that's
22 where they were going.

23 In route to the purported store, the co-defendant
24 began stabbing the victim from the back seat. They pulled
25 -- the defendant pulled the car over in this warehouse

1 parking lot. The victim was pushed or able to roll
2 herself out. She, at that point in time, was bleeding and
3 couldn't see; she had blood covering her eyes. She
4 reported to law enforcement that one of the defendants
5 came over and took her purse and her phone; she was not
6 able to call for help. And when that purse grabbed her
7 phone, she was stabbed approximately three more times.

8 In the co-defendant's interview with law
9 enforcement, the co-defendant reported that this defendant
10 is the one who exited the vehicle and grabbed the phone.
11 The State would allege at trial that the defendant then
12 stabbed her once she had been removed from the vehicle.

13 Following the victim being removed from the vehicle,
14 the co-defendants took the victim's care to an abandoned
15 area. There was paperwork gathered in the front passenger
16 seat and a bottle of lighter fluid located in the vehicle
17 by law enforcement. The co-defendants had attempted to
18 burn the vehicle by starting a fire with that paper in
19 that front seat. That is what the arson charge stems
20 from.

21 I told you what the co-defendant's statement was
22 with regard to implicating this defendant as the one who
23 stabbed her. This defendant was on probation for that
24 domestic violence in the first degree charge at the time
25 of this incident. I think that it's important that you

1 know that stems from an incident with this same victim,
2 her wife. There was a shooting incident and she -- the
3 wife apparently spoke at that sentence reconsideration
4 hearing, and it was suspended from an active sentence to a
5 suspended sentence.

6 Other than that domestic violence in the first
7 degree charge that you've already heard of, she does have
8 a giving false information conviction in 2015 and an
9 assault and battery in the second degree charge from 2014.

10 The victim does not wish to address the Court. As
11 I've mentioned, they are now divorced. The victim has
12 undergone six surgeries now stemming from her injuries
13 that she sustained during this incident and the amount of
14 time that she spent in the hospital and the rehab facility
15 is what she would like for you to consider. That's all I
16 have.

17 THE COURT: Thank you so much.

18 Yes, ma'am. Is that what happened?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Has anyone promised you anything or held
21 out any hope of reward to get you to plead guilty?

22 THE DEFENDANT: No, ma'am.

23 THE COURT: Has anyone tried to force or threaten,
24 pressure, or intimidate you to make you plead guilty?

25 THE DEFENDANT: No, ma'am.

1 THE COURT: Have you had enough time to make up your
2 mind that this is what you want to do?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: And are you pleading guilty freely and
5 voluntarily?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Are you satisfied with the
8 representation you have received from Ms. Gay?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Has Ms. Gay been over with you the
11 elements of these offenses?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: And has Ms. Gay answered all of your
14 questions?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Has she been over with you the elements
17 -- or, excuse me, the discovery -- the evidence that the
18 State has available to present at trial for the purpose of
19 proving guilt?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: And have you understood your
22 conversations with her?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And has Ms. Gay investigated your case?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Has she done everything for you in her
2 representation of you that you believe she should have
3 done or could have done to properly represent you?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Do you need any more time to speak with
6 her?

7 THE DEFENDANT: No, ma'am.

8 THE COURT: Now, has anyone associated with your
9 case -- your attorney, the solicitor, any of the police
10 officers involved in your arrest or any of the folks at
11 the detention facility where you've been housed, has
12 anyone associated with your case mistreated you in any
13 way?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Have you understood my questions?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: And is there anything you would like to
18 ask me about, what we've just been over?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: And do you understand that you have a
21 right to appeal your guilty plea and any sentence I
22 impose; however, if you wish to appeal, you or an attorney
23 on your behalf must appeal within 10 days. Do you
24 understand?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: And with respect to each and every
2 answer that you have given me here today, have you been
3 absolutely candid and truthful with me?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: And have your answers been your own?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Whose answers have you given me today?

8 THE DEFENDANT: Desiree Najee Brown.

9 THE COURT: All right. I find that there is a
10 substantial factual basis for each of these pleas, and I
11 find that the decision of Ms. Brown to plead guilty is
12 freely, voluntarily, knowingly, and intelligently made.
13 She's had the advice of counsel with whom she tells me she
14 is satisfied, and I'll accept her plea.

15 Now, you've given me her record. The victim, I'm
16 delighted she is present; she does not wish to speak.

17 With regards to the assault and battery in the third
18 degree in her record, was that a different victim?

19 MS. NORVELL: That was a different victim. It's an
20 assault and battery second degree, and it was actually
21 reduced on the plea from a domestic violence of a high and
22 aggravated nature.

23 THE COURT: Thank you very much.

24 Yes, ma'am?

25 MS. GAY: Thank you, Your Honor. I'm here today

1 with several of Ms. Brown's family members. They're in
2 the front row here. They're very supportive. She is from
3 a very supportive, loving family, Your Honor.

4 As a part of my review of the facts, one of the
5 things that I did find is that the co-defendant in this
6 case is somebody who -- I can't remember if she has a
7 history of violence or not, but she's a pretty violent
8 lady. And she told -- she wrote many, many letters and
9 notes and lots of written material to my client about how,
10 you know, she's the reason that this happened, she did it
11 out of love for my client. I guess she believed that
12 there was -- there needed to be a clear slate for her and
13 my client to have a relationship or something like that.
14 Just lots and lots of...

15 I've given them to Ms. Norvell, but, you know,
16 there's no doubt that Ms. Brown was involved in the
17 incident. There's no doubt that Ms. Brown is pleading
18 guilty to this incident. But I want to tell you, Your
19 Honor, that there does appear to be a large amount of
20 responsibility that needs to be imputed to the
21 co-defendant as well. I think it was ultimately her idea,
22 and it all got out of hand.

23 So Ms. Brown -- this is a negotiated plea. One of
24 the things that Ms. Norvell and I discussed was also
25 including her probation in the sentence and running it all

1 concurrent. So if you choose to revoke in full her
2 probation -- which I would ask you to just terminate it --
3 but if you would choose to revoke in full, let it run
4 concurrent with the other two sentences that are running
5 concurrent. And I have explained that the top number --
6 I've explained this to her as well as her family -- that
7 the top number is the 20-year sentence. And so we would
8 just ask you to consider the possibility of just
9 terminating the probation. If that's not what you want to
10 do because it's not consistent with how you feel it needs
11 to happen, that's fine. It is only ten years, so we would
12 ask it all to run concurrently.

13 Is there anything that you would like to say,
14 Ms. Brown?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Let me ask you this: Did you
17 participate on behalf of -- or did somebody on behalf of
18 Probation participate in these negotiations so that it is
19 your understanding that Probation has joined in these
20 negotiations?

21 MS. HOLMES: I believe I was made aware of it, Your
22 Honor. This case has been in front of the Court several
23 times, so I was aware of that. And we are recommending
24 the 10-year sentence to run concurrent with the 20.

25 THE COURT: Got it. Okay.

1 All right.

2 MS. GAY: Thank you.

3 (Pause in the proceedings while the Court reviews
4 documents.)

5 THE COURT: All right. Ms. Brown, with regards to
6 2022-GS-10-05710, which is the indictment for attempted
7 murder, I'm going to commit you to the State Department of
8 Corrections for a period of 20 years.

9 With regards to 2022-GS-10-05709, which is the arson
10 in the third degree, likewise, I'm going to commit you to
11 the State Department of Corrections for a period of 15
12 years.

13 And with regards to the probation matter, I am going
14 to revoke your probation. I will follow the negotiations.
15 It's really hard to do that with a probation, but I will
16 follow the negotiations, and these sentences will run
17 concurrently.

18 And, by statute, you're entitled to the credit for
19 the time that you have served, so you're entitled to that.

20 And to your victim -- I know she is online -- I wish
21 her well. I wish her health and healing.

22 MS. GAY: Thank you, Your Honor.

23 THE COURT: All right.

24 (At 2:53 p.m., the above proceeding concluded.)

25

1 CERTIFICATE OF TRANSCRIBER

2 CASE NAME/NUMBER: State v. Desiree Najee Brown

3 2022-GS-10-05709/5710

4 DATE OF HEARING: 8/1/2022

5 COURT REPORTER/MONITOR: DCRP/Caressa Johnson

6
7 I, Bobbi Fisher, do hereby certify that the foregoing
8 transcript is a true and correct record of the recorded
9 proceedings; that said proceedings were transcribed to the
10 best of my ability from the audio recording and supporting
11 information, and that I am neither counsel for, related
12 to, nor employed by any of the parties to this case, and I
13 have no interest, financial or otherwise, in its outcome.

14
15 16
17 /s/ Bobbi Fisher_____

18 Bobbi Fisher, Certified Transcriber

19 Date Prepared: May 6, 2023

20
21
22 NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT
23 REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR
24 FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT."
25 ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT (FORM
800) FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO
THIS REPORTER AT BFISHER@SCCOURTS.ORG.

FORM 5

STATE OF SOUTH CAROLINA)

County of Charleston)

Desiree Brown #382060)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

2022-CP-10-4697
IN THE COURT OF COMMON PLEAS

APPLICATION FOR
POST-CONVICTION RELIEF

FILED
2022 OCT - 7 PM 4:35
JULIE 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 Charleston County
2. Name and location of Court which imposed sentence _____
3. Name(s) of co-defendant(s) (if any) Lyric Whitfield
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) _____
 - (b) _____

- (c) _____
- 5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) August 1st, 2022
 - (b) 20 years
 - (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) _____
 - (b) _____

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

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

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. _____
ii. _____
iii. _____
iv. _____

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

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

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

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

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

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

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

- (a) the name and address of each attorney who represented you:
 - i. Malisa W. Gay
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. _____
 - ii. _____
 - iii. _____

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

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, Desiree Brown, 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.

Desiree Brown

SWORN to and subscribed before me this 4th day of October 2022.

Crystal Jones (L.S.)
Notary Public

My Commission Expires: July 22nd, 2026

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

I, Desiree Brown, 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.

Desiree Brown
Applicant

SWORN or affirmed to and subscribed before me this

4th day of October 2022

Cristina
Notary Public

My Commission Expires: July 22nd, 2026

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)
)
 Desiree Brown, #382060,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT

CASE NO. 2022-CP-10-04697

**RETURN AND PARTIAL
 MOTION TO DISMISS**

(Counsel Appointed)

FILED
 2024 OCT -8 AM 11:28
 JULIE J. ARMSTRONG
 CLERK OF COURT

In response to the application for post-conviction relief (PCR) filed by Desiree Brown (Applicant) on October 7, 2022, and amended on May 22, 2023, Respondent makes the following return:¹

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a twenty-year sentence. On August 1, 2022, Applicant waived presentment to the Grand Jury and pled guilty, pursuant to a negotiated plea, to attempted murder (2022-GS-10-5710) and third-degree arson (2022-GS-10-5709). These charges arose from the stabbing of Applicant’s wife² Rondoshia Shaquettia Brown on June 18, 2021, and the subsequent attempt to burn the vehicle that Brown was stabbed in.³ The Honorable Diane S. Goodstein presided over the plea hearing. Melissa Gay, Esquire, represented Applicant, and Assistant Solicitor Jordan A. Norvell

¹ Respondent’s return was due to be filed within 60 days of service. See Rule 12(a), SCRPC (“[T]he State of South Carolina shall answer or otherwise respond to an application for post-conviction relief within 60 days after service of the application, if it arises out of a guilty plea, and 90 day s if it arises out of a trial.”). Now, having completed the return, and in light of no demonstrable prejudice to Applicant, Respondent respectfully asks this Court to accept this return as timely filed. See S.C. Code Ann. § 17-27-70(a) (establishing 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 not mandatory but discretionary with the circuit court, and the circuit court may extend the time for filing).

² Applicant and Brown divorced prior to the plea hearing but were married at the time of the stabbing.

³ Lyric Whitfield was also involved in the stabbing, and according to the arrest warrant was the primary person who stabbed the victim.

represented the State. Pursuant to the negotiated twenty-year sentence, Judge Goodstein sentenced Applicant to concurrently serve twenty years for murder and fifteen years for arson. Applicant did not file a direct appeal.

CURRENT APPLICATION

On October 7, 2022, Applicant timely commenced this PCR action. Applicant, however, did not set forth any allegations in her initial petition. Applicant likewise did not set forth any relief she was seeking.

On May 22, 2023, Applicant filed an amended application alleging counsel was ineffective for the following reasons:

1. Applicant requested “Motion of Discovery” within 30 days and didn’t receive same until a week before guilty plea (1 yr 2 mo. later);
2. Applicant was told by counsel if she was able to obtain an alibi defense statement the charges would drop to accessory after the fact;
3. Applicant was never shown the video as she requested, which was evidence against her;
4. Applicant was told by counsel that the evidence provided was enough to have a jury trial. She was in agreement with the jury trial, however never heard anything concerning same;
5. Applicant was threatened with her life, and so was her family, that if she didn’t write a statement on behalf of the co-defendant, to release same, there would be consequences. She was therefore instructed by co-defendant to agree to the guilty plea.

On November 13, 2023, Applicant mailed to Respondent a request “to file for a post-trial motion” asserting the following newly-discovered evidence:

I found evidence on 11/12/2023 looking through my motion of discovery and other letters written by co-defendant Lyric Whitfield – on the incident report it stated the victim was asked if she knew the suspect and she replied “no”. Also she stated I Desiree Brown

was the driver but never stated once I Desiree Brown stabbed her. On the additional narrative me Desiree Brown and the Victim had the same story matching. I was unaware of the defendant Lyric Whitfield was going to stab the victim Rondoshia. When we was taking Lyric to the store. When Victim fell out of the moving car I did turn the car around to help the Victim but Lyric Whitfield got out the car and was pointing a gun at me telling me to Let's go and Lyric stab victim once again before leaving. The Victim was able to describe Lyric Whitfield as the person being tall, brown skin, and skinny, who attacked her in the car. I did witness the stabbing after the fact cause I didn't know anything was about to happen.

Applicant also contends she never received her sentencing sheets. As relief, she asks the Court to dismiss her attempted murder charge "and charge me just for Arson 3rd."

Additionally, Applicant moved to reconsider her sentence, asserting she never committed attempted murder, but she did commit arson 3rd "after the fact cause I was threaten by the co-defendant to help burn the car." Attached to this return and incorporated herein are the Charleston County Clerk of Court records of the subject convictions, Applicant's records from the Department of Corrections, and the plea transcript. Respondent reserves the right to amend this return upon receipt of any additional material.

PARTIAL MOTION TO DISMISS

To the extent Applicant's November 2023 filing constitutes a claim of newly-discovered evidence, Respondent moves for summary dismissal because it does not meet the high threshold of newly-discovered evidence.

A person may institute a PCR action if "there exists evidence or material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice." S.C. Code Ann. § 17-27-20(A)(4). "[T]he PCR application must be filed within one year after the date of actual discovery of the facts by the applicant or after the date when the facts could have been ascertained by the exercise of reasonable diligence." § 17-27-45(C).

A guilty plea is regarded as a waiver of non-jurisdictional defects and claims of violations of constitutional rights. State v. Rice, 401 S.C. 330, 331–32, 737 S.E.2d 485, 485-86 (2013). An applicant requesting a new trial based on after-discovered evidence following a guilty plea must show that:

(1) the newly-discovered evidence was discovered after the entry of the plea and, in the exercise of reasonable diligence, could not have been discovered prior to the entry of the plea; and (2) the newly discovered evidence is of such a weight and quality that, under the facts and circumstances of that particular case, the “interest of justice” requires the applicant’s guilty plea to be vacated. In other words, a PCR applicant may successfully disavow his or her guilty plea only where the interests of justice outweigh the waiver and solemn admission of guilt encompassed in a plea of guilty and the compelling interests in maintaining the finality of guilty-plea convictions.

Jamison v. State, 410 S.C. 456, 470, 765 S.E.2d 123, 130 (2014).

Here, Applicant alleges the victim and co-defendant’s statements from her “motion of discovery” constitute newly-discovered evidence. However, these statements could have been discovered prior to the plea in the exercise of reasonable diligence and thus do not constitute newly-discovered evidence. As framed, Applicant has not set forth a claim that warrants an evidentiary hearing; thus, Respondent moves to dismiss this claim.

ANY FUTURE AMENDMENTS AND REQUEST FOR DOCUMENTS

Respondent requests Applicant specify any claims she intends to raise in advance of the hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State or, alternatively, the State will request a continuance. Respondent further requests all potential exhibits and materials used to produce potential expert witness testimony be sent to Respondent in advance of the hearing. Likewise, Respondent requests all potential evidence and a witness list be sent to Respondent in advance of

the hearing. Respondent reserves the right to request a continuance and oppose witness testimony and exhibits that result in undue prejudice to the State.

ALL OTHER CLAIMS

Each and every allegation contained within the application not expressly admitted, qualified, or explained in this return is hereby denied.

CONCLUSION

WHEREFORE, Respondent respectfully requests an evidentiary hearing on Applicant's claims of ineffective assistance of counsel.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. 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

October 4, 2024

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) IN THE COURT OF COMMON PLEAS

Desiree Brown, #382060)
Applicant,) CASE NO. 2022-CP-10-04697

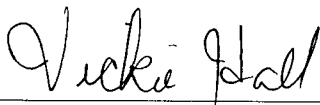
v.) CERTIFICATE OF SERVICE BY MAIL

State of South Carolina,)
Respondent.)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the Return and Partial 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, P.A.
1525 Sam Rittenberg Boulevard, Suite 208
Charleston, SC 29407

DATED this 4th day of October, 2024.



Vickie Hall, Legal Assistant
For Respondent

FILED
2024 OCT -8 AM 11:28
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

C/A NO. 2022-CP-10-4697

DESIREE BROWN #382060)

Applicant)

v.

) AMENDED APPLICATION
) FOR POST CONVICTION
) RELIEF

THE STATE OF SOUTH CAROLINA)

Respondent)

2023 MAY 22 PM 2:58
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

The applicant above named hereby makes an Amended Post Conviction Application to state claims in order to show cause for the Court for ineffective assistance of Counsel as follows:

1. Applicant requested "MOTION OF DISCOVERY" within 30 days and didn't receive same until a week before guilty plea (1yr 2mo. later)
2. Applicant was told by Counsel if she was able to obtain an alibi defense statement the charges would drop to Accessory After The Fact.

Amended PCR Application
Page Two (2), Cont.

Desiree Brown v State of South Carolina

3. Applicant was never shown the video as she requested, which was evidence against her.
4. Applicant was told by Counsel that the evidence provided was enough to have a Jury Trial. She was in agreement with the Jury Trial, however never heard anything concerning same.
5. Applicant was threatened with her life and so was her family, that if she didn't write a statement on behalf of the co-defendant, to release same there would be consequences. She was therefore instructed by co-defendant to agree to the guilty plea.

Wherefore having made these amendments to the PCR Application the applicant requests the Petition to be heard and for Counsel to be appointed for same and

Amended PCR Application
Page Three (3) Cont.

Desiree Brown v. State of South Carolina

to not be dismissed.

By Desiree Brown
Desiree Brown #382060

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON) C/A No.
2022-CP-10-4697

DESIREE BROWN # 382060)

Applicant)

v.)

THE STATE OF SOUTH CAROLINA)

Respondent)

2023 MAY 22 PM 12:57
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____
DGL

FILED

CERTIFICATE OF SERVICE

I, Desiree Brown # 382060 hereby certifies that I have this date served Respondent the Amended Application for Post Conviction Relief in the foregoing action by depositing one copy of the same in the United States mail, first class postage prepaid and addressed as follows:

Mr. Alan Wilson, Attorney General
State of South Carolina
P.O. Box 11549
Columbia, SC 29211

Certificate of Service

Page Two (2) Cont.

Desiree Brown v State of South Carolina

DATED This 18th day of May, 2023.

By Desiree Brown
Desiree Brown # 382060

11/13/23

State of South Carolina
County of Charleston
State of South Carolina
VS.

Desiree NaJee Brown
Defendant:

Arrest warrant # 2021A1010203359

Arrest warrant # 2021A1010203360

I Desiree Brown inmate #382060 would like to file for a Post-Trial Motion. I know I have 1 year after the date of actual discovery of the evidence. I found evidence on 11/12/2023 looking through my motion of Discovery and other letters written by co-defendant Lyric Whitfield. On the incident Report it stated the victim was asked if she knew the suspect and she replied "NO". Also she stated I Desiree Brown was the driver but never stated

once i Desiree Brown stabbed her. On the Additional Narrative me Desiree Brown and the victim had the same story matching. I was unaware of the defendant Lyric whitfield was going to stab the victim Randashia, when ~~was~~^{we} was taking Lyric to the store. when victim fell out of the moving car i did turn the car around to help the victim but Lyric whitfield got out the car and was pointing a gun at me telling me to Lets go and Lyric stab victim once again before leaving. The victim was able to describe Lyric whitfield as the person being tall, brown skin, and skinny, who attacked her in the car. I did witness the stabbing after the fact cause i didnt

Know anything was about to happen. So I ask that the courts to please Dismiss the attempt murder Charges on me since it was discuss before in Feb. 2022 at my preliminary hearing but it was Deny cause of South Carolina law hands of one hands of all. So please consider in Dismissing the attempt murder Charges and Charge me just for Arson 3rd.

Also i was never given a copy of my Sentences sheet after my plea on Aug. 1st 2022 and i requested for a copy on 10/17/23 and was told by mail through a letter on 10/20/2023 i would have to pay \$5.00 Fee for copy of my Sentences sheet when i was never given a copy.

Desiree Brown

11/13/23

State of South Carolina
County of Charleston
State of South Carolina
vs.

Desiree Najee Brown

Defendant:

Arrest warrant # 2021A1010203359

Arrest warrant # 2021A1010203360

I Desiree Brown inmate # 382066
would like to file for a
Reconsideration of sentence.
The reason for the request
cause i feel i was sentence
on the Attempt murder charge
when i never committed the
crime i was a witness
doing the crime but did
committed the Arson 3rd
after the fact cause i was
threatn by the co-defendant
to help burn the car on fire.
On 2/2022 i had my preliminary

Hearing and at time my Public
Defendant Ms. Helen Rose Roper
Davell request for my Attempt
murder Charge be Dismissed
and Judge Denied at the moment
due to South Carolina Law
Hands of one Hands of All.
So im asking and would like
to do Reconsideration to be
Sentence to Lower time or
~~Dismiss~~ Dismiss the Attempt
murder please

Thanks,
Desiree Brown

Desiree Brown #382060 C3203B
2809 Airport Rd
Greenwood, SC 29649

GREENVILLE SC 296
14 NOV 2023 PM 1 L



RECEIVED
NOV 14 2023
LEATH
MAIL ROOM

Megan Harrigan Jameson
South Carolina Attorney General's Office
PCR Division
P.O. Box 11549

51

29210-11549
Columbia, SC 29211-1549

Legal mail

I N D E X

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Redirect Examination by Ms. Swope	7-8
Melisa Gay	
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Certificate of Service	15

E X H I B I T S

(There were no exhibits marked during this hearing)

Desiree Brown vs. The State of South Carolina

3

1 THE COURT: Good morning. You are Ms. Desiree
2 Brown, is that correct?

3 A. Yes, ma'am.

4 THE COURT: It's good to see you. Are you
5 currently at Lee Correctional?

6 A. Yes, ma'am.

7 THE COURT: And correct me if I'm wrong, you are
8 serving, I understand, a 20 year sentence. Is that
9 correct?

10 A. Yes, ma'am.

11 THE COURT: For attempted murder and arson in the
12 third degree. Is that correct?

13 A. Yes, ma'am.

14 THE COURT: State whenever you are ready to call
15 your case you are welcome to.

16 MS. KANEALEY: If it please the court. Assistant
17 Attorney General, Kylee Kanealey, on behalf of the State.
18 This is the post conviction relief matter of Desiree Brown
19 versus the state. 2022-CP-10-4697. Applicant is presently
20 confined in the South Carolina Department of Corrections
21 serving a 20 year sentence. On August 1, 2022 applicant
22 presented to the grand jury and pled guilty pursuant to a
23 negotiated plea to attempted murder, 2022-GS-10-5710 and
24 third degree arson, 2022-GS-10-5709. The Honorable Diane

Desiree Brown vs. The State of South Carolina

4

1 Goodstein presided over the plea hearing. Melisa Gay,
2 Esquire, presented applicant and assistant solicitor Jordan
3 Norvell represented the State. Pursuant to the negotiated
4 20 year sentence, Judge Goodstein sentenced applicant to
5 concurrent terms of 20 years for attempted murder and 15
6 for arson. Applicant did not appeal. Applicant filed this
7 PCR action on October 7, 2022. At this time I will turn it
8 over to Ms. Swope to state for the record which allegations
9 she intends to move forward on today.

10 MS. SWOPE: Yes, Your Honor. Give me one more
11 minute because we have been under the impression we were
12 going to withdraw today. So I just want to make sure we're
13 on the same page.

14 THE COURT: Okay.

15 (Off the record discussion)

16 MS. SWOPE: We are going forward on one through
17 five listed in the return, just to make it easy.
18 Essentially, discovery issues and conversations with trial
19 counsel and that she felt threatened and felt like she had
20 to take a plea. Thank you. I would call Ms. Brown.

21 THE COURT: Come forward Ms. Brown.

22 DEPUTY CLERK: Please raise your right hand, place
23 your left hand on the Bible. Do you swear to tell the
24 truth, the whole truth and nothing but the truth so help
25 you God?

Desiree Brown vs. The State of South Carolina

5

1 A. Yes, ma'am.

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

4 A. Desiree Brown, B-R-O-W-N.

5 THE COURT: Thank you.

6 **Ms. Brown - Examination by Ms. Swope**

7 Q. Good morning, how are you?

8 A. Fine.

9 Q. We are here for a post conviction relief against
10 Melissa Gay, and you are seeking to have the court vacate
11 your guilty plea and grant you a trial. Is that correct?

12 A. Yes, ma'am.

13 Q. And the first thing that you and I discussed was that
14 you said you received your discovery from Ms. Gay a week
15 before trial was scheduled. Is that correct?

16 A. Yes, ma'am.

17 Q. For the guilty plea. Pardon me.

18 A. I received the motion for discovery thirty days
19 before the guilty plea.

20 Q. You said, I believe you told me that you asked for it
21 but didn't receive it. You asked for it thirty days ahead
22 of time and then didn't receive it until just before?

23 A. Yes, ma'am, .

24 Q. Okay. I just wanted to make sure I understood. And
25 you said there was video that you had asked as part of the

Desiree Brown vs. The State of South Carolina

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1 discovery, you'd asked to review with Ms. Gay.

2 A. Yes, I was told there was a video, but I request to
3 see the video, but I never got to see it.

4 Q. And you initially discussed with counsel about going
5 to trial. Can you describe that to the court.

6 A. Before I had Melissa Gay, I think I had Jordan
7 Norvell. I think that's how to say her name.

8 Q. Okay.

9 A. The public defender that was before Ms. Gay. I had
10 her, and she told me it was enough evidence for us to take
11 it to a jury trial. So I told her I wanted to do a jury
12 trial.

13 Q. And you told this to Ms. Gay?

14 A. Yes, ma'am.

15 Q. Okay. So if you hadn't seen the discovery and you
16 informed Ms. Gay that you wanted to go forward, why did you
17 do a guilty plea?

18 A. Threatened by the co-defendant who told me to take a
19 guilty plea because --- on her behalf, thinking that if I
20 took a guilty plea they would drop the charges for her ...

21 Q. And did you inform Ms. Gay of this threat?

22 A. Yes but in a letter, wasn't written by the co-
23 defendant and not turned in ...

24 Q. And Ms. Gay, how did she respond to that?

25 A. The only thing she told me is that she could just

Desiree Brown vs. The State of South Carolina

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1 turn the letters in and see what the judge decision was
2 going to be.

3 Q. Okay. And based on all of that, you feel like your
4 plea was involuntary?

5 A. Yes, ma'am.

6 Q. And you feel like you would have gone to trial in the
7 absence of those issues?

8 A. Yes, ma'am.

9 Q. And that's what you're asking the court to do today?

10 A. Yes, ma'am.

11 MS. SWOPE: Your Honor, I don't believe I have
12 anything further.

13 MS. KANEALEY: Just briefly, Your Honor.

14 **Ms. Brown - Cross Examination by Ms. Kanealey**

15 Q. So when did you just say that you received your
16 discovery? Just clarifying.

17 A. It was like 30 days before the court date for the
18 guilty plea and I think that was August, the first.

19 Q. So you received your discovery 30 days before?

20 A. Yes.

21 MS. KANEALEY: No further questions, Your Honor.

22 **Ms. Brown - Redirect Examination by Ms. Swope**

23 Q. Just so I'm clear. Did you receive the motion for
24 the discovery 30 days ahead of time, or the actual
25 evidence?

Desiree Brown vs. The State of South Carolina

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1 A. The motion of discovery.

2 Q. And when did you receive the actual evidence from
3 discovery?

4 A. I didn't get the evidence as far as like when I was
5 in receiving,

6 Q. Okay.

7 THE COURT: I'm sorry. What did you say?

8 Q. In receiving. You mean after the plea?

9 A. Yes, ma'am.

10 MS. SWOPE: Thank you.

11 THE COURT: Anything further?

12 MS. KANEALEY: Nothing further.

13 THE COURT: You can step down. Thank you.

14 MS. BROWN: Thank you.

15 THE COURT: Any further witnesses, Ms. Swope?

16 MS. SWOPE: None, Your Honor.

17 THE COURT: All right.

18 MS. KANEALEY: The State would call Melisa Gay to
19 the stand.

20 DEPUTY CLERK: Please raise your right hand, place
21 your left hand on the Bible. Do you swear or affirm to
22 tell the truth, the whole truth, and nothing but the truth
23 so help you God.

24 MS. GAY: Yes.

25 DEPUTY CLERK: Please be seated. Please state

Desiree Brown vs. The State of South Carolina

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1 your full name, spelling your last name for the record.

2 A. My name is Melissa Gay, G-A-Y.

3 **Ms. Gay - Examination by Ms. Kanealey:**

4 Q. Hi, Ms. Gay. How are you today?

5 A. I'm fine. Thank you.

6 Q. So how long have you been practicing law?

7 A. Since 1991.

8 Q. And how much of that has been criminal?

9 A. Not 100% but at least 90.

10 Q. And how many times did you meet with applicant?

11 A. A number of times. This also was a time period when
12 things were weird, like her plea was virtual. So her plea
13 was done in 2022 we were still doing a whole lot of weird
14 type of stuff where you couldn't go into the jail. A lot of
15 their electronic way of seeing people were pretty
16 dysfunctional. But I did see her.

17 Q. Okay. And do you feel you had adequate time to meet
18 with her?

19 A. I had adequate time to discuss the facts in her case
20 with her and the offer with the solicitor, and the business
21 about her co-defendant being threatening. I discussed all
22 of that with her.

23 Q. And could you give us a brief overview of the
24 evidence the state had against her?

25 A. Well, if you read the record, which starts on page

Desiree Brown vs. The State of South Carolina

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1 18, this was a situation where Ms. Brown was actually
2 married to the victim, so she was her wife, and Ms. Brown
3 and another lady committed the offense together against the
4 victim, who was her wife, and there was an arson, you know,
5 like a car they were burning and some things like that. And
6 when you look at what was happening here, it said that
7 North Charleston Police Department responded to a warehouse
8 on --- street after an employee of that warehouse was
9 returning his work vehicle and observed the victim laying
10 in the middle of the warehouse parking lot suffering from
11 25 stab wounds and calling for help. Okay, so the
12 solicitor's view was that this lady, who was the victim,
13 was put somewhere way off, off the beaten path, and but for
14 this man's fortuitous need to put his car in a certain
15 place, she would never have been found. And so that was one
16 of the egregious factors about this case was that she said
17 she spent 11 days in the hospital before being released,
18 and was stabbed 25 times. So the other co-defendant, her co
19 defendant, was probably the one that was described as doing
20 most of the stabbing and some of the physical attack. The
21 difficulty in this case is that the victim, who's married
22 to Ms. Brown, told the police that she had her cell phone
23 and that Ms. Brown intentionally took her cell phone from
24 her. So you know, here's this lady laying on the ground and
25 she had been stabbed a number of times and her means to try

Desiree Brown vs. The State of South Carolina

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1 to contact 911 was taken from her and she told the
2 solicitor and the police that it was taken by Ms. Brown. So
3 Ms. Norvell, who was her solicitor, was not happy about any
4 of this. And she had given --- one of the difficulties is
5 that Ms. Brown had already had, you know, she could just
6 probably already had the plea offer as it was done, but Ms.
7 Norvell would never change it. This is what she wanted to
8 do. This is also what she did with the co-defendant. So her
9 position was this was a really bad assault, that's why it
10 was an attempted murder charge as opposed to something
11 else, but she just was not willing to reduce it and she
12 also did the same thing for the co-defendant. With regard
13 to Ms. Brown's discussion about her co-defendant, she did
14 tell me and show me even maybe a note that was written, if
15 I recall, from this co-defendant, but the problem was, is
16 that her rendition of, if I plea it will make her case
17 better, it wasn't making the co-defendants case better
18 ever. And so it was --- Okay, so there was --- I discussed
19 with Ms. Norvell the possibility of Ms. Brown being a
20 witness against that co-defendant, but when Ms. Norvell
21 said, no, I'm not even going to reduce it, it's going to
22 have to be an attempted murder. It's going to have to be 20
23 years instead of 30. All this, there really was no value
24 for Ms. Brown being a witness against the other person or
25 anything. So, it got to the point where it was time to do

Desiree Brown vs. The State of South Carolina

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1 the case. The case was coming up on, you know, probably on
2 trial docket and the solicitor said, you know, are we doing
3 this or not? So in terms of Ms. Brown and her discovery
4 because of the timing in the year and the time period in
5 American history at that time it was extremely difficult to
6 get things to people. So she is right that her discovery
7 material, police report, all that stuff, wasn't given to
8 her until closer to the time that she was coming up to
9 court, but her case was on a docket, so it was like, we
10 have got to get this to her. So we did. She said she got it
11 within 30 days. We did discuss things on the day of her
12 plea that were probably, you know, things in her discovery
13 or whatever. But interestingly, Ms. Brown had told me, at a
14 certain point, I want to plea, I'm okay with it. The plea
15 transcript, it was Judge Goodstein, but it's only 28 pages
16 long. I mean, the majority of it is Judge Goodstein
17 qualifying the plea with her. There's not a lot, you know,
18 there wasn't just, you know, 45 minutes of people talking
19 on her behalf or anything like that. This was a case where
20 she said, I'm gonna plea. I know I want to plea, and it was
21 done, and it was all very, you could call it rushed in the
22 record, but this is what she wanted to do, or at least what
23 I believe she wanted to do. And my assessment of her case
24 was that this was a horrible set of facts and would not do
25 well in a jury trial situation, because the lady who she

Desiree Brown vs. The State of South Carolina

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1 was married to, who her, I think that lady was maybe a new
2 girlfriend or some new friend had really beat this woman up
3 bad and left her for dead, and that's what the solicitor
4 believed. So I did a lot of things trying to get the case
5 in a different posture with the solicitor, but if she had
6 gone to trial, she definitely, in my professional opinion,
7 would have been convicted and likely got the 30 years.
8 That's my professional opinion.

9 MS. KANEALEY: Beg the court's indulgence.

10 Nothing further from the State, Your Honor.

11 THE COURT: Ms. Swope?

12 MS. SWOPE: Nothing further, Your Honor.

13 THE COURT: All right. You may step down, Ms.
14 Gay.

15 MS. GAY: Okay.

16 THE COURT: Any argument?

17 MS. SWOPE: Just, Your Honor, that my client has
18 stated for the record that she felt compelled to take the
19 plea by her co-defendant's threat. Obviously, due to the
20 circumstances with COVID access to clients, I think it's
21 clear that she did not have the ordinary opportunity to
22 review her discovery. We have discussed at length the
23 possibility that succeeding at this PCR could potentially
24 lead to a longer sentence, and so that's why she's gone
25 back and forth about not going forward. But I think the

Desiree Brown vs. The State of South Carolina

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1 record is clear that she didn't get the ordinary
2 opportunity to review her discovery, and she's asking today
3 to withdraw the plea.

4 THE COURT: I also note this was a negotiated plea
5 so it was a negotiated twenty (20) year sentence, which I
6 think that this explains probably why it's only twenty-
7 eight (28) pages long.

8 MS. SWOPE: Right.

9 THE COURT: ... as opposed to, you know, lengthier
10 because going in, obviously Judge Goodstein could accept or
11 reject it. So I just want to be clear about that.
12 Anything you want to put on the record?

13 MS. KANEALEY: Just briefly. As the transcript
14 reflects, she told the court that no one had forced,
15 threatened, pressured or intimidated her to plead guilty.
16 This plea was knowingly, freely and voluntarily entered
17 into and we just ask you to deny her application.

18 THE COURT: Thank you. I appreciate it. Good
19 luck to you, Ms. Brown.

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Desiree Brown vs. The State of South Carolina

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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF CHARLESTON)

Be it known that I, the undersigned Melissa R. Singletary, Certified Verbatim Reporter, for the State of South Carolina, do hereby certify that the foregoing transcript represents a true, accurate and complete transcript of record of the testimony and evidence introduced in during this testimony of the captioned case, before the Circuit Court for Charleston County, South Carolina, so given on May 30, 2025 to the best of my skill and ability;

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

IN WITNESS WHEREOF I have here unto set my hand this 25th day of November, 2025.

Melissa R. Singletary

Melissa R. Singletary, CVR
Certified Verbatim Reporter

STATE OF SOUTH CAROLINA)
 COUNTY OF CHARLESTON)

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

Desiree Brown, #382060,)

CASE NO. 2022-CP-10-04697)

Applicant,)

ORDER OF DISMISSAL)

v.)

State of South Carolina,)

Respondent.)

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

This matter comes before the Court by way of Desiree Brown's application for post-conviction relief (PCR) filed on October 7, 2022, and amended on May 22, 2023. Respondent filed its Return requesting an evidentiary hearing. On May 30, 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 amended application. In support of these claims, Applicant testified on her own behalf. Respondent presented the testimony of Melisa Gay, Esquire (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. On August 1, 2022, Applicant waived presentment to the Grand Jury and pled guilty, pursuant to a negotiated plea, to attempted murder (2022-GS-10-5710) and third-degree arson (2022-GS-10-5709). These charges arose from the stabbing of Applicant's

wife¹ Rondoshia Shaquettia Brown on June 18, 2021, and the subsequent attempt to burn the vehicle that Brown was stabbed in.² The Honorable Diane S. Goodstein presided over the plea hearing. Melisa Gay, Esquire, represented Applicant, and Assistant Solicitor Jordan A. Norvell represented the State. Pursuant to the negotiated twenty-year sentence, Judge Goodstein sentenced Applicant to concurrently serve twenty years for murder and fifteen years for arson. Applicant did not file a direct appeal.

CURRENT APPLICATION

On October 7, 2022, Applicant timely commenced this PCR action. Applicant, however, did not set forth any allegations in her initial petition. Applicant likewise did not set forth any relief she was seeking.

On May 22, 2023, Applicant filed an amended application alleging counsel was ineffective for the following reasons:

1. Applicant requested “Motion of Discovery” within 30 days and didn’t receive same until a week before guilty plea (1 yr 2 mo. later);
2. Applicant was told by counsel if she was able to obtain an alibi defense statement the charges would drop to accessory after the fact;
3. Applicant was never shown the video as she requested, which was evidence against her;
4. Applicant was told by counsel that the evidence provided was enough to have a jury trial. She was in agreement with the jury trial, however never heard anything concerning same;
5. Applicant was threatened with her life, and so was her family, that if she didn’t write a statement on behalf of the co-defendant, to release same, there would be consequences. She was therefore instructed by co-defendant to agree to the guilty plea.

¹ Applicant and Brown divorced prior to the plea hearing but were married at the time of the stabbing.

² Lyric Whitfield was also involved in the stabbing, and according to the arrest warrant was the primary person who stabbed the victim.

On November 13, 2023, Applicant mailed to Respondent a request “to file for a post-trial motion” asserting the following newly-discovered evidence:

I found evidence on 11/12/2023 looking through my motion of discovery and other letters written by co-defendant Lyric Whitfield – on the incident report it stated the victim was asked if she knew the suspect and she replied “no”. Also she stated I Desiree Brown was the driver but never stated once I Desiree Brown stabbed her. On the additional narrative me Desiree Brown and the Victim had the same story matching. I was unaware of the defendant Lyric Whitfield was going to stab the victim Rondoshia. When we was taking Lyric to the store. When Victim fell out of the moving car I did turn the car around to help the Victim but Lyric Whitfield got out the car and was pointing a gun at me telling me to Let’s go and Lyric stab victim once again before leaving. The Victim was able to describe Lyric Whitfield as the person being tall, brown skin, and skinny, who attacked her in the car. I did witness the stabbing after the fact cause I didn’t know anything was about to happen.

Applicant also contends she never received her sentencing sheets. As relief, she asks the Court to dismiss her attempted murder charge “and charge me just for Arson 3rd.” Additionally, Applicant moved to reconsider her sentence, asserting she never committed attempted murder, but she did commit arson 3rd “after the fact cause I was threaten by the co-defendant to help burn the car.”

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 his 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.

*Failed to Review Discovery*³

Applicant alleged Counsel was ineffective for failing to review discovery with Applicant.

³ This addresses allegations 1 and 3.

This Court finds this allegation to be without merit. Applicant alleged in her application that she did not receive her discovery until a week before her guilty plea and she was never shown the video. Applicant on direct examination testified that she received her discovery a few days before her guilty plea. On cross-examination Applicant testified that she received the discovery 30 days before her plea. On re-direct Applicant testified that she received the discovery on the day of her plea. This Court finds Applicant's testimony *not credible*. Counsel *credibly* testified that she got the discovery to Applicant within 30 days and further discussed some discovery on the day of the plea. Counsel *credibly* testified that she met with Applicant a number of times and had adequate time to discuss the case, offers, and issues with Applicant's co-defendant. Additionally, Applicant told the plea court that Counsel had gone over the discovery with her. (Tr. 22). This Court finds Counsel thoroughly discussed the discovery with Applicant. Applicant did not present the video she allegedly did not see and did not present any testimony that had she seen this video, she would have insisted on going to trial instead of pleading guilty. This Court further finds Applicant has failed to set forth what more Counsel should have done regarding the discovery or discussed further that would have changed her decision to plead guilty. This Court finds Applicant has failed to meet her burden of proving deficiency and prejudice and thus, this claim is denied.

Involuntary Guilty Plea⁴

Applicant alleged she told Counsel she wanted a trial, but she was threatened by her co-defendant to plead guilty. She further contends Counsel told her charges would drop to accessory after the fact if she obtained an alibi statement. This Court finds this allegation is without merit. An applicant who enters a guilty plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that trial counsel's representation fell below an

⁴ This section addresses allegations 2, 4 and 5.

objective standard of reasonableness and that there is a reasonable probability that, but for trial counsel's errors, the defendant would not have pled guilty but would have insisted on going to trial instead. Roscoe v. State, 345 S.C 16, 20, 546 S.E.2d 417, 419 (2001); Richardson v. State, 310 S.C. 360, 363, 362 426 S.E.2d 795, 797 (1993).

Counsel *credibly* testified that Applicant wanted to plead guilty. Further, Applicant told the plea court that no one had forced, threatened, pressured or intimidated her into pleading guilty. (Tr. 21). Counsel testified that Applicant told her about the co-defendant but the Applicant's decision to plead would not impact co-defendant's case in any way. Applicant did not prove that her alleged threat from her co-defendant rendered her plea involuntary.

Applicant alleged in her application that Applicant was told by counsel if she was able to obtain an alibi defense, the charges would drop to accessory after the fact. Applicant provided no testimony or evidence to support this allegation at the evidentiary hearing. Further, Applicant heard the facts at the guilty plea hearing and agreed with them. Applicant did not provide this alleged alibi witness at the PCR hearing. Applicant has failed to prove this claim.

The record reflects Counsel was able to negotiate a 20-year sentence with the State. Applicant has not provided any evidence to prove counsel's representation fell below an objective standard of reasonableness. 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 Circ. 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). 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.

Newly Discovered Evidence

Applicant mailed to Respondent a request “to file for a post-trial motion” asserting newly discovered evidence. Applicant wrote in this letter that the discovery contained a statement from the victim wherein the victim stated that she was the driver but never stated she stabbed her. Applicant further discusses Applicant’s version of events of what happened in this letter. This is not newly discovered evidence. To prevail, Applicant must show the newly-discovered evidence:

1. is such as would probably change the result if a new trial was had;
2. has been discovered since the trial;
3. could not by the exercise of due diligence have been discovered before the trial;
4. is material to the issue of guilt or innocence; and
5. is not merely cumulative or impeaching.

Hayden v. State, 278 S.C. 610, 611, 299 S.E.2d 854, 855 (1983). Applicant’s discovery and her version of the events that happened could have been discovered before the plea and did exist before the plea. Applicant merely reviewing her discovery that existed before the plea does not meet the threshold of newly discovered evidence.

CONCLUSION

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

SCRCP, 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.

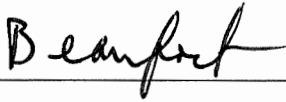
IT IS THEREFORE ORDERED:

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

JAS/0380262
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2021-017066

ARREST WARRANT NUMBER

2021A1010203359

DATE OF ARREST

06/22/2021

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2022-GS-10-05709

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

AUGUST TERM 2022

THE STATE

VS.

DESIREE NAJEE BROWN A.K.A. Desiree
Mitchell, Desiree Najee Mitchell, Desiree N Brown,
BROWN, DESIREE NAJEE, BROWN, DESIREE
NAJEE

B/F DOB: [REDACTED]

Indictment for

ARSON, THIRD DEGREE

SC Code: § 16-11-0110(C)

CDR Code: 3435

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON


INDICTMENT

At a Court of General Sessions, convened August 2022, the Grand Jurors of Charleston County present upon their oath:

Arson, Third Degree

The defendant, Desiree Najee Brown, on or about June 18, 2021 in Charleston County, South Carolina, did willfully and maliciously cause an explosion, set fire to, burn, or cause to be burned, or aid, counsel, or procure a burning that resulted in damage to a dwelling house, building, structure, or any property, whether the property of the defendant or another, and further resulted, either directly or indirectly, in bodily injury to or damage to the property of Rondoshia Brown, in violation of Section 16-11-110(C) 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.



JORDAN A. NORVELL
ASSISTANT SOLICITOR

JAS/0380262
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER
2021-017066

ARREST WARRANT NUMBER
2021A1010203360

DATE OF ARREST
06/22/2021

ACTION OF GRAND JURY

Foreperson of Grand Jury Date:

VERDICT

Foreperson of Petit Jury Date:

DOCKET NO. 2022-GS-10-05710

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS
AUGUST TERM 2022

THE STATE

VS.

DESIREE NAJEE BROWN A.K.A. Desiree
Mitchell, Desiree Najee Mitchell, Desiree N Brown,
BROWN, DESIREE NAJEE, BROWN, DESIREE
NAJEE

B/F DOB: [REDACTED]

Indictment for

ATTEMPTED MURDER

SC Code: § 16-03-0029
CDR Code: 3410

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

INDICTMENT

At a Court of General Sessions, convened August 2022, the Grand Jurors of Charleston County present upon their oath:

Attempted Murder

That in Charleston County, South Carolina, on or about June 18, 2021, the Defendant, Desiree Najee Brown, did, with intent to kill and malice aforethought, attempt to kill Rondoshia Shaquettia Brown. This is in violation of Section 16-3-29 of the South Carolina Code of Laws (1976) as amended.

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



JORDAN A. NORVELL
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON

STATE

INDICTMENT/CASE#: 2022-GS-10-05709

VS.

DESIREE NAJEE BROWN

A/W#: 2021A1010203359

AKA: Desiree Mitchell, Desiree Najee Mitchell

Date of Offense: 06/18/2021

Race: Black Sex: F Age: 30

S.C. Code §: 16-11-0110(C)

DOB: [REDACTED] SS#: [REDACTED]

CDR Code #: 3435

Address: [REDACTED]

City, State,

Zip: Columbia, SC [REDACTED]

SENTENCE SHEET

DL#* [REDACTED] SID# SC01840443

*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: Arson, Third Degree

0-15

In violation of § 16-11-0110(C) of the S.C. Code of Laws, bearing CDR Code # 3435

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS § 17-25-46
(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:

Norvell
Jordan A. Norvell, Assistant
Solicitor

102368
SC Bar #

Defendant

M.W.M. 63773
Attorney for Defendant
SC Bar #

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

for a determinate term of 30 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: 8-1-2022 of Probation revocation

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.

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.

SPECIAL CONDITIONS:

STATE DESIREE NAJEE INDICTMENT/CASE#: 2022-GS-10-05709
VS. BROWN

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 consecutive weekly/monthly pmts. 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: Faith Benson
Court Reporter: DKP

Presiding Judge: [Signature]
Judge Code: 2112
Sentence Date: 8-1-2022

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS

COUNTY OF CHARLESTON)

STATE)

INDICTMENT/CASE#: 2022-GS-10-05710

VS.)

DESIREE NAJEE BROWN)

A/W#: 2021A1010203360

AKA: Desiree Mitchell, Desiree Najee Mitchell)

Date of Offense: 06/18/2021

Race: Black Sex: F Age: 30)

S.C. Code §: 16-03-0029

DOB: [REDACTED] SS#: [REDACTED])

CDR Code #: 3410

Address: [REDACTED])

City, State,)

Zip: Columbia, SC [REDACTED])

SENTENCE SHEET

DL#* [REDACTED] SID# SC01840443)

*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: Attempted Murder *0-70*

In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

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. *20 YRS*

ATTEST:

J. Norvell
Jordan A. Norvell, Assistant Solicitor

102368
SC Bar #

Defendant

NWJ
Attorney for Defendant

63773
72379
SC Bar #

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

for a determinate term of *30* 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: *81-2022 / Probation revocation*

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.

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.

SPECIAL CONDITIONS:

STATE DESIREE NAJEE
VS. BROWN

INDICTMENT/CASE#: 2022-GS-10-05710

PTUP after _____ months/years

And Other Terms Listed Below:

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

RESTITUTION: Deferred Def. Waives Hearing Ordered

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

Payment Terms: _____ Set by SCDPPPS

Recipient: _____

*Fine:	\$	Beginning	\$
Fine may be pd. in equal consecutive weekly/monthly pmts. of	\$ _____	_____	_____
§14-1-206 (Assessments 107.5%)			\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100		\$ 100.00
§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		\$ 25.00
§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		\$ 3.75
<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			\$ 128.75

Clerk of Court/Deputy Clerk: Faith Johnson
Court Reporter: Bob

Presiding Judge: [Signature]
Judge Code: 3112
Sentence Date: 8-1-2022