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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Darlington County

Honorable The Hon. S. B. Doby, Circuit Court Judge

SAMUEL L. MCNEIL,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2025-002250

APPENDIX

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INDEX

INDEX	i
GUILTY PLEA TRANSCRIPT DATED JUNE 26, 2023	1
APPLICATION FOR POST-CONVICTION RELIEF FILED JUNE 4, 2024	89
RETURN FILED JULY 18, 2025	110
POST-CONVICTION RELIEF HEARING TRANSCRIPT DATED SEPTEMBER 2, 2025	122
ORDER OF DISMISSAL FILED OCTOBER 24, 2025	201
INDICTMENTS	229
SENTENCE SHEETS	243

STATE OF SOUTH CAROLINA	)	In Court of General Sessions
	)	Fourth Judicial Circuit
COUNTY OF DARLINGTON	)	2018-GS-16-1134; 1135

THE STATE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	Transcript of Record
SAMUEL LEE McNEIL,	)	
	)	
Defendant.	)	
	)	
	)	

Darlington, South Carolina
June 26, 2023

B E F O R E:

The Honorable Michael S. Holt

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

Ms. Mary Thomas Johnson-Lee, Esquire
Attorney for the Plaintiff

Mr. Kyle Hobbs, Esquire
Attorney for the Defendant

Lisa Carter
Circuit Court Reporter

I N D E X

WITNESSESPAGE**Monday- June 26, 2023**

Voir Dire..... 4

Jury Selection..... 26

Lois McNeil:

Direct Examination by Mr. Hobbs..... 43

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
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19
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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>EV.</u>
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(NO EXHIBITS INTRODUCED DURING HEARING)

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

Monday, June 26, 2023

(WHEREAS, this matter was scheduled for a trial, the plaintiff appeared along with their attorney of record. The defendant appeared a long with his attorney, Kyle Hobbs. The proceedings began at 10:30 a.m.)

Voir Dire

THE COURT: All right. So ladies and gentlemen, as indicated at the call of the case, I'm Michael Holt. I'm the Circuit Court judge here. We are about to begin the trial of the case of the State of South Carolina against Sammy, Samuel Lee McNeil who is charged with kidnapping. That Samuel Lee McNeil did in Darlington County on/or about March 4, 2018, unlawfully seized, confined, inveigled, decoy, kidnapped, abduct, or carry away one, Angela Chandler without authority of law.

The second indictment is a domestic violence of a high and aggravated nature that Samuel Lee McNeil did in Darlington County on/or about March 4, 2018 committed the offense under the circumstances manifesting extreme indifference to the value of human life and great bodily injury results commit the

1 offense with or without an accompanying battery under
2 circumstances manifesting extreme indifference to the
3 value of human life and reasonably cause a person to
4 fear great bodily injury or death or violate
5 protective order or, and in the process commit first
6 degree domestic violence of Angela Chandler which
7 involves the use of deadly weapon or resulted in
8 serious bodily injury due to the victim.

9 The third indictment is for our possession of a
10 weapon during a violent crime, that Samuel Lee McNeil
11 did in Darlington County on/or about March 4, 2018
12 possess a firearm or visibly displayed what appeared
13 to be a firearm, visibly displayed a knife during the
14 commission or attempted commission of a violent
15 crime.

16 The fourth indictment is possession of a weapon
17 during a violent crime that Samuel Lee McNeil did in
18 Darlington County on/or about March 4, 2018 possess a
19 firearm or visibly displayed what appeared to be a
20 firearm or visibly displayed a knife during the
21 commission or attempted commission of a violent
22 crime.

23 The fifth indictment for attempted murder that
24 Samuel Lee McNeil did in Darlington County on/or
25 about March 4, 2018 with the specific intent to kill,

1 attempt to kill Andrew Lamont McNeil with malice
2 aforethought either expressed or implied.

3 The six indictment, and final indictment, is for
4 attempted murder. That Samuel Lee McNeil did in
5 Darlington County on/or about March 4, 2018 with
6 specific intent to kill, attempt to kill Angela
7 Chandler with malice aforethought either expressed or
8 implied.

9 These indictments are not evidence, ladies and
10 gentlemen, these are just what the defendant has been
11 charged with. Because we select a jury there are
12 several questions which I'll need to ask you. You've
13 already been - the clerk - they've been placed under
14 oath?

15 THE CLERK: Yes, sir.

16 THE COURT: You've already been placed under oath
17 and these questions are in order so that we may get a
18 fair and impartial jury for purposes of this trial.
19 Has anyone ever been related by blood or marriage or
20 had a close personal or business relationship with
21 the defendant, if so, will your relationship keep you
22 from being fair and impartial to the State or the
23 defendant in this case? And Mr. Hobbs, if you would
24 introduce your client at this time?

25 MR. HOBBS: Thank you, Your Honor. My name is

1 Kyle Hobbs. I'm an attorney practicing here in
2 Darlington, South Carolina. This is my client Mr.
3 Samuel McNeil.

4 THE COURT: All right. Madam Solicitor, the
5 victims?

6 MRS. JOHNSON-LEE: Yes, Your Honor. My name is
7 Mary Johnson Lee. I'm the assistant solicitor
8 prosecuting this case for the Fourth Circuit. Angela
9 Chandler, if you would stand?
10 (Whereupon, the victim stands)

11 MRS. JOHNSON-LEE: Andrew McNeil....
12 (Whereupon, the victim stands)

13 THE COURT: All right. Thank you. I'mma repeat
14 the question, has anyone ever been related by blood
15 or marriage or had a close personal business
16 relationship with the defendant or the victims in
17 this matter?
18 (Whereupon, no one is standing)

19 THE COURT: All right. Nobody -- may the record
20 reflect nobody stood.

21 THE CLERK: You got one hand up now, judge.

22 THE COURT: All right. The person in the back if
23 you would please stand.

24 POTENTIAL JUROR #43: Tony Coward.

25 THE COURT: Tony Coward. All right. And that is

1 Juror Number 43. Mr. Coward, what is the
2 relationship to the victim or defendant?

3 POTENTIAL JUROR #43: I know Andrew McNeil.

4 THE COURT: You know -- you know him.

5 POTENTIAL JUROR #43: Yes, sir. We use to hang
6 out a little bit a couple of years ago.

7 THE COURT: All right. And would that
8 relationship keep you from being fair and impartial
9 to either party in this case?

10 POTENTIAL JUROR #43: I can't say.

11 THE COURT: What -- you don't know?

12 POTENTIAL JUROR #43: I don't know. I don't know
13 the case.

14 THE COURT: I can't hear you, sir.

15 POTENTIAL JUROR #43: It could.

16 THE COURT: You believe you can be fair and
17 impartial to both the defendant and, and the State in
18 this case?

19 POTENTIAL JUROR #43: No.

20 THE COURT: You don't think you can?

21 POTENTIAL JUROR #43: Me and Andrew, we pretty --
22 I was pretty close.

23 THE COURT: So you could not give the defendant a
24 fair trial?

25 It's okay if that's how you feel ---

1 POTENTIAL JUROR #43: No.

2 THE COURT: --- I just have to have it on the
3 record.

4 POTENTIAL JUROR #43: I said no.

5 THE COURT: Okay. All right. Sir, if you would
6 -- if you would stay with us but, um, but thank you
7 for that information. Mr. Clerk, that was....

8 THE CLERK: Number 43.

9 THE COURT: Madam Solicitor, do you have a witness
10 list?

11 MRS. JOHNSON-LEE: Yes, Your Honor. I've handed
12 it up to the Court.

13 THE COURT: All right. Mr. Hobbs, do you have a
14 witness list?

15 MR. HOBBS: None from the defense, Your Honor.

16 THE COURT: All right. The following is a list
17 of possible witnesses in this case. The witnesses
18 are as follows: Angela Chandler; Andrew McNeil;
19 Justin Taylor, formerly with the Darlington County
20 Sheriff's Office; Tyrone Williams, formerly of the
21 Darlington County Sheriff's Office; Matt Walters of
22 the Darlington County Sheriff's Office; Lois McNeil;
23 Sammy Jean McNeil; Michelle Moore Hall, who is with
24 911; Gary Billiott with the Darlington County
25 Sheriff's Office; Captain Neil Cusack with the

1 Darlington County Sheriff's Office; Larry Stivender
2 formerly of the Darlington County Sheriff's Office;
3 Valerie Freeman formerly of the Darlington County
4 Sheriff's Office; Neva Lawson, RN with MUSC; Thuy
5 Tran, MUSC Director of Medical Records; Crystal Ford,
6 McLeod Regional Medical Center of Medical Records;
7 Anukkah Chandler; Marquell Chandler. Has anyone ever
8 been related by blood or marriage to any of those
9 people I've just listed or has anyone ever had a
10 close personal or business relationship with any of
11 these people, if so, please stand?

12 (Whereupon, several jurors stand)

13 THE COURT: Yes, ma'am. Your name?

14 POTENTIAL JUROR #146: Melinda Osborne. I think
15 my number is 146.

16 THE COURT: Melissa Osborne?

17 POTENTIAL JUROR #146: Melinda.

18 THE CLERK: That's correct, 146.

19 THE COURT: One, forty-three ---

20 THE CLERK: Forty-six.

21 THE COURT: One, forty-six, Melinda Osborne. Ms.
22 Osborne, which witness did you ---

23 POTENTIAL JUROR #146: It would be Neil Cusack.

24 THE COURT: All right. And that's a personal
25 relationship?

1 POTENTIAL JUROR #146: No, sir. I current -- I
2 was working with Darlington, City of Darlington, I
3 use to be the clerk of court there and worked with
4 the judge there and at that time Mr. Cusack was
5 working with the police department over there.

6 THE COURT: Okay. And because of that would you
7 be able to be fair and impartial to both sides based
8 on that relationship?

9 POTENTIAL JUROR #146: I believe so, yes.

10 THE COURT: All right. Thank you, ma'am. Thank
11 you for bringing that forward.

12 THE CLERK: If the question applies to you please
13 stand.

14 THE COURT: Yeah. All right.

15 POTENTIAL JUROR #: I think you mentioned Crystal
16 Ford.

17 THE COURT: Ford....

18 THE CLERK: Juror Number 119, Your Honor.

19 THE COURT: One, nineteen?

20 THE CLERK: Juror 119, yes, sir.

21 THE COURT: Emily Magnus. All right. Juror 119,
22 Emily Magnus?

23 POTENTIAL JUROR #119: Magnus.

24 THE COURT: Mangus. Yes, ma'am?

25 POTENTIAL JUROR #119: I work at McLeod Health.

1 Her name just rings a bell because I do email her
2 periodically with patient miss ID's and things like
3 that.

4 THE COURT: And which witness is that?

5 POTENTIAL JUROR #119: Crystal Ford.

6 THE COURT: Crystal Ford.

7 POTENTIAL JUROR #119: I would have never
8 recognize the name until you said McLeod.

9 THE COURT: Okay. Would you be, because of that,
10 would you be able to be fair and impartial to both
11 parties in this trial?

12 POTENTIAL JUROR #119: Yes.

13 THE COURT: Thank you, ma'am. I appreciate you
14 bringing that to the Court's attention. Yes, ma'am?

15 POTENTIAL JUROR #151: Samantha Polson. I'm not
16 sure of my juror number.

17 THE COURT: Okay. One second. Polson?

18 POTENTIAL JUROR #151: Yes, sir.

19 THE COURT: That's 151, Samantha Polson. Samantha
20 Polson?

21 POTENTIAL JUROR #151: Yes, sir.

22 THE COURT: Juror 151. And Ms. Polson, what did
23 you want to tell the Court?

24 POTENTIAL JUROR #151: The witness, Matt Walters,
25 he was a SRO at our school that I taught at

1 previously so we had a working relationship. I just
2 wanted to make that known to the Court.

3 THE COURT: Okay.

4 POTENTIAL JUROR #151: It would not impair my
5 impartiality at all.

6 THE COURT: So you would be able to be fair and
7 impartial to both parties?

8 POTENTIAL JUROR #151: Yes, sir.

9 THE COURT: Well thank you for that information,
10 ma'am. Thank you. Yes, ma'am?

11 POTENTIAL JUROR #3: Elizabeth Anhalt.

12 THE CLERK: Juror Number 3, Your Honor.

13 THE COURT: Elizabeth Anhalt, Juror Number 3. Ms.
14 Anhalt, what did you want to tell the Court?

15 POTENTIAL JUROR #3: My neighbor is Gary Billiot.

16 THE COURT: He's your neighbor?

17 POTENTIAL JUROR #3: Yes.

18 THE COURT: Good neighbor or bad neighbor? He cut
19 his grass? You -- could you be fair -- based on that
20 relationship, could you be fair and impartial to both
21 sides and listen to the evidence in the case?

22 POTENTIAL JUROR #3: Yes.

23 THE COURT: Okay. Thank you for that
24 information, ma'am. All right. Once again, I'm
25 going to ask counsel if they would just introduce

1 themselves and tell where they work. I'll ask the
2 solicitor to first.

3 MRS. JOHNSON-LEE: Again, my name is Mary Thomas
4 Johnson-Lee. I'm a senior assistant olicitor with
5 solicitor's office. I prosecute cases for Darlington
6 and Chesterfield Counties. And seated at the table
7 with me is Patty McKenzie Parker and she also is an
8 assistant solicitor here in Darlington County.

9 THE COURT: Thank you. And Mr. Hobbs?

10 MR. HOBBS: Thank you. Kyle Hobbs, again. I am
11 an attorney operating out of the Hobbs Law Firm and I
12 handle criminal defense matters in Darlington, South
13 Carolina.

14 THE COURT: All right. Any member of the jury
15 panel ever been represented by any of these attorneys
16 or involved in any cases with them or having
17 association to their firms, if so, if you would
18 please stand?

19 (Whereupon, a juror stands)

20 THE COURT: Yes, ma'am?

21 POTENTIAL JUROR #151: I had a past work
22 experience. I use to be the ---

23 THE COURT: All right. Let me start over again.

24 POTENTIAL JUROR #151: Sorry. Samantha Polson,
25 151, I believe is my number.

1 THE COURT: All right. Samantha Polson, 151 ---

2 POTENTIAL JUROR #151: Yes.

3 THE COURT: Yes, Ms. Polson?

4 POTENTIAL JUROR #151: I was actually an assistant
5 to administrator of the solicitor's office back in
6 2004 with so from Safrona Finch and Mr. Hodge was the
7 solicitor so I have that past.

8 THE COURT: And did you work with any of these
9 lawyers or did you have any ---

10 POTENTIAL JUROR #151: No. They came after I
11 left.

12 THE COURT: Okay. All right. Based on information
13 you, you would be able to be fair and impartial?

14 POTENTIAL JUROR #151: Yes.

15 THE COURT: Okay. Thank you. Thank you for that
16 information. All right. Is any member of the jury
17 panel formed or expressed an opinion about any issues
18 or matters involved in this case, if so, please
19 stand?

20 (Whereupon, no one is standing)

21 THE COURT: May the record reflect nobody stood.
22 And if anybody wishes to come before the Court as
23 earlier and not share amongst everyone you know that
24 you're welcome to do so. This next question, have
25 you or any member of your family ever been the victim

1 of or charged with a violent crime, if so, would you
2 please stand?

3 (Whereupon, several jurors stand)

4 THE COURT: All right. We have four folks who
5 stood. Does anybody want to approach or do you need
6 to -- all right. One person indicated. Two. Three.
7 Now, we have a fifth person standing. Now, I have a
8 six person standing. Okay. If you wish to address
9 the Court if you would come to the bailiff.

10 (Whereupon, the Court accommodates the jurors)

11 MR. BAILIFF: One, thirty-six.

12 THE CLERK: Ms. Moree?

13 POTENTIAL JUROR #136: Yes.

14 THE COURT: All right. Ms. Moree, you have to
15 come forward. She's got to be able to record this.

16 POTENTIAL JUROR #136: As a child ---

17 THE CLERK: Let's -- the judge has got to be able
18 to hear. Thank you.

19 POTENTIAL JUROR #136: I was severely abused and
20 my stepfather subsequently stalked as a teenager and
21 came ---

22 THE COURT: So you were a child?

23 POTENTIAL JUROR #136: Yes.

24 THE COURT: So Ms. Moree -- this is Juror 136,
25 Rebecca Moree. Ms. Moree, would you be able to be

1 fair and impartial in this case?

2 POTENTIAL JUROR #136: I believe so, yes.

3 THE COURT: All right. Thank you.

4 MR. BAILIFF: Number 4.

5 THE CLERK: Come forward for me, ma'am.

6 COURT REPORTER: What was her number?

7 THE CLERK: Number 4. Ms. Askins?

8 POTENTIAL JUROR #4: Yes.

9 THE COURT: Latasha Askins, Juror Number 4. What
10 did you want to tell the Court?

11 POTENTIAL JUROR #4: I have had a family member
12 that has been assaulted by a knife and obviously, by
13 a family members that has been in since juvenile and
14 prison since for various crimes.

15 THE COURT: Okay. Based upon those family
16 experiences, can you be a fair and impartial juror in
17 this case?

18 POTENTIAL JUROR #4: Yes, I can.

19 THE COURT: Thank you.

20 MR. BAILIFF: Forty-four.

21 THE CLERK: Ms. Crawford?

22 POTENTIAL JUROR #44: Yes.

23 THE COURT: Juror Number....

24 THE CLERK: Forty-four.

25 THE COURT: Forty-four, Jennifer Crawford. Ms.

1 Crawford, what do you want to tell the Court?

2 POTENTIAL JUROR #44: Well, when I was twelve
3 years old my mother was stabbed by her boyfriend and
4 that subsequently led to me not being with her
5 anymore. He was convicted for aggravated assault and
6 acquitted.

7 THE COURT: I'm sorry for your experiences 'cause
8 it obviously affected you. Ms. Crawford, should be
9 able to be fair and impartial in this trial and
10 listen to the evidence?

11 POTENTIAL JUROR #44: I believe so.

12 THE COURT: Ms. Crawford, the testimony is going
13 to be where someone was stabbed in this case would
14 you be able to be fair and impartial and listen in
15 this case? That's the allegations.

16 POTENTIAL JUROR #44: I believe so.

17 THE CLERK: Come forward for me, ma'am. One,
18 fifteen, judge.

19 THE COURT: Emily Lloyd. And Ms. Lloyd, what did
20 you want to tell the Court?

21 POTENTIAL JUROR #115: Good morning. I was a
22 victim of domestic, criminal domestic violence by my
23 ex-husband back in 2013.

24 THE COURT: Was your husband charged?

25 POTENTIAL JUROR #115: He was. He was locked up.

1 He was -- he was in jail. His charge was domestic
2 violence. He pled to it but he got out on bond so he
3 wasn't locked up for a brief period of time.

4 THE COURT: Okay. And has that case been
5 resolved?

6 POTENTIAL JUROR #115: Yes.

7 THE COURT: Okay. Would you -- based upon your
8 experiences can you be a fair and impartial and
9 listen to the evidence in this case?

10 POTENTIAL JUROR #115: Absolutely.

11 THE COURT: Thank you.

12 MR. BAILIFF: One, thirty-five.

13 THE CLERK: One, thirty-five, Your Honor. Ms.
14 Mizell?

15 POTENTIAL JUROR #135: Yes, sir.

16 THE COURT: All right. I have Juror 135, Shawn
17 Mizell?

18 POTENTIAL JUROR #135: Yes. Mizell.

19 THE COURT: Ms. Mizell, what do you want to tell
20 the Court?

21 POTENTIAL JUROR #135: So I was a victim of a
22 sexual assault as a teenager. And then most recently
23 in 2019 I was physically assaulted on the subway.

24 THE COURT: Okay. The charges are kidnapping,
25 attempted murder, possession of a weapon, would you

1 be able to be fair and impartial to both sides and
2 listen to the evidence?

3 POTENTIAL JUROR #135: I do not know. I suspect
4 ---

5 THE COURT: You do not know?

6 POTENTIAL JUROR #135: I suspect that it would
7 depending on what the evidence is. But it would
8 cause me to feel more for the victim than the ---

9 THE COURT: Okay. What number?

10 THE CLERK: Number 9, Your Honor. I'm sorry,
11 that's the next one. It's 135, I'm sorry.

12 THE COURT: All right. Ms. Mizell, based on
13 recent traumatic and experiences that you had and
14 your ability to say whether you feel like you can be
15 fair and impartial, I'm gonna excuse you. I'm not
16 gonna excuse you in the presence of the jurors but
17 you're excused.

18 POTENTIAL JUROR #135: Thank you.

19 THE CLERK: If you'll just have a seat back in the
20 audience for now.

21 MR. BAILIFF: Number 9.

22 THE CLERK: Mr. Baucom?

23 POTENTIAL JUROR #9: Yes, sir.

24 THE COURT: Okay. This is Juror Number 9,
25 Charles Baucom. The Court is familiar with Mr.

1 Baucom. And believe your daughter has some criminal
2 matters and she -- was she convicted?

3 POTENTIAL JUROR #9: She has ---

4 THE COURT: They're still pending?

5 POTENTIAL JUROR #9: She's on bond. Been on bond
6 for some time now.

7 THE COURT: Tell the solicitor her name.

8 POTENTIAL JUROR #9: Catherine Baucom, B-a-u-c-u-
9 m.

10 THE COURT: Who is her attorney? Is it Paul?

11 POTENTIAL JUROR #9: Paul Cannarella.

12 THE COURT: And I believe the charge is -- her co-
13 defendant was charged with murder and she was
14 trafficking and conspiracy

15 POTENTIAL JUROR #9: She got all the same charges
16 that he was charged with. I think they were seven or
17 eight in total.

18 THE COURT: Do you remember this case?

19 MRS. JOHNSON-LEE: I don't.

20 THE COURT: His daughter was in the car if I
21 understand - I may speak out of turn - and the co-
22 defendant, boyfriend, went in the house and murdered
23 the lady who I think he was into drugs or something
24 and they may have been a child ---

25 MS. PARKER: Yes.

1 THE COURT: -- and it's been pending for some
2 time. So would you be able to be impartial and fair
3 to both the State and the defendant and listen to the
4 evidence in this case.

5 POTENTIAL JUROR #9: I think so.

6 THE COURT: All right. Thank you.

7 MR. BAILIFF: One, twenty-seven.

8 THE CLERK: One, twenty-seven, Ms. McKnight.

9 POTENTIAL JUROR #127: Good morning.

10 THE COURT: How are you?

11 POTENTIAL JUROR #127: Good.

12 THE COURT: This is 127, Dianna McKnight.
13 Hartsville High School. It's got to be getting close
14 to your magic number.

15 POTENTIAL JUROR #127: After this school year.
16 I'm giving up at this year. That's 37 years I've had
17 them. I'm ready to be done.

18 THE COURT: What do you want me to tell you?

19 POTENTIAL JUROR #127: Well, Gil's brother, 30
20 years ago I think it was. He was charged with grand
21 larceny, and kidnapping, and domestic violence.

22 THE COURT: Who was this?

23 POTENTIAL JUROR #127: Tony McKnight.

24 MRS. JOHNSON-LEE: His brother....

25 THE CLERK: Her husband's brother.

1 POTENTIAL JUROR #127: My husband's brother about
2 30 years ago.

3 THE COURT: All right.

4 POTENTIAL JUROR #127: And I think he did prison
5 time down in Charleston, Edgefield. Is that down in
6 Charleston

7 THE COURT: Ridgeland?

8 POTENTIAL JUROR #127: Ridgeland. That's it. He
9 was in there for almost a year.

10 THE COURT: Can you be fair and impartial to both
11 the State and defense ---

12 POTENTIAL JUROR #127: I can. But I figured I
13 better tell you that.

14 THE COURT: Thank you for that. Okay. Court
15 will come to order. Thank you, ladies and gentlemen.
16 All right. Is any member of the jury panel aware of
17 any bias or prejudice toward either the State or the
18 defendant in this case, if so, if you would please
19 stand?

20 (Whereupon, no one stands)

21 THE COURT: May the record reflect nobody stood.
22 Once again, is there any member of the jury panel
23 that is a member of the grand jury which issued the
24 indictment in this case? I believe earlier no one
25 stood when I asked if they'd been a member of the

1 grand jury in the last few years.

2 (Whereupon, no one stands)

3 THE COURT: All right. Nobody stood. May the
4 record reflect, be reflected as such. Is there any
5 member of the jury panel is a member of or
6 contributor to any group which has its primary
7 concern the promotion of law enforcement or victims
8 rights. These groups would include and certainly not
9 be limited to MADD, Mothers Against Drunk Driving;
10 SAD, Students Against Drunk Driving; or Citizens
11 Against Violent Crime. If so, if there's anyone if
12 you would please stand?

13 (Whereupon, no one stands)

14 THE COURT: May the record reflect nobody stood.
15 Does any member of the jury panel know of any reason
16 whatsoever why he or she should not serve as a juror
17 in this case with this particular emphasis is being
18 placed on your ability to be fair and impartial to
19 both the State and the defendant, if so, please
20 stand?

21 (Whereupon, no one stands)

22 THE COURT: May the record reflect nobody stood.
23 All right. Does either the State or the defense have
24 any additional questions they would like to be asked
25 at this time?

1 MRS. JOHNSON-LEE: None from the State.

2 MR. HOBBS: None from the defense, Your Honor.

3 THE COURT: All right. Can I get counsel to
4 approach quickly please?

5 (Whereupon, a bench conference was held off the
6 record)

7 THE COURT: All right. Ladies and gentlemen,
8 I've already qualified you that's the voir dire which
9 was necessary so that we can select a jury. At this
10 time I'mma turn matters over to our Clerk of Court,
11 Scott Suggs, and he will run these proceedings going
12 forward. Please listen carefully. He will -- if
13 you're -- if your name is called, Mr. Clerk, where do
14 you want them to stand?

15 THE CLERK: They just come forward and stand this
16 way facing back out there, judge.

17 THE COURT: When your name is called you will come
18 forward and you will stand facing the audience, okay.
19 And I'll say this right now if, for whatever reason
20 sometimes it's uncomfortable for people that if your
21 name is called and you're not selected, don't take it
22 personal. There are a hundred reasons why people may
23 not be selected, okay. All right. All right.
24 Clerk?

25 **Jury Selection**

1 THE CLERK: All right. Thank you, Your Honor. If
2 you would when your name is called, if you'll bring
3 whatever you brought with you today whether it's an
4 umbrella, boat, or pocketbook, come forward around
5 this way. Those from the side if you'll come around
6 on this side for me. Juror Number 47, Acylene
7 Dearing.

8 (Whereupon, a white female comes forward)

9 THE CLERK: If you'd come forward right here for
10 me, ma'am. Just stand and face that way for me. What
11 saith the State?

12 MRS. JOHNSON-LEE: Please present the juror.

13 THE CLERK: What saith the defense?

14 MR. HOBBS: Court's indulgence please. Please
15 excuse this juror from the trial of this case.

16 THE CLERK: You've been excused from this
17 particular case, Mr. Dearing. If you'll just have a
18 seat back out of the audience for me please, ma'am.
19 Juror Number 113, Katherine Liddle.

20 (Whereupon, a white female comes forward)

21 THE CLERK: What saith the State?

22 MRS. JOHNSON-LEE: Please present the juror.

23 THE CLERK: What saith the defense?

24 MR. HOBBS: Court's indulgence please. Please
25 seat this juror.

1 THE CLERK: Please have a seat in the jury box
2 over here for me, Ms. Liddle. Thank you. Juror
3 Number 98, Michael Johnson.

4 (Whereupon, a white male comes forward)

5 THE CLERK: What saith the State?

6 MRS. JOHNSON-LEE: Please present the juror.

7 THE CLERK: What saith the defense?

8 MR. HOBBS: Please excuse this juror from the
9 trial of this case.

10 THE CLERK: You're excused in this particular
11 case, Mr. Johnson. Just have a seat back out the
12 audience for me please, sir. Juror Number 70, Teresa
13 Godbold.

14 (Whereupon, a white female comes forward)

15 THE CLERK: What saith the State?

16 MRS. JOHNSON-LEE: Please present the juror.

17 THE CLERK: What saith the defense?

18 MR. HOBBS: Please seat this juror.

19 THE CLERK: Please have seat in the jury box for
20 me, Ms. Godbold. Juror Number 156, Matthew Quinn.

21 (Whereupon, a white male comes forward)

22 THE CLERK: What saith the State?

23 MRS. JOHNSON-LEE: Please excuse the juror for
24 this case.

25 THE CLERK: You've been excused from this case,

1 Mr. Quinn. If you'll have a seat back out in the
2 audience for me please, sir. Thank you. Juror
3 Number 74, Lisa Grantham.

4 (Whereupon, a white female comes forward)

5 THE CLERK: What saith the State?

6 MRS. JOHNSON-LEE: Please present the juror.

7 THE CLERK: What saith the defense?

8 MR. HOBBS: Please seat this juror.

9 THE CLERK: Please have a seat in the jury box for
10 me, Ms. Grantham. Juror Number 30, Demonta Bush.

11 (Whereupon, a black male comes forward)

12 THE CLERK: What saith the State?

13 MRS. JOHNSON-LEE: Please excuse the juror for
14 this case.

15 THE CLERK: You've been excused in this particular
16 case, Mr. Bush. If you'll have a seat back out the
17 audience for me please, sir. Juror Number 65, Julian
18 Gandy.

19 (Whereupon, a white male comes forward)

20 THE CLERK: What saith the State?

21 MRS. JOHNSON-LEE: Please present the juror.

22 THE CLERK: What saith the defense?

23 MR. HOBBS: Please seat this juror.

24 THE CLERK: Please have a seat in the jury box for
25 me, Mr. Gandy. Juror Number 51, Kevin Durant.

1 (Whereupon, a white male comes forward)

2 THE CLERK: What saith the State?

3 MRS. JOHNSON-LEE: Please present the juror.

4 THE CLERK: What saith the defense?

5 MR. HOBBS: Please seat this juror.

6 THE CLERK: Please have a seat in the jury box for
7 me, Mr. Durant. Juror Number 115, Emily Lloyd.

8 (Whereupon, a white female comes forward)

9 THE CLERK: What saith the State?

10 MRS. JOHNSON-LEE: Please present the juror.

11 THE CLERK: What saith the defense?

12 MR. HOBBS: Please excuse this juror from the
13 trial of this case.

14 THE CLERK: You've been excused from this
15 particular case, Ms. Lloyd. If you'll have a seat
16 back out the audience for me please. Juror Number
17 143, William O'Neal.

18 (Whereupon, a white male comes forward)

19 THE CLERK: What saith the State?

20 MRS. JOHNSON-LEE: Please excuse the juror for
21 purposes of this case.

22 THE CLERK: You've been excused in this particular
23 case, Mr. O'Neal. If you'll have a seat back out the
24 audience for me please, sir. Juror Number 201,
25 Christina Nettles.

1 (Whereupon, a white female comes forward)

2 THE CLERK: What saith the State?

3 MRS. JOHNSON-LEE: Please present the juror.

4 THE CLERK: What saith the defense?

5 MR. HOBBS: Please excuse this jury from the trial
6 of this case.

7 THE CLERK: You've been excused in this particular
8 case, Ms. Nettles. If you'll have a seat back out
9 the audience for me please, ma'am. Juror Number 110,
10 Monty Latham.

11 (Whereupon, a white male comes forward)

12 THE CLERK: What saith the State?

13 MRS. JOHNSON-LEE: Please present the juror.

14 THE CLERK: What saith the defense?

15 MR. HOBBS: Court's indulgence please. Please
16 seat this juror.

17 THE CLERK: Please have a seat in the jury box for
18 me, Ms. Latham. Juror Number 4, Latasha Askins.

19 (Whereupon, a black female comes forward)

20 THE CLERK: What saith the State?

21 MRS. JOHNSON-LEE: Please present the juror.

22 THE CLERK: What saith the defense?

23 MR. HOBBS: Court's -- please excuse this juror
24 from the trial of this case.

25 THE CLERK: You've been excused for this one case,

1 Ms. Askins. Thank you. Juror Number 119, Emily
2 Magnus.

3 (Whereupon, a white female comes forward)

4 THE CLERK: What saith the State?

5 MRS. JOHNSON-LEE: Please present the juror.

6 THE CLERK: What saith the defense?

7 MR. HOBBS: Please excuse the jury from the trial
8 of this case.

9 THE CLERK: You've been excused in this particular
10 case, Ms. Magnus. Thank you. Juror Number 168,
11 Benjamin Skinner.

12 (Whereupon, a white male comes forward)

13 THE CLERK: What saith the State?

14 MRS. JOHNSON-LEE: Please present the juror.

15 THE CLERK: What saith the defense?

16 MR. HOBBS: Please seat this juror.

17 THE CLERK: Please have a seat in the jury box for
18 me, Mr. Skinner. Juror Number 8, Sandra Batchelor.

19 (Whereupon, a white female comes forward)

20 MR. HOBBS: I apologize. Clerk, what was the
21 number?

22 THE CLERK: Juror Number 8.

23 MR. HOBBS: All right. Thank you.

24 THE CLERK: What saith the State?

25 MRS. JOHNSON-LEE: Please present the juror.

1 THE CLERK: What saith the defense?

2 MR. HOBBS: Please excuse this juror for the trial
3 of this case.

4 THE CLERK: You've been excused from this case,
5 Mr. Batchelor. Thank you. Juror Number 97, Maxwell
6 Johnson.

7 (Whereupon, a white male comes forward)

8 THE CLERK: What saith the State?

9 MRS. JOHNSON-LEE: Please seat the juror.

10 THE CLERK: What saith the defense?

11 MR. HOBBS: Please seat this juror.

12 THE CLERK: Please have a seat in the jury box for
13 me, Mr. Johnson. Juror Number 9, Charles Baucom.

14 (Whereupon, a white male comes forward)

15 THE CLERK: What saith the State?

16 MRS. JOHNSON-LEE: Please excuse this juror.

17 THE CLERK: You've been excused in this particular
18 case, Mr. Baucom. Thank you. Juror Number 78,
19 Margot Haire.

20 (Whereupon, a white female comes forward)

21 THE CLERK: What saith the State?

22 MRS. JOHNSON-LEE: Please present the juror.

23 THE CLERK: What saith the defense?

24 MR. HOBBS: Court's indulgence please. Please
25 seat this juror.

1 THE CLERK: Please have a seat in the jury box for
2 me, Ms. Haire. Juror Number 52, Tashikie Eaddy.

3 (Whereupon, a black female comes forward)

4 THE CLERK: What saith the State?

5 MRS. JOHNSON-LEE: Please present the juror.

6 THE CLERK: What saith the defense?

7 MR. HOBBS: Please seat this juror.

8 THE CLERK: Please have a seat in the jury box for
9 me, Ms. Eaddy. Juror Number 31, Alesha Bussey.

10 (Whereupon, a white female comes forward)

11 THE CLERK: What saith the State?

12 MRS. JOHNSON-LEE: Please present the juror.

13 THE CLERK: What saith the defense?

14 MR. HOBBS: Please strike this juror from the
15 trial of this case.

16 THE CLERK: You've been excused in this particular
17 case, Ms. Bussey. Thank you. Juror Number 153,
18 Jeremiah Price.

19 (Whereupon, a black male comes forward)

20 THE CLERK: What saith the State?

21 MRS. JOHNSON-LEE: Please present the juror.

22 THE CLERK: What saith the defense?

23 MR. HOBBS: Court's indulgence please. Please
24 seat this juror.

25 THE CLERK: Please have a seat in the jury box for

1 me, Mr. Price. Juror Number 200, Hennsyn Wilson.

2 (Whereupon, a black female comes forward)

3 THE CLERK: What saith the State?

4 MRS. JOHNSON-LEE: Please present the juror.

5 THE CLERK: What saith the defense?

6 MR. HOBBS: Please excuse this juror from the
7 trial of this case.

8 THE CLERK: You've been excused from this case,
9 Ms. Wilson. Thank you. Juror Number 61, Catherine
10 Fox.

11 (Whereupon, a white female comes forward)

12 THE CLERK: What saith the State?

13 MRS. JOHNSON-LEE: Please present the juror.

14 THE CLERK: What saith the defense?

15 MR. HOBBS: Court's indulgence please. Please
16 seat this juror.

17 THE CLERK: Please have a seat in the jury box for
18 me, Ms. Fox.

19 THE CLERK: Two alternates. It will be one and two
20 per alternate. Juror Number 91, Gloria Johnson.

21 (Whereupon, a black female comes forward)

22 THE CLERK: What saith the State?

23 MRS. JOHNSON-LEE: Please seat the juror.

24 THE CLERK: What saith the defense?

25 MR. HOBBS: Please excuse this alternate.

1 THE CLERK: You've been excused in this
2 particular, Ms. Jackson. Thank you. Juror Number
3 149, Tony Patterson.

4 (Whereupon, a black male comes forward)

5 THE CLERK: What saith the State?

6 MRS. JOHNSON-LEE: Please present the juror.

7 THE CLERK: What saith the defense?

8 MR. HOBBS: Please seat this alternate.

9 THE CLERK: Please have a seat in the first chair
10 outside of the jury box for me, Mr. Patterson. Juror
11 Number 96, Francena Johnson.

12 (Whereupon, a black female comes forward)

13 THE CLERK: What saith the State?

14 MRS. JOHNSON-LEE: Please present the juror.

15 THE CLERK: What saith the defense?

16 MR. HOBBS: Court's indulgence. Please seat this
17 alternate.

18 THE CLERK: Please have a seat in the second chair
19 outside of the jury box for me, Mr. Johnson (sic).

20 THE COURT: All right. Clerk, we have -- all
21 right. Madam Solicitor, any objections you need note
22 for the record or....

23 MRS. JOHNSON-LEE: No, Your Honor.

24 THE COURT: No objections as to the numbers of
25 strikes?

1 MR. HOBBS: None from the defense, Your Honor.

2 THE COURT: All right. Okay. All right. Ladies
3 and gentlemen of the jury, I'mma ask that you -- the
4 bailiff is going to show you to the jury room. You
5 will only be out there for a few moments. I need to
6 address the jury panel. So at this time I'm going --
7 I'll have some more instructions for you, but if
8 you'll follow the bailiff and will bring you right
9 back out, okay.

10 (Whereupon, the selected jury exits courtroom at
11 11:54 a.m.)

12 THE COURT: Madam Solicitor, anything else before
13 I ---

14 MRS. JOHNSON-LEE: No, Your Honor.

15 THE COURT: Mr. Hobbs?

16 MR. HOBBS: None from the defense, Your Honor.

17 THE COURT: Okay. All right. Ladies and
18 gentlemen, thank you for your patience this morning.
19 I know that you are all disappointed, deeply
20 disappointed your name was not called or if it was
21 called you were not selected. That -- that will --
22 this does provide that if you are called for jury
23 duty to serve, you have served your jury service here
24 this week and I appreciate you being here. Clerk, do
25 we have anything further before a excuse ---

1 THE CLERK: No, sir. Other than I appreciate your
2 service. If there's anything I can ever do for you
3 please give us a call. I'll be glad to try to help
4 you.

5 THE COURT: All right. Before you leave the only
6 juror who must stay, Juror Matthew Quinn, if you'll
7 come forward. Everybody else is free to go at this
8 time.

9 (Whereupon, the jury panel exits the courtroom at
10 11:56 a.m.)

11 THE COURT: Mary Thomas?

12 MRS. JOHNSON-LEE: Yes, sir.

13 THE COURT: When do you want them in the morning,
14 9:30?

15 MRS. JOHNSON-LEE: 9:30 is fine.

16 THE COURT: 9:30 is fine. Kyle?

17 MRS. JOHNSON-LEE: Kyle?

18 THE COURT: 9:30 is fine?

19 MR. HOBBS: Yes, sir. 9:30 is fine. And are we
20 gonna have any audience report any time today at all
21 or....no?

22 MRS. JOHNSON-LEE: There is audience court this
23 afternoon.

24 MR. HOBBS: So there's gonna be court this
25 afternoon.

1 MRS. JOHNSON-LEE: Yes. Yes. There's court.

2 THE COURT: We'll do -- we'll do whatever we gotta
3 do.

4 MR. HOBBS: Yes, sir. Okay. Then 9:30 tomorrow
5 morning sounds great.

6 (Whereupon, the selected jury enters at 12:02 p.m.)

7 THE COURT: All right. Court will come to order.
8 All right. Ladies and gentlemen of the jury, thank
9 you for your patience. What we did was we allowed
10 everybody to leave the building. If we let you go and
11 then we have two elevators they don't always work at
12 the same time so it just makes things very, very
13 difficult and we have to kind of segregate you a
14 little bit from, from the audience because we need
15 you to be impartial and we don't need anything to
16 take your, your thoughts at this time. So what we're
17 gonna do is I'm going to send you home for the rest
18 of the afternoon. What we will -- we will start at
19 9:30 in the morning. So from my experience if you
20 get here by nine, you get up to the elevator,
21 they'll, they'll escort you to the jury room. You
22 typically have some refreshments in there. We will
23 not leave you back there needlessly. If there's
24 anything going on, we'll get you in here as soon as
25 possible. Our plan is to start at 9:30 in the

1 morning and with you sitting in the jury, jury box.
2 Now, in the event that things were to change between
3 now and then I'mma ask that you call in after 6
4 o'clock. There are numbers that have been provided
5 to you. And so in the event that we don't need you
6 here at 9:30 that's what you'll, um, that's the
7 information that you will receive when you call in.

8 THE CLERK: Does everybody still have the slip of
9 paper with the telephone numbers? Again, if you
10 don't have them let the bailiff know or you just go
11 to the Darlington County website click on the clerk
12 of court and then you see on, scroll down and it will
13 say jury information line. Just call either of those
14 two numbers after six tonight. Just those two. Not
15 the general number, but those two.

16 THE COURT: And finally before you go, I'm going
17 to swear you in the morning. So I'll place you under
18 oath to serve as jurors in the trial of this case.
19 You're not allowed to talk about the case. You're not
20 allowed to do your own research. So if you go home
21 and start putting words into search engine, you're
22 not allowed to do that. I don't want you talking
23 among yourselves. Family is going to say well, how
24 was court today? Well, I was called as a juror.
25 It's a trial. The judge don't want me talking about

1 it. I've had family members see on TV something whom
2 they call the juror. The juror comes in and says,
3 judge, my family notice that this case was called and
4 that I'm a juror. So just don't talk about it with
5 anybody. Come here fair and impartial and listen to
6 the case. That's all we ask you to do. Does anybody
7 have any questions about anything regard to your
8 services as jurors?

9 (Whereupon, no one answers)

10 THE COURT: Okay. All right. Once again, thank
11 you so much for being willing to serve. We are very
12 grateful. Our process would not work without you.
13 And if there's nothing further, I'mma ask the bailiff
14 to escort you out. We'll see you here in the
15 morning.

16 (Whereupon, the jury exits the courtroom at 12:05
17 p.m.)

18 THE COURT: All right. All right. Court will
19 come to order. Anything further, Madam Solicitor,
20 before we break for lunch?

21 MRS. JOHNSON-LEE: No, Your Honor.

22 THE COURT: Mr. Hobbs?

23 MR. HOBBS: Nothing from the defense, Your Honor.

24 THE COURT: All right. So my understanding is, is
25 that we'll break for lunch. We'll come back say,

1 1:30 and what time -- do y'all -- I think y'all have
2 a docket that's coming in this afternoon.

3 MRS. JOHNSON-LEE: That's correct, Your Honor.
4 There's a docket beginning at 1:30.

5 THE COURT: Okay. So 1:30 is a good time?

6 MRS. JOHNSON-LEE: Yes, sir.

7 THE COURT: All right. And -- all right. We'll
8 see you then.

9 (Whereupon, the Court breaks for lunch at 12:08 p.m.)

10 (Whereupon, the Court goes back on the record at 2:00
11 p.m.)

12 THE CLERK: Kyle?

13 MR. HOBBS: Yes, ma'am. It's gonna be a plea. We
14 do have to do a short hearing at the judge's
15 direction. We might need to take testimony unless
16 the Court will allow us to -- judge, would it be more
17 appropriate to hear from testimony about the statute
18 from down here or up on the witness stand?

19 THE COURT: All right. I'm sorry. Court will
20 come to order. Mr. Hobbs?

21 MR. HOBBS: Yes, sir.

22 THE COURT: This is the matter we discussed in
23 chambers?

24 MR. HOBBS: It is.

25 THE COURT: This is the gentlemen who is up for

1 trial?

2 MR. HOBBS: Yes, sir.

3 THE COURT: I understand that we were gonna have a
4 hearing per the statute and your question was whether
5 the witness would testify appear on the witness
6 stand?

7 MR. HOBBS: Yes, sir. My apologies for ---

8 THE COURT: No. No.

9 MR. HOBBS: --- interrupting the Court's
10 business. But, yes, sir, I am -- can I lay the
11 foundation for this on what we're ---

12 THE COURT: Yes, sir.

13 MR. HOBBS: -- what we're gonna proceed on first?

14 THE COURT: Yes, sir.

15 MR. HOBBS: Okay. Your Honor, we are going to
16 move forward with the plea for Mr. Samuel McNeil. He
17 was notice for trial and we actually selected the
18 jury for this trial here this morning as the Court is
19 aware. Set to begin the trial tomorrow morning and
20 we have come to a plea agreement with the State.
21 Your Honor, because of the circumstances of this plea
22 and of the mental health and mental illness alleged
23 by Mr. McNeil, we're going to be proceeding under
24 South Carolina Code 17-24-20 which establishes our
25 provisions for guilty but mentally ill. Subsection

1 (d) of that statute provides that a Court may not
2 accept a plea of guilt but mentally ill, unless after
3 hearing, the Court makes a finding upon the record
4 that the defendant prove by a preponderance of the
5 evidence that when he committed the crime he was
6 mentally ill as provided by Subsection (a). Your
7 Honor, that being the case we would want to solicit
8 some testimony from his mother, Lois McNeil and she
9 is here and I would like to put her under oath. It's
10 appropriate. She could either take the witness stand
11 or I could examine her briefly from down here in the,
12 the audience area.

13 THE COURT: All right. Mr. Hobbs, if she can
14 stand right here in front of this one over here
15 closer to the court reporter. THE CLERK: If
16 you'll raise your right. You swear the testimony you
17 give this Court will be the truth, the whole truth,
18 and nothing but the truth so help you God?

19 MS. McNeil: Yes.

20 LOIS McNEIL, first being
21 duly sworn, testified as follows:

22 **Direct Examination by Mr. Hobbs:**

23 Q. Ma'am, would you state your full name for the
24 record?

25 A. Lois Elaine McNeil.

1 Q. All right. And ma'am, what is your relationship
2 to the defendant, Mr. Samuel McNeil?

3 A. This my first born.

4 Q. This is your son, is that right?

5 A. Yes, my son.

6 Q. Very good. Thank you so much for being here
7 today. Now, we're trying to help the Court
8 understand some of the mental illnesses and
9 difficulties that your son is having. Were there
10 circumstances when he was a child that led to him
11 having some trauma and some difficulties early on?

12 A. Yes.

13 Q. Can you tell the Court a little bit about that?

14 A. When -- when he be coming up his father use to
15 beat him. Well, sometimes for what his baby brother
16 do and - cause my husband use to say he is the oldest
17 and he should get punished for what his sibling had
18 done. I didn't agree with that. The second thing
19 was when it stopped, after that he left the house one
20 day and he slipped back in and when he slipped back
21 in his daddy drew a gun on him. Had the gun drawn
22 on him. And I defend him with that. But when he
23 start going into his mental state was when he was in
24 school at Mayo High School his best friend died in
25 his arms. Somebody stabbed him. And Sammy stopped

1 talking to me and started -- he stopped communicating
2 with me. We used to talk all the time. And I give
3 him I say it doesn't matter what you say y'all come
4 and talk to me. When the police brought him home and
5 I saw the blood on him I thought he been hurt, but
6 the police told me say that he hold the boy in his
7 home and the boy died in his arms. Find out that his
8 best friend in school.

9 Q. Yes, ma'am. And so he had -- he had these
10 difficulties. He's had these traumas as a child.

11 A. Mmm, hmm.

12 Q. Was there something that happened about 20 years
13 or so where things seem to get even worse than what
14 they were with, with Samuel?

15 A. Yes. It got worse with him when, I don't know
16 how to say it, his baby mama, or wife, his wife
17 somebody kill her. The young man that killed her he
18 serving time now and that traumatized him. It seems
19 like when she died he died with her.

20 Q. What sort of ---

21 A. He wasn't -- he wasn't the same no more. He
22 never been the same again. He always kept everything
23 ball up into him. He never talked no more. He kept
24 it all balled into him. And one day after they left
25 - 'cause they wouldn't give him his children. He be

1 wanting his children to raise his children, DSS
2 wouldn't give it to him. That more drama on to him.
3 That more pressure on to him. And he got another
4 girlfriend. The one he serving time for now. She
5 traumatize -- she came out ---

6 Q. Ms. McNeil, we're not -- let's not ---

7 A. Yes. Yes.

8 Q. --- get, get into victims and feelings about
9 victims, okay?

10 A. Okay.

11 Q. Um, throughout his life and throughout the
12 relationship you have as his mother, were there times
13 when you helped get him treatment for his mental
14 health issues?

15 A. Yes.

16 Q. Can you tell the Court about that?

17 A. Yes. We went -- I took him to Pee Dee Mental
18 Health in Harts -- he went to the one in Hartsville
19 and he went to one in Florence. He'd been going to
20 see them psychiatrist ever since all that trauma was
21 going on. He'd been seeing them psychiatrists once a
22 week, sometimes twice a week.

23 Q. Okay. And there were particular instances that
24 you told me about where it seems like his eyes would
25 look different ---

1 A. Yeah.

2 Q. --- where there would be an absence of what we
3 normally know of Samuel McNeil in those situations --
4 -

5 A. Yes.

6 Q. Can you tell the Court what he did in those
7 situations and what you visually would see ---

8 A. Well, when I saw him his pupil got big and dark.
9 The white of his eyes turned pink. And the feature
10 of his face it, it didn't look like my son. And then
11 when he stopped talking it didn't talk like my son.
12 He -- he told us, told me many a time that he hear
13 voices. And whatever them voices say to him it's
14 that pressure, pressure, pressure, and then it comes
15 out. When his -- when you see his pupils get big and
16 dark and the white of his eyes he becoming a
17 different person.

18 Q. Yes, ma'am.

19 A. He never the same person at all when, when that
20 happened to him.

21 Q. And you have seen this happen on a few different
22 occasions, is that right?

23 A. Three different occasions I done seen it.

24 Q. Okay. We're gonna get into that in a second.
25 Would he also at times, when this would happen,

1 freeze up for a moment and stop moving? Could you
2 tell ---

3 A. Yeah.

4 Q. --- tell the Court what that would look like?

5 A. When he gets like that he'll stand like this here
6 and just stare and don't say a word. He just stand
7 and stare. Just like this here. He won't move at
8 all. Just stare. And ain't nobody can't him.
9 Nobody can't say nothing. So what I done I start
10 calling his name. Well, his name is Sammy but we
11 call him Pop. And I keep going him, Pop! Pop! And
12 you have to keep on calling him, keep on calling him
13 and then you'll see him, he coming back to his self.
14 You can see it coming up on him. His reaction. And
15 then he'll calm down. Some of the time when he get
16 like that and don't say nothing I just leave him
17 alone. But I keep an eye on him. He don't move. He
18 don't move until if somebody touch him or until he
19 comes out of it then he'll move.

20 Q. And when he's touched and he's in one of those
21 states he would then act out violently?

22 A. Act -- act out violently. He will.

23 Q. Okay. Now, did you see any behavior like that -
24 we had a trial set - when we go back, way back to
25 2018, March 4, 2018 I believe is the date?

1 A. Yes.

2 Q. When -- when this incident happened with Andre
3 and with Angie can you tell the Court if you saw any
4 of that freezing, if you saw any of that clinching --
5 -

6 A. Yes.

7 Q. --- and what happened that day that makes you
8 think that this was one of those, those mental
9 illness episodes?

10 A. All of us was at, me and my daughter got burned
11 out of her house. All of us were at Andrew house.
12 And at that time Andy had put him out and all of us
13 been staying there. And that Sunday, on that Sunday
14 I got him off from work 'cause I was getting ready to
15 move that next day. Sammy and Andrew supposed to
16 help me move 'cause we found a house for us to stay
17 in and they supposed to help me move. Andy came to
18 the house. And Sammy talked to us, talked to me, he
19 say I think she's gonna take me back. Back there.
20 But when -- when I came outside, Angie was on her
21 knees and Sammy been just like this here. Standing.
22 Staring. That be one of his moves. He be there
23 standing and staring. He ain't saying a word. He
24 just standing and staring. His arm -- his fist is
25 clutched and his arms stretched out like that. So he

1 -- he was in one of those moods. If I could have saw
2 him direct in the face I would have really saw it.
3 But he wasn't moving. He wasn't saying a word. He
4 been just standing there and staring at her for no --
5 for nothing. So I start calling him I say Pop! Pop!
6 And I started talking to him and that when he
7 starting talking.

8 Q. And what did he say?

9 A. He say, she hurt me! She hurt me! He keep
10 repeating, she hurt me! He ain't say no other word
11 but, she hurt me!

12 Q. Okay. And is it your understanding that it was
13 when his brother Andrew or Andre touched him that
14 that's when the assault started happening?

15 A. That's when -- that's when the assault came. He
16 came -- Andrew came and put his hand on his shoulder
17 and that way he react. He always told us, don't
18 touch him.

19 Q. Okay.

20 A. We know not to touch him when he gets in that
21 stage when his -- when that, I call it "demon get
22 into him".

23 Q. Yes, ma'am.

24 A. 'Cause I don't know what it gonna do.

25 Q. And there have been medical diagnoses that he's

1 received. Do you remember any of those medical
2 diagnosis?

3 A. Yes. Well, we went to Pee Dee Mental Health and
4 that when they say that, yes, he - what the name of
5 it? How they call it? Um, it hard to pronounce the
6 name of it. It's called, ah, not schizophrenia, but,
7 um, bipolar.

8 Q. Bipolar and PTSD?

9 A. And PTSD. He was diagnosed of having that. They
10 gave him -- Pee Dee Mental Health gave him medication
11 for it.

12 Q. Okay.

13 A. 'Cause I went and pick it up a few times for him.

14 Q. And that's hard to remember. That was -- that
15 was near the time when this incident occurred, is
16 that right?

17 A. Yes, it was.

18 MR. HOBBS: Your Honor, at this time I would
19 yield to any questions that the solicitor might have
20 for Ms. McNeil ---

21 THE COURT: All right.

22 MR. HOBBS: --- as to the mental illness of the
23 defendant.

24 MRS. JOHNSON-LEE: I don't have any questions,
25 Your Honor.

1 THE COURT: All right. Thank you. All right.

2 Ms. McNeil, you can return to your seat. Thank you.

3 MS. McNEIL: You welcome.

4 THE COURT: Anything further, Mr. Hobbs?

5 MR. HOBBS: Your Honor, I would ask the Court at
6 this point in accordance with South Carolina Code 17-
7 24-20 Subsection (d) that the Court make a finding by
8 the preponderance of the evidence and if the State
9 doesn't have any contrary evidence to present, that
10 they, that you're in a position to accept a plea of
11 guilt and that he has satisfied the threshold of the
12 determination set forth in 17-24 that at the time of
13 the commission of the act he had the capacity to
14 distinguish from right or wrong or to recognize that
15 his act as being wrong, but because of his mental
16 disease or defect he lacks sufficient capacity to
17 conform his conduct to the requirements of law. If
18 the Court could make that finding by the
19 preponderance of the evidence, we could then move
20 into the phase of his guilty plea which would be
21 guilty but mentally ill.

22 THE COURT: Okay. You having submitted further
23 testimony into evidence, the Court is prepared to
24 make such finding based on preponderance of the
25 evidence and we can move forward ---

1 MR. HOBBS: Thank you, Your Honor.

2 THE COURT: --- with this plea at this time.

3 MR. HOBBS: I'll let the State prepare the plea.
4 I little bit reverse from what I normally have. If
5 we could have his family come over here. Lois, I
6 think we've heard from you. But if y'all want to
7 just stand by -- Andre, are you okay with him,
8 standing behind him as well.

9 THE COURT: All right. Court will come to order.
10 The Court just dispense with the hearing and made
11 such findings so that we can go forward with this
12 plea as structured. And at this time I'll call,
13 Madam Solicitor?

14 MRS. JOHNSON-LEE: Yes, Your Honor. May it
15 please, the Court? Judge, this is the State vs.
16 Samuel Lee McNeil, docket 2018-GS-16-1135, indictment
17 for attempted murder. True billed July 12, 2018.
18 This is for the attempted murder of Angela Chandler
19 who is seated to my right. The defendant is pleading
20 guilty without recommendations or negotiation. In
21 other words, straight up and also pursuant to North
22 Carolina v. Alford. In addition, he is pleading
23 guilty to attempted murder on 2018-GS-16-1134. True
24 billed July 12, 2018. That is for the attempted
25 murder of Andrew McNeil. Again, he's pleading guilty

1 pursuant to North Carolina vs. Aflord without
2 negotiations or recommendations.

3 MR. HOBBS: And, judge, I know it's a, it's a
4 term of art but it's something Mr. McNeil queued off
5 on guilty, but mentally ill.

6 MRS. JOHNSON-LEE: I'm sorry.

7 MR. HOBBS: It's okay.

8 MRS. JOHNSON-LEE: You're exactly right. He is
9 pleading guilty but mentally ill on both those
10 attempted murder indictments. There was a LWOP
11 notice filed by the State. He is pleading straight
12 up and I've explained to the victim that sentencing
13 is in whatever Your Honor determine is appropriate
14 after hearing in full from everyone.

15 THE COURT: Okay. All right. Mr. Hobbs, you're
16 going to assist me through this process?

17 MR. HOBBS: Yes, Your Honor.

18 THE COURT: I understand that Mr. Sammy McNeil was
19 present in the courtroom, was present throughout the
20 morning, assisted you with selecting a jury ---

21 MR. HOBBS: Yes.

22 THE COURT: --- and he's now prepared to enter a
23 plea on the two attempted murder charges. That he
24 wish -- that he understands this would be a straight
25 plea under Alford. He'd be pleading -- the Court

1 will treat it as guilty but mentally ill.

2 MR. HOBBS: That's right.

3 THE COURT: So as I understand it he's not saying,
4 he's not admitting but he's not contesting ---

5 MR. HOBBS: That's correct, Your Honor.

6 THE COURT: --- the two charges. So if at any
7 point I question him and it makes you uncomfortable
8 interrupt the Court without reservation.

9 MR. HOBBS: Yes, sir.

10 THE COURT: The same for the State. So I've
11 witnessed it but you've had a chance to talk with
12 your client and discussed these matters with him?

13 MR. HOBBS: Yes, sir.

14 THE COURT: And you believe he's understood your
15 conversations to this point?

16 MR. HOBBS: I do, Your Honor.

17 THE COURT: In your opinion this is a global
18 resolution of a number of charges that even exceed
19 beyond what he was prepared to be tried for today
20 that would be resolved under this plea?

21 MR. HOBBS: Yes, Your Honor.

22 THE COURT: And under all those circumstances you
23 believe this is in his best interest?

24 MR. HOBBS: I do, Your Honor.

25 THE COURT: All right. Madam Clerk, have you

1 have you sworn the witness? Mr. McNeil, this nice
2 lady is gonna place you under oath. When she does so
3 I'mma have some questions for you, okay.

4 MR. McNEIL: Yes, Your Honor.

5 THE COURT: I don't want you to get confused or
6 alarmed or worried about anything. You have Mr.
7 Hobbs who is right there. He will interpret, explain
8 anything that I might say that could confuse you,
9 okay?

10 MR. McNEIL: Yes, Your Honor.

11 THE COURT: Madam Clerk?

12 THE CLERK: Raise your right hand. You swear the
13 testimony you give this Court will be the truth, the
14 whole truth, and nothing but the truth so help you
15 God?

16 MR. McNEIL: Yes, ma'am.

17 THE COURT: Okay. And for everybody's benefit,
18 what I'm gonna do is I'm on question the defendant.
19 There are some standard questions that I'mma go
20 through before I can accept a plea that's been
21 structured here which is under Alford and it's also
22 guilty but mentally ill. When I'm finished with that
23 Madam Solicitor is going to tell the Court more about
24 the case, the facts for the Court. And then
25 everybody will have an opportunity to be heard

1 whether you are here in support of the defendant, or
2 whether you're here as a victim in support of a
3 victim, or if you have some, you're a family member
4 and you feel that there's something that would help
5 the Court in making a decision. I say that so that
6 you're not confused and everybody understands what
7 we're gonna do. Okay. So Mr. McNeil?

8 MR. McNEIL: Yes, Your Honor.

9 THE COURT: All right. We've had a brief
10 introduction but, I'm obviously, Judge Holt. We were
11 prepared to start your trial in the morning and you
12 understood that?

13 MR. McNEIL: Yes, Your Honor.

14 THE COURT: I'm told now through your diligent
15 work of your lawyer and you and the solicitor and
16 communication with the victims that y'all resolved
17 this, is that correct?

18 MR. McNEIL: Yes, Your Honor.

19 THE COURT: And I'm told that this is a straight
20 up plea. And there's a difference. There's a
21 recommendation which is where the State recommends a
22 sentence. There's a negotiation where the State and
23 the defense negotiate a sentence. And there's a
24 straight up plea where there are, there's no
25 recommendation. I hear from the State, they tell me

1 what they want. I hear from the defense and they
2 tell me what they want. And then I make a decision.
3 Is that how you understand this?

4 MR. McNEIL: Some. Yes, sir.

5 THE COURT: Okay. You're pleading under what is
6 known as an Alford plea. And Mr. McNeil that is
7 where you are, you're not admitting, hey, I did these
8 things but you're not contesting it. You're not
9 challenging it. Is that your understanding of an
10 Alford plea?

11 MR. McNEIL: Yes, Your Honor.

12 THE COURT: And that's how you wish to proceed
13 today, is that correct?

14 MR. McNEIL: Yes, Your Honor.

15 THE COURT: And you've talked to Mr. Hobbs about
16 this?

17 MR. McNEIL: Yes, Your Honor.

18 THE COURT: Now, you understand that even though
19 you say I didn't admit it, I'm not contesting it, you
20 understand I still treated as a guilty plea but
21 mentally ill, you understand that?

22 MR. McNEIL: Yes, Your Honor.

23 THE COURT: All right. You're entering into this
24 plea freely and voluntarily, is that right?

25 MR. McNEIL: Yes, Your Honor.

1 THE COURT: Nobody threatened you, to hurt you,
2 or anything like that to get you to plea?

3 MR. McNEIL: No, Your Honor.

4 THE COURT: No one has promised you money or
5 anything like that to get you to plea?

6 MR. McNEIL: No, Your Honor.

7 THE COURT: You have an excellent lawyer Mr.
8 Hobbs. Mr. Hobbs has served this circuit for a
9 number of years representing mostly criminal
10 defendants. You might be his last case. And the
11 Court will certainly miss having him as a part of our
12 bar. And the Court holds him in high regard as a
13 lawyer as does the Court hold the solicitor in high
14 regard as a lawyer and prosecutor. But you've had a
15 chance to talk to your lawyer about all of these
16 things that we discussed today, is that right?

17 MR. McNEIL: Yes, Your Honor.

18 THE COURT: He has answered your questions that
19 you've asked him?

20 MR. McNEIL: Yes, Your Honor.

21 THE COURT: He's answered your questions?

22 MR. McNEIL: Yes.

23 THE COURT: He's done what you've asked him to do
24 within the bounds of the law?

25 MR. McNEIL: Yes, Your Honor.

1 THE COURT: And you're satisfied with his help to
2 this point, is that correct?

3 MR. McNEIL: Yes, Your Honor.

4 THE COURT: Do you need to talk to him about
5 anything else related to this plea today?

6 MR. McNEIL: No, Your Honor.

7 THE COURT: You understand the State collects
8 evidence that they want to present in a trial?

9 MR. McNEIL: Yes, Your Honor.

10 THE COURT: And then they give that to you and
11 your lawyer and you've had a chance to talk to your
12 lawyer about what the discovery or the State's
13 evidence, you've had a chance to talk about that with
14 your lawyer?

15 MR. McNEIL: Yes, Your Honor.

16 THE COURT: You understand you have a right to a
17 trial?

18 MR. McNEIL: Yes, Your Honor.

19 THE COURT: We're prepared to start your trial in
20 the morning.

21 MR. McNEIL: Yes, Your Honor.

22 THE COURT: You understand that if this plea
23 falls apart, if the Court doesn't accept your plea,
24 I'll send you back to the county jail, they bring you
25 back in the morning, and we start your trial at 9:30

1 in the morning. You understand all that?

2 MR. McNEIL: Yes, Your Honor.

3 THE COURT: You participate in the selection of
4 the jury this morning, is that correct?

5 MR. McNEIL: Yes, Your Honor.

6 THE COURT: And you understand that when you
7 plead guilty you're waiving your right to a trial,
8 you understand that?

9 MR. McNEIL: Yes, Your Honor.

10 THE COURT: And if you tried your case, your
11 lawyer, you through your lawyer could challenge any
12 evidence brought before the Court and you could
13 confront through your lawyer any witnesses called to
14 testify before the Court called by the State, you
15 understand that?

16 MR. McNEIL: Yes, Your Honor.

17 THE COURT: You also have a right to present your
18 own evidence. I don't think there are any witnesses
19 that were noted this morning. But you have the right
20 to call witnesses if you wanted to. You understand
21 those things?

22 MR. McNEIL: Yes, Your Honor

23 THE COURT: You also have the right to testify
24 if you want to. But if Sammy Lee don't want to
25 testify, then Sammy Lee doesn't have to testify. You

1 understand that?

2 MR. McNEIL: Yes, Your Honor.

3 THE COURT: That is your decision?

4 MR. McNEIL: Yes, Your Honor.

5 THE COURT: And you understand that could not be
6 held against you. You understand that?

7 MR. McNEIL: Yes, Your Honor.

8 THE COURT: But you understand all these rights
9 and you understand that when you plead guilty you
10 waive all these rights. You understand that?

11 MR. McNEIL: Yes, Your Honor.

12 THE COURT: I Understand that you do suffer from a
13 mental illness. You've understood my conversation
14 with you today?

15 MR. McNEIL: Yes, Your Honor.

16 THE COURT: You're not under the influence of any
17 medication or substance that would cause you to be
18 confused or you?

19 MR. McNEIL: No. No, sir.

20 THE COURT: And you understand what you're doing?

21 MR. McNEIL: Yes, sir.

22 THE COURT: This is a hard question, but you
23 understand that there are a number of matters
24 pending. There were six indictments before the
25 Court, two of which you're before the Court on right

1 now. And I believe there's some other pending
2 charges that were not to be tried today. I
3 understand those, all those other matters will be nol
4 prossed, dismissed and that we'll only go forward on
5 these two charges, these two attempted murder
6 charges. Is that your understanding?

7 MR. McNEIL: Yes, Your Honor.

8 THE COURT: And you believe under the
9 circumstances that's in your best interest, is that
10 right?

11 MR. McNEIL: Yes, Your Honor.

12 THE COURT: Mr. Hobbs, anything you want me to
13 touch on before I hear from the solicitor?

14 MR. HOBBS: No, Your Honor. You've covered
15 everything.

16 THE COURT: Okay. All right. Sammy, I'mma hear
17 from the solicitor. She's gonna tell me more about
18 this case, okay?

19 MR. McNEIL: Yes, Your Honor.

20 THE COURT: All right. Madam Solicitor?

21 MRS. JOHNSON-LEE: Judge, this occurred on March
22 4, 2018 here in Darlington County at the residence of
23 Mr. Andrew McNeil, brother of defendant. Andrew is
24 often referred to as Andre. That is his nickname.
25 Present in that residence was his mother. Lois

1 McNeil, whom you heard from. His sister, Sammy Jean
2 McNeil, who was known as Jean. And Angela Chandler
3 who is seated right here. Ms. Chandler had brought a
4 rental vehicle. She and the defendant had had an off
5 and on relationship. But there was a rental vehicle
6 that needed to be cleaned out. She carried it over
7 there. The defendant cleaned out that rental
8 vehicle. It was made known to him that there is no
9 further relationship of a romantic nature between
10 them and that's when he sort of flipped out. She was
11 shoved to the ground. She advises that Mr. Andrew
12 McNeil came and was there to sort of assist and when
13 he apparently touched the defendant, the defendant
14 started with two knives, just going and going and
15 going. And the brother, Andre, was actually gutted.
16 Initially his guts were in his hand. He falls to the
17 ground. His guts are on the ground. They were able
18 to save his life. He was taken to McLeod Hospital in
19 Florence to the Trauma Unit. They saved his life.
20 As Angela Chandler was cut multiple times about her
21 face and her head and she still has scarring from
22 this. Her thumb was, the tip of her thumb was almost
23 cut off. Most importantly one of the blades was
24 rammed down into her skull and with such force that
25 the tip of the blade broke off. She had to have

1 surgery. The neurosurgeon had to cut out a circular
2 portion of her skull in order to remove the blade
3 tip. And then her skull was reattached with plates
4 and nuts and bolts. I have photographs from the
5 hospital when she initially went. She initially went
6 to McLeod Regional. All they did was they didn't x-
7 ray her, they basically stitched up all the cuts and
8 the wounds and I have some photographs just of some
9 of those wounds to hand up and sent her home. She
10 was still having severe headaches. So she went the
11 very next day to Urgent Care. They said no you go to
12 the hospital. She went to Carolina's Hospital which
13 is now MUSC Florence and when they x-rayed her that's
14 when they found there was actually a tip of a blade
15 in her skull. And I have some photographs actually
16 taken during the surgery. The surgical nurse, Neva
17 Lawson, was actually subpoenaed to testify tomorrow
18 had this gone to trial. But these were taken by
19 medical personnel in the operating room showing the
20 piece of the skull with the blade in and also the
21 blade tip and the blade tip is in evidence now, Your
22 Honor.

23 THE COURT: All right. Anything further, Madam
24 Solicitor?

25 MRS. JOHNSON-LEE: No, Your Honor. Just that you

1 hear from Ms. Chandler at the appropriate time, Your
2 Honor. She does need to address the Court.

3 THE COURT: Okay. All right. Mr. Hobbs, I've
4 heard the facts. He's not contesting the facts.
5 He's not admitting them but he's not contesting.

6 MR. HOBBS: That's correct, Your Honor.

7 THE COURT: All right. Just so for purposes of
8 these pleas I'mma ask him that question once again so
9 that I can accept the guilty plea.

10 MR. HOBBS: Yes, Your Honor.

11 THE COURT: So Mr. McNeil ---

12 MR. McNEIL: Yes, Your Honor.

13 THE COURT: --- you heard the facts as stated by
14 the Court?

15 MR. McNEIL: Yes, Your Honor.

16 THE COURT: Throughout this process you've taken
17 the position that you're not admitting to the facts,
18 but you're not contesting the facts, is that, is that
19 correct?

20 MR. McNEIL: Yes, Your Honor.

21 THE COURT: Okay. All right. At this time, I'm
22 prepared to accept his plea. And -- and I'll provide
23 further description Mr. Hobbs. But I'll hear from
24 the victims at this time. Can this be moved?

25 THE CLERK: No.

1 MRS. JOHNSON-LEE: No.

2 MS. CHANDLER: I can talk loud.

3 THE COURT: Yeah. I can hear. I'm confident,
4 Madam Clerk, can you see her?

5 COURT REPORTER: I can see her.

6 THE COURT: Okay. Ma'am, Ms. Chandler?

7 MS. CHANDLER: Yes.

8 THE COURT: Ms. Chandler, you do have a good voice
9 and I can hear you. This nice lady, she's a court
10 reporter and she's keeping a record so you might see
11 her straining to see you because she's going to be
12 taking down what'd you say.

13 MS. CHANDLER: Okay.

14 THE COURT: So tell me your name please for the
15 record?

16 MS. CHANDLER: Angela Chandler.

17 THE COURT: Ms. Chandler, what would you like to
18 tell the Court?

19 MS. CHANDLER: My name is Angela Chandler. I am a
20 mother. I have two children that I adore with all my
21 heart. I've worked for the State of South Carolina
22 for 20 years in different capacities where I advocate
23 for children that have mental health and behavior
24 issues. But I am also a woman who has been stabbed
25 multiple times by Samuel McNeil. Five years was

1 ruined by my, by this person who took it upon
2 himself to attempt to take my life. Every time I
3 would try to discontinue the relationship he would
4 threaten me with harm. When I finally got the nerve
5 to really tell him that the relationship was over and
6 I was not going back to him, he ultimately used a
7 knife in each hand to stab me in the left side of my
8 head so hard where the blade broke off in my skull
9 and I had to get it surgically removed. He stabbed
10 me in the back of my neck, my back, and my face which
11 is permanently scarred. I have defense wounds where
12 I grabbed the blade and the tendons and muscles in my
13 thumb are so badly cut that my thumb isn't able to
14 bend on its own. When he pushed me off the porch
15 onto my knees I stayed on my knees until the duration
16 of the entire assault on his brother as well as
17 myself. I now have sharp pains in my knees and back.
18 I am in constant pain. I take shots for pain. I have
19 sharp pains in my head and neck as well. At times is
20 hard to walk and stand without pain. Also I am on
21 medications for anxiety and panic attacks. For over
22 a month my daughter had to wash me, wipe me after I
23 used the restroom, and assist me with everyday tasks
24 until I was able to do things for myself. I see a
25 therapist to help me cope and deal with anxiety.

1 Thank God I have my faith and a strong support team
2 that I constantly, in my coroner constantly. They
3 check on me, make sure that I'm okay. And they
4 advocate for me as well. My children are a huge help
5 to me and they make me laugh constantly. Your Honor,
6 I am asking that you give him the maximum amount
7 consecutive time for each offense against me. I know
8 that things have changed but life without the
9 possibility of parole for these, the past years, he
10 has toyed with the judicial system. I have been
11 asked to come to court on numerous occasions because
12 he says he's gonna plead guilty and when I get up
13 here and stay for hours all day he does not plead. I
14 have come to countless of hearings and I'm just so
15 tired and ready for this to be over. I want him to
16 get life without the possibility of parole. He has
17 not only hurt me but multiple women who he has, he
18 was in contact with, even his own mother and she
19 stands right there with him as a mother should, I
20 feel. But this man is a danger to society. He does
21 not respect women. So whenever he is -- whenever he
22 is rejected or if a woman does not want to be in a
23 relationship with him anymore he will throw a
24 childish tantrum and harmed them. Then after is
25 attempt on their life, he will lie and make up a

1 story about the incident to make him the victim or
2 try to pretend that he is mentally incapable of
3 understanding the consequences of his actions. With
4 the attack on me, he had multiple times to stop and
5 think about what he was doing, but he chose to say,
6 say he did not care. If a person is telling you or
7 talking to you and say he did not care and he had an
8 agenda that he was going to play out regardless of
9 the hurt, pain, and consequences of his actions. He
10 counted down the seconds he was going to wait before
11 stabbing me. Looking at me with a knife in each
12 hand, he told me that he did not care if I had
13 children. He didn't care -- when his brother told
14 him he was not gonna let him stay at his house, he
15 didn't care about that. Your Honor, but let's care
16 about what the law does to people who don't care
17 about human life. Let's care about victims who have
18 to endure a lifetime of suffering at the hands of
19 individuals who don't care. Since he is incapable of
20 feeling remorse or sympathy for any human being and
21 the feelings that he displayed is just a performance,
22 I just want him to know that I am able to forgive him
23 and myself not for his sake but for mine. God
24 allowed me to live through this trauma and I realized
25 that forgiveness is a key to my freedom. Even though

every day is not easy. I forgive him. My God is a forgiven God. But he needs to pay for the consequences of his actions. I want -- I just want him to know that I have battled with anxiety, depression, panic attacks, and pain but I will not let anything stop me from entering this courtroom and let him know that there are consequences for his actions. There is a judicial system that puts people like him away who try to steal, kill, and destroy the lives of people who don't want him no more. Just because someone doesn't want him does not give him the right to throw some childish tantrum and try to kill them. But since he can't move on and I feel he must attempt to kill, he must -- he should kill someone, he doesn't, that doesn't want him, then I am here to help him understand that the law is here to protect people like me from people like him. (sic) Your Honor, I just want you to give him the maximum amount of consecutive time for each crime that he has inflicted on me. The attempted murder charge, all of those charges, I want the maximum amount of time and I want that to be life without the possibility of parole. He did all those things to me. He did not care about my life. I have spent the last five years living differently than I did before I met him. This

1 man gets angry at women and determines that he will
2 harm them. Whatever amount of time you give him will
3 not take away the pain and anguish that he has
4 inflict on me but it will make sure that he has time
5 to think about the consequences of his actions and be
6 put away from society so that other women would not
7 be harmed by him. I am so ready for this to be over
8 so me and my family can live the rest of our lives
9 with this behind us. I pray that you listen to my
10 plea and look at his track record to determine that
11 this man is not fit to be a society with the people
12 that follow the law. He has forfeited that life to
13 live among us. He needs to be put away for the rest
14 of his life.

15 Thank you once again for listening to me, Your
16 Honor. Thank you so much.

17 THE COURT: Thank you, Ms. Chandler.

18 MRS. JOHNSON-LEE: And Your Honor, Ms. Chandler
19 worked for a long number of years with Continuum of
20 Care.

21 MS. CHANDLER: Yes.

22 MRS. JOHNSON-LEE: And I think with DSS ---

23 MS. CHANDLER: Yes.

24 MRS. JOHNSON-LEE: --- before so she has spent
25 many, many years, her entire career working with

1 special needs children.

2 MS. CHANDLER: I have a degree in social work and
3 master degree in health administration and I'm going
4 for my master's degree and my licensure as we speak
5 at Walden University.

6 THE COURT: These are very disturbing pictures
7 that were shown to me. But you're a remarkable
8 person.

9 MR. CHANDLER: Amen.

10 THE COURT: Anybody else from....

11 MRS. JOHNSON-LEE: This is her son and daughter
12 that's with her. They do not wish to speak.

13 THE COURT: Thank y'all for being here with your
14 mother.

15 MRS. JOHNSON-LEE: And Andrew is actually standing
16 with his brother, Your Honor. So I don't know if he
17 wants to address the Court.

18 THE COURT: Mr., Mr. Andrew McNeil, did you --
19 you're a victim, you have a right to be heard. And
20 if you'd like to be heard I can hear from you now or
21 if you wanted to be heard in conjunction with, in
22 support of your brother whatever you choose, sir.

23 MR. McNEIL: Yes, I would love to be heard.

24 THE COURT: And you're -- tell us your name
25 please?

1 MR. McNEIL: Andrew Lamont McNeil, Sr.

2 THE COURT: All right, sir.

3 MR. McNEIL: I love my brother. Do we have any
4 pictures of my injuries?

5 MRS. JOHNSON-LEE: Unfortunately, there are no
6 photographs of his injuries, Your Honor. He was
7 taken straight to the hospital and I don't know why
8 but there are no photographs of his injuries.

9 THE COURT: They were described to be very ---

10 MRS. JOHNSON-LEE: We have photographs of the
11 blood. It's a very bloody scene.

12 MR. McNEIL: Will it please, the Court? Can I
13 present ---

14 THE COURT: Sir, it's not necessary but, you know,
15 ---

16 MR. HOBBS: Mr. McNeil, if you can tell -- we --
17 we do understand the nature of your jury and ---

18 MR. McNEIL: Outside of my guts being, um, I never
19 seen a weapon in his hand. I never did. Part of my
20 stomach is gone. I have a laceration, the doctor
21 said whatever I got stabbed with was inches from
22 coming out of my back. The mark over my shoulder
23 close to the jugular vein along with a smiling face
24 up under it. I told you I didn't want you to come to
25 my house. I got my brother. A week before that

1 happened -- yes, I did 'cause you told me your living
2 room that you dealt with him for five years. I took
3 him from your house. Brought him to mine. I took
4 him to work the first day. My mom took him the
5 second day.

6 THE COURT: Mr. McNeil, you talk to me, sir.

7 MR. McNEIL: I told her don't come to my house.
8 My brother laying in bed. You end up calling the
9 cops. I got my brother out of bed. Told him to come
10 on with me. I told her to don't come to my house. I
11 even told my brother I don't want her at my house.
12 We was already going through enough after out daddy
13 died. That was enough. But when I took him out of
14 the situation that you dealt with the five years, I
15 took him from you. All week long the best times that
16 we ever had as sisters and brother since childhood
17 was remembered for a whole week. A whole week, Your
18 Honor. He told me if he could wash her van 'cause
19 she had to turn it in the next day, the same day we
20 supposed to be moving our mama and baby sister. I
21 said I don't like it. I said but if you feel like
22 y'all getting back together then I'm all for you
23 being happy. I feel like had, that day never had
24 came. Had, you had to lay up here with me at my
25 house. Left us alone. Alone! You don't know -- you

1 don't know what I went through that day. There still
2 that patch of grass growing where, where, where the
3 blade had damaged severely in my stomach and yeah,
4 part of my stomach is gone. We stand here telling
5 you to look at his past. I hate what happened,
6 happened. I do! I do! But to want to see him
7 buried, enough is enough. We all done stuff. But I
8 feel like nature (sic) would have been a whole
9 different, whole lot different had she just stayed
10 away. One time. It only took that one time to come
11 to my house and look at what it did. Gave him the
12 impression that y'all was getting back together. He
13 was the happiest man on the face of God's green earth
14 and you took that. You took -- you took my brother,
15 my best friend that day. That double hurt. Being
16 stabbed by, so I was told. Though I ain't never seen
17 him with no weapon. And you took our childhood as
18 adults. No, he need help and not to be put under no
19 prison. If you'll take that into consideration, Your
20 Honor.

21 THE COURT: Yes, sir. Thank you. Mr. Hobbs?

22 MR. HOBBS: Yes, sir.

23 THE COURT: I kind of took things out of turn
24 there.

25 MR. HOBBS: Yes, sir.

1 THE COURT: And I didn't mean to co-op ---

2 MR. HOBBS: That's fine.

3 THE COURT: --- your presentation of the case.

4 I'd be happy to hear from you or any victims at this
5 time, I mean, family members.

6 MR. HOBBS: Your Honor, if I -- if I can be heard
7 I think, I think Andre or Andrew is going to be the
8 spokesperson for the family. And I think the Court
9 is starting to see the unraveling of a very
10 complicated dynamic here between all the parties
11 involved. Part of the frustration that the family
12 feels 'cause I never get up here and think it's
13 appropriate to attack a victim.
14 Part of the frustration that they feel is that there
15 was a strange circumstance, Your Honor, where all
16 members of the family were brought together under one
17 roof. And they tell me the story they talked about
18 that week and that time they had together and the joy
19 it brought them all. And what's telling, Your Honor,
20 is there was this great joy between Andre and Samuel
21 and that they were hanging out. They were having a
22 great day. There was no animosity. There was no
23 trouble. But now Andre stands here as a victim.
24 Andre stands here as a victim of something that, that
25 Samuel did in a situation where I believe and I

1 maintained to the Court and we've heard testimony
2 that Samuel did not, this was not Samuel. This was
3 mental health. This was and I'll go through the
4 records here in a moment, this is not some fairy tale
5 story that he is creating to try to avoid
6 accountability. We looked at his records for the
7 past decade that were provided when he did a, a
8 evaluation, a mental evaluation, Your Honor, and we
9 can see the the course of his treatment of his
10 diagnosis that led up to this moment in time. And
11 what's what's telling, Your Honor, is I'd like to
12 point out as we look at a decade worth of mental
13 health records that on June 17, 2017, at that point,
14 we're nine months away from this incident, he is
15 diagnosed with unspecified bipolar disorder, post
16 traumatic stress disorder. Is given an
17 anticonvulsant and also an a typical anti-psychotic
18 medication. This was nine months before the
19 incident. The last time he is seen by Pee Dee Mental
20 Health is actually less than four months before that
21 incident. He is seen and he reported that his
22 auditory hallucinations were slowing down. He denied
23 the presence of suicidal or homicidal ideation but
24 stated he was angry and depressed. He was last seen
25 seen on 12/11/2017, again, less than four months,

1 when he reported he was at the ER at McLeod for
2 throwing up for too much medication. He told staff
3 he felt his olanzapine the anti-psychotic medicine
4 was too strong. And that was the last time he was
5 seen, Your Honor, before this incident. This is not
6 some fanciful excuse to make his behavior. You hear
7 from his brother. You hear the lack of, of any sort
8 of adversarial situation where he even gets a knife
9 turned on him in a situation because Mr. McNeil in
10 that moment was not Mr. McNeil. He was not himself.
11 And that's why we did this hearing. That's why we
12 evaluated the situation. We are very fortunate that
13 there was not a loss of life in this situation, Your
14 Honor. But we can clearly look back at the history
15 of Mr. McNeil, the history of his diagnosis and even
16 up to four months before this incident where he ends
17 up in the emergency room because his anti-psychotic
18 medicine is too strong. And, Your Honor, Mr. McNeil
19 I can't speak to everything that's procedurally gone
20 over, gone on with this case over the past five
21 years. I haven't been his attorney for the past five
22 years. I can tell you that it took me and Mr. McNeil
23 a while to get on the same page. For me to hear him,
24 for me to understand him, and for him to hear me and
25 understand me. And we didn't try to draw this

1 process out for the sake of torturing victims or, or
2 to create confusion with the Court. Mr. McNeil was
3 trying to understand the situation that he can't even
4 remember at this point. A situation that he doesn't
5 even - I had to fill him in on details of 'cause he
6 doesn't recall - a situation where he attacks his own
7 brother and doesn't even remember it after they're
8 having the best time of their life as a family. And
9 it was truly speaking to his family. Then telling me
10 the history. Then telling me then seeing these sort
11 of instances throughout his life, throughout his
12 adulthood. The trauma of his childhood. The trauma
13 of loss of his baby mother back in 2001. And
14 everything being documented from that point on
15 getting worse and worse and worse until we had this
16 situation here. And again, this is not about blaming
17 someone who was assaulted in this case. The family
18 feels frustrated because they had this moment of pure
19 joy, that this moment of happiness, that was
20 interrupted and they just wish it couldn't, it
21 wouldn't have happened. They wish it could have been
22 different. But, Your Honor, I cannot help but point
23 to the Court that this was a situation where the
24 other victim in this case, other than the female that
25 you've heard is his own brother who was having the

1 best day that he'd ever had with his brother prior to
2 this incident.

3 Your Honor, part of what's going on with, with
4 Mr. McNeil and maybe some of the delays in his case
5 is that he has been convicted in Florence by a jury
6 trial last January. In that conviction, Your Honor,
7 he received a 20 year sentence. The communications
8 with the State up till about a month ago were trying
9 to resolve a concurrent sentence with Florence and
10 presenting a concurrent sentence so that he could
11 resolve these cases and he had a substantial
12 punishment levied against him in Florence and that
13 that was being given consideration. I couldn't get
14 Mr. McNeil on board with a plea a month ago. It took
15 time. It took understanding. It took listening and
16 it took talking to his family and conveying this is
17 from him for us to be on a page where we could plea
18 this. So we would never intentionally draw the Court
19 out, but I am going to ask the Court to take a few
20 things into strong consideration. The facts that
21 have been presented today regarding his mental health
22 and what led up to this. The fact that up to four
23 months prior to this incident he was on the anti-
24 psychotic medication that put him in the ER because
25 he reported that it was too strong. The fact that

1 his own brother is a victim of this instance when he
2 went to go help him. He went to go stop a situation.
3 He put hands on his brother to try to help and he
4 ends up being a victim his self because Samuel did
5 not know what was going on and what was happening.
6 That Samuel, the only words that his mother reports
7 is different than what the victim say, is she hurt
8 me! She hurt me! She hurt me! Your Honor, there is
9 a clear history here of mental health. We have
10 established a way for him to get treatment within the
11 facility. He is going to be in the Department of
12 Corrections at least until he's 60 years old. They
13 have 13, 12 to 13 years worth of treatment to give
14 him, worth of medication to give him, worth of
15 counseling to give him in the hopes that this man can
16 be rehabilitated. We are very fortunate, Your Honor,
17 that no one was killed that day and that both of the
18 victims are standing here today able to present to
19 the Court. Your Honor, I would ask the Court to give
20 strong consideration to the plea negotiations that
21 led up to this. The circumstances surrounding this
22 incident itself. The medical diagnosis that led up
23 to this. And the nature of the plea that we're doing
24 here today, Your Honor, to alleviate the need for the
25 trial, to alleviate the need for the victims and the

1 victim's family to re-hash all of this through a
2 long, prolonged process and be subject to cross-
3 examination. He has become willing today, Your
4 Honor, to accept this plea under North Carolina v.
5 Alford, guilty but mentally ill. And I would simply
6 ask the Court to run these sentences concurrent to
7 install a sentence that's reflective of a very hefty
8 sentence that was levied on him last year which in
9 previous plea negotiations was the structure of what
10 was going to be appropriate to avoid the trial. And
11 to give Mr. McNeil, I would ask 17 to 18 years on
12 this charge which is a very substantial amount. But,
13 Your Honor, at least no more than 20 as was a
14 previous offer from the State. So I would ask the
15 Court to not let them go scot-free, not to undermine
16 what has happened here which is significant. But to
17 give this man a 17 to 20 year sentence to run
18 concurrent to his other sentences that the Court are
19 handling today and to run it concurrent to the charge
20 that he's levied in Florence. And, Your Honor, again
21 this man is going to be 60 years old or older before
22 he gets out of the Department of Corrections at this
23 point.

24 THE COURT: Thank you, Mr. Hobbs. Madam
25 Solicitor?

1 MRS. JOHNSON-LEE: Your Honor, I would defer to
2 Ms. Angela Chandler who I think most eloquently has
3 stated where she feels sentencing should be, it
4 should be a long, long, long, time.

5 THE COURT: I've heard from her and she indicated
6 she wanted life in prison.

7 MRS. JOHNSON-LEE: Yes, Your Honor.

8 THE COURT: Okay.

9 MRS. JOHNSON-LEE: I couldn't say any better. I
10 can't say anything better than she said for herself.

11 THE COURT: Is there anything further from the
12 solicitor?

13 MRS. JOHNSON-LEE: No, Your Honor.

14 THE COURT: Okay. All right. Nothing further?

15 MR. HOBBS: Nothing further, Your Honor.

16 THE COURT: Okay. With that -- with that regard,
17 I do accept his guilty plea, but as previously noted
18 by preponderance of the evidence I find that his
19 guilty plea -- I find him guilty but mentally ill. I
20 would sentence him to the Department of Corrections
21 for 17 years. I would make that concurrent with both
22 charges. So both charges will be 17 years at the
23 Department of Corrections and this is pursuant to
24 Alford.

25 MR. HOBBS: Yes, Your Honor. Would that also be

1 concurrent with his current sentence that he has?

2 THE COURT: Yes, sir. And I would need to write
3 that in and this be concurrent with any prior
4 sentences he's under service.

5 MR. HOBBS: Thank you.

6 THE COURT: Madam Solicitor, is there anything
7 else?

8 MRS. JOHNSON-LEE: No, Your Honor. Thank you,
9 Your Honor.

10 THE COURT: Okay. I appreciate everybody's
11 patience with the Court. Mr. Hobbs, anything
12 further?

13 MR. HOBBS: The only thing, he was correct, that I
14 was supposed to indicate a time served amount. I
15 don't know if the State has done any calculations on
16 that?

17 MRS. JOHNSON-LEE: Now, he actually had 446 days
18 credit from arrest until he had bonded out on his
19 charge. After this charge he had the Florence case
20 and then he was arrested and in jail a long time for
21 the case with his mother. But for this particular
22 case I calculated 446.

23 MR. HOBBS: Your Honor, we did have a different
24 figure. So could we defer to the calculation by SCDC
25 for his time served then? I think that that's what

1 they would do anyways.

2 THE COURT: So ---

3 MRS. JOHNSON-LEE: He was on bond on this charge.
4 He was locked up on his mama's charge where he was
5 charged with assault and battery, second degree for
6 hitting her. That's what he was actually back in
7 jail for in Darlington before he went to trial in
8 Florence. He was on bond on this one.

9 MR. HOBBS: And Your Honor, he has a different
10 procedural recollection. I can ask him to ---

11 MRS. JOHNSON-LEE: And I would defer to any
12 records that the jail has.

13 MR. HOBBS: He had it at 645 and the reason being,
14 can you articulate that to the Court?

15 MR. McNEIL: Yes, sir, I guess. The State under
16 the People versus King any days we spend in the
17 county jail as a pre-trial detainee is a day and
18 half. So 430 days ---

19 THE COURT: Tell me how many days you did? I
20 don't need -- I don't need the....

21 MR. HOBBS: Oh, the SCDC will do that calculation.
22 So what do you believe are the total days you served?
23 I think it might be the same.

24 MR. McNEIL: No. It would be 645.

25 MR. HOBBS: Not with the calculation, the base

1 number. Okay. So what the State says is correct,
2 Your Honor.

3 THE COURT: Madam Solicitor, what was that?

4 MRS. JOHNSON-LEE: Four, forty-six.

5 MR. HOBBS: Yes.

6 THE COURT: Four, forty-six?

7 MRS. JOHNSON-LEE: Yes, Your Honor.

8 THE COURT: Okay.

9 MR. HOBBS: I apologize, Your Honor.

10 THE COURT: I will note that for the record as
11 well, 446.

12 All right. It's so ordered. We're adjourned.

13 MR. HOBBS: Thank you, judge.

14 (CONCLUSION OF HEARING HELD ON JUNE 26, 2023)

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CERTIFICATE

I, the undersigned, Lisa S. Carter, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Fourth Circuit for Darlington County, South Carolina, on the 26th day of June, 2023.

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

s/ Lisa Carter

Lisa Carter

Circuit Court Reporter

February 17, 2025

STATE OF SOUTH CAROLINA)

County of Darlington)SAMUEL McNEIL #239653)

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

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

24CP160565

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention TURBEVILLE CORRECTIONAL INSTITUTION
1578 CLARENCE COHER HWY, TURBEVILLE, S.C. 29162
2. Name and location of Court which imposed sentence _____
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2018-GS-16-1134, Attempted Murder
 - (b) 2018-GS-16-1135, Attempted Murder

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 2024 JUN -4 A 9:22
 SCOTT E. SUGGS
 CLERK OF COURT/CL. D.
 DARLINGTON COUNTY, S.C.

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) JUNE 26, 2023
- (b) JUNE 26, 2023
- (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 SEE ATTACHMENT
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Applicant did not appeal judgment of conviction
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. N/A
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. N/A
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. N/A
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. N/A
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) This is Applicant's First Appeal
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) SEE ATTACHMENT
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE ATTACHMENT
- (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? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

THE GROUNDS SET FORTH IN (10) HAVE NOT BEEN PREVIOUSLY PRESENTED TO THIS OR ANY OTHER COURT STATE OR FEDERAL

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

(a) which grounds have been presented:

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

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

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

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

(a) SEE Attachment

(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? NIA

(c) your sentencing? Yes

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

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
NIA

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. SEE Attachment

ii. _____

iii. _____

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

i. SEE Attachment

ii. _____

iii. _____

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

Applicant seeks relief from his conviction and sentence
Applicant seeks relief that this court vacate the conviction

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

No

STATE OF SOUTH CAROLINA)

County of Darlington)

VERIFICATION

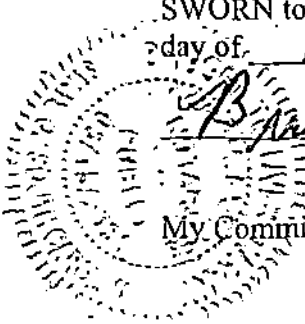
I, SAMUEL McNEIL #239653, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Samuel McNeil #239653

SWORN to and subscribed before me this 22
 day of May, 2024.

B. Nalys Solomon Grant (L.S.)
 Notary Public

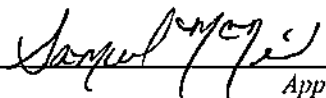
My Commission Expires: March 15, 2031



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

I, SAMUEL McNEIL #2391653, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

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


Applicant

SWORN or affirmed to and subscribed before me this

22 day of May, 2024.


Notary Public

My Commission Expires: March 15, 2031

6(C) CONTINUED pg 2

24CP160565

6(C) AFTER A PLEA OF NOLO CONTENDER UNDER NORTH CAROLINA V. ALFORD VIA GUILTY BUT MENTALLY ILL.

10 (A-B) CONTINUED pg 3

10 STATE CONCISELY THE GROUNDS ON WHICH YOU BASE YOUR ALLEGATION THAT YOU ARE BEING HELD IN CUSTODY UNLAWFULLY

(A) PURSUANT TO STRICKLAND V. WASHINGTON. PLEA COUNSEL'S DEFICIENT AND PREJUDICIAL PERFORMANCE DEPRIVED APPLICANT OF HIS RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE SIXTH AMENDMENT, IN VIOLATION OF DUE PROCESS PURSUANT TO THE FOURTEENTH AMENDMENT.

(B) PLEA COUNSEL DID NOT CONSULT WITH APPLICANT UNTIL MAY 25, 2023 FOR THE FIRST TIME TO ADVISE APPLICANT THAT HE WILL NOT BE REPRESENTING APPLICANT AT TRIAL. PLEA COUNSEL LATER RETRACTED HIS PRIOR STATEMENT ON JUNE 7, 2023 ADVISING APPLICANT THAT COUNSEL WOULD BE REPRESENTING APPLICANT AT TRIAL. THE THIRD CONSULTING WAS ON JUNE 26, 2023 AT THE TIME OF TRIAL. SEE MITCHELL V. NASON 325 F.3d 732 (2003) QUOTING POWELL V. ALABAMA 287 U.S. 46, 57, 53 S.Ct. 158 (1932) THE ABSENCE OF COUNSEL DURING PRETRIAL PROCEDURES DEPRIVED APPLICANT OF EFFECTIVE ASSISTANCE OF COUNSEL

FILED
JUL 14 2023
CLERK OF COURT
NORTH CAROLINA
JUL 14 2023

11 (A) CONTINUED pg. 3

11. STATE CONCISELY AND IN THE SAME ORDER THE FACTS WHICH SUPPORT EACH OF THE GROUNDS SET OUT IN (10.):

- A. PLEA COUNSEL FAILED TO ADEQUATELY REVIEW DISCOVERY WITH APPLICANT AND ADVISE HIM ACCORDINGLY. PLEA COUNSEL FAILED TO EXPLAIN THE NATURE OF THE CHARGES AS WELL AS THE CONSEQUENCES OR IMPLICATIONS THAT WOULD RESULT FROM THE IMPOSITION OF HIS PLEA AND SENTENCE. PLEA COUNSEL ALSO FAILED TO ADEQUATELY EXPLAIN ANY PLEA OFFER'S TERMS AND THE RELATIVE ADVANTAGES AND DISADVANTAGES OF PLEADING AS OPPOSED TO PROCEEDING TO TRIAL. SIMILARLY, PLEA COUNSEL FAILED TO SUFFICIENTLY ADVISE THE APPLICANT ON THE TRIAL RIGHTS WAIVED BY WAY OF HIS PLEA SPECIFICALLY THE WAIVER OF THE APPLICANT'S RIGHTS TO PRESENT A DEFENSE TO THE CHARGES, SUBMIT EVIDENCE IN SUPPORT THEREOF, CALL SUPPORTING WITNESSES TO TESTIFY ETC.. PLEA COUNSEL FAILED TO ADEQUATELY INVESTIGATE THE FACTS OF THE CASE, POTENTIAL DEFENSES, AND LEGAL THEORIES AVAILABLE TO APPLICANT PRIOR TO ADVISING HIM TO PLEA. SEE EG. EDWARDS V. STATE 392 S.C. 449, 456, 710 S.E.2d 60, 63 (2011). PLEA COUNSEL LIKEWISE FAILED TO INVESTIGATE SEVERAL VIABLE DISPOSITIVE PRE-MOTIONS TRIAL STRATEGIES AND DEFENSES AVAILABLE TO APPLICANT.

11 (A) CONTINUED. pg 3

11 (A) PLEA COUNSEL LIKEWISE FAILED TO UNDERTAKE REASONABLE MEASURES TO ENGAGE IN PLEA NEGOTIATION AND BARGAINING OPPORTUNITIES WITH THE STATE ON THIS BASIS. PLEA COUNSEL'S ERRORS AND OMISSIONS DIRECTLY IMPACTED APPLICANT'S DECISION-MAKING ON WHETHER TO PLEA OR PROCEED TO TRIAL AND ALSO RENDERED HIS PLEA NOT KNOWINGLY OR VOLUNTARILY ENTERED. SEE MARSHALL V. LONGBERGER, 459 U.S. 422, 431 (1983) QUOTING HENDERSON V. MORGAN, 426 U.S. 637 N.13 (1971) A GUILTY PLEA CANNOT BE TRULY VOLUNTARY IF A DEFENDANT HAS SUCH AN INCOMPLETE UNDERSTANDING OF THE CHARGE THAT HIS PLEA CANNOT STAND AS AN INTELLIGENT ADMISSION OF GUILT. BUT FOR PLEA COUNSEL'S ERRORS, APPLICANT WOULD NOT HAVE PLEADED AND INSTEAD WOULD HAVE PROCEEDED WITH TRIAL. IN THE ALTERNATIVE, PLEA COUNSEL WAS INEFFECTIVE FOR FAILING TO ADEQUATELY PRESENT AN ARGUMENT FOR MITIGATION PURPOSES AT SENTENCING.

16 (A) CONTINUED pg 5

16. IF ANY GROUNDS SET FORTH IN (10) HAS NOT PREVIOUSLY BEEN PRESENTED TO ANY COURT, STATE OR FEDERAL, SET FORTH THE GROUND AND STATE CONCISELY THE REASONS WHY SUCH GROUND HAS NOT PREVIOUSLY BEEN PRESENTED:

(A) THIS PCR ACTION IS THE APPLICANT'S FIRST OPPORTUNITY TO RAISE THE INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS HEREIN, WHICH ARE COGNIZABLE FOR RELIEF UNDER THE P.C.R. ACT.

18 CONTINUED pg 5

18 IF YOU ANSWERED "YES" TO ONE OR MORE PARTS OF (17), LIST:

A THE NAME AND ADDRESS OF EACH ATTORNEY WHO REPRESENTED YOU

1 James Hodges Scruggs III

180 N. Trby St. MSC-12

Florence, S.C. 29501

2 Patricia C. Rivers

300 Russell St. Ste 113

Darlington, S.C. 29532

18 (A) Continued pg 5

3 ERIN D'NEAL Gaddy
524 W. CAROLINA AVE.
HARTSVILLE, S.C. 29550

4 KYLE MICHAEL HOBBS
PO Box 1405
Fort Mill, S.C. 29716

B the proceedings at which each such attorney represented you:

1 Arraignment

2 Arraignment

3 Arraignment

4 Trial, plea and sentencing

C

24CP160565

DOCKET NUMBER:

2018-GS-16-1134

WITNESSES

Valerie P Freeman

Darlington County Sheriff

Law Enforcement Case #: 201803-0069

440

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2018A1610400147

ARRESTED ON: 2018-03-07

ACTION OF GRAND JURY

TRUE BILL

Sharon Bluen
Grand Jury Foreperson

Date JUL 12 2018

VERDICT

Petit Jury Foreperson

Date

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
July 2018

THE STATE

vs.

Samuel Lee Mcneil

INDICTMENT FOR

Murder/Attempted murder Penalty statutes
16-03-0029; Felony Class - eff date 6-02-

2010

§16-03-0029

CDR Code: 3410

TRUE CERTIFIED COPY,
Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Murder/Attempted murder Penalty statutes 16-03-0029; Felony Class A - eff date 6-02-2010

§16-03-0029

24CP160565

At a Court of General Sessions, convened on July 12, 2018, the Grand Jurors of Darlington County present upon their oath:

ATTEMPTED MURDER

CDR: 3410, 16-3-29

That Samuel Lee Mcneil did in Darlington, on or about 2018-03-04, with specific intent to kill, attempt to kill [REDACTED], with malice aforethought, either expressed or implied, in violation of Section 16-3-29 of S.C. Code of Laws, 1976, as amended.

FILED
2024 JUN -4 A 9:23
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

TRUE CERTIFIED COPY.

*Scott B. Suggs*CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

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

*William B. Rogers, Jr.*WILLIAM B. ROGERS, JR.
SOLICITOR

STATE VS

Samuel Lee Mcneil

INDICTMENT/CASE#:

2018-GS-16-1134

SPECIAL CONDITIONS:

24CP160565

☐ 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

☐ 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

☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

☒ Other: THIS SENTENCE SHALL BE CONCURRENT WITH A CRIMINAL
SENTENCE FROM FLORENCE COUNTY HE IS CURRENTLY SERVING.

☐ RESTITUTION:

☐ Deferred

☐ Def. Waives Hearing

☐ Ordered

THE DEFENDANT HAS BEEN
FOUND GUILTY BUT MENTALLY
ILL, UNDER S.C. CODE 17-24-20

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

Payment Term _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ Beginning _____

§14-1-205 (Assessments 107.5 %)

§14-1-211(A)(1) (Conv. Surcharge)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

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

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

Clerk of Court/ Deputy Clerk:

Court Reporter:

Presiding Judge:

Judge Code:

Sentence Date:

SCCA/217 (07/2021)

Page 2 of 2

TRUE CERTIFIED COPY,

Sam B. Suggs

CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

WITNESSES

Valerie P Freeman

Darlington County Sheriff

Law Enforcement Case #: 201803-0069
440

 WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

 ARREST WARRANT NUMBER
2018A1610400149

ARRESTED ON: 2018-03-07

ACTION OF GRAND JURY

TRUE BILL

 Grand Jury Foreperson

Date JUL 12 2018

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2018-GS-16-1135
24CP160565
 The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
July 2018**THE STATE**

vs.

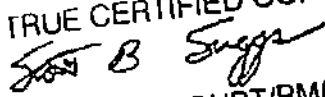
Samuel Lee McNeil

INDICTMENT FOR

 Murder/Attempted murder Penalty statutes
 16-03-0029; Felony Class A - eff date 6-02-
 2010

§16-03-0029

CDR Code: 3410

 TRUE CERTIFIED COPY,

 CLERK OF COURT/RMC
 DARLINGTON COUNTY, S.C.

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Murder/Attempted murder Penalty statutes 16-03-0029; Felony Class A - eff date 6-02-2010

§16-03-0029

24CP160565

At a Court of General Sessions, convened on July 12, 2018, the Grand Jurors of Darlington County present upon their oath:

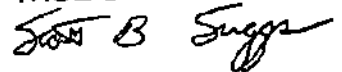
ATTEMPTED MURDER

CDR: 3410, 16-3-29

That Samuel Lee Mcneil did in Darlington, on or about 2018-03-04, with specific intent to kill, attempt to kill [REDACTED] with malice aforethought, either expressed or implied, in violation of Section 16-3-29 of S.C. Code of Laws, 1976, as amended.

FILED
2024 JUN -4 A 9:23
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

TRUE CERTIFIED COPY,

CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

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

WILLIAM B. ROGERS, JR.
SOLICITOR

0 - 30 years

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF DARLINGTON

STATE

VS.

INDICTMENT/CASE#: 2018-GS-16-1135Samuel Lee McneilAW#: 2018A1610400149

AKA:

Date of Offense: 3/4/2018Race: Black Sex: M Age: 45S.C. Code § : 16-03-0029DOB: [REDACTED] SS#: [REDACTED]CDR Code #: 3410

Address:

City, State, Zip:

DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

24 CP 160565*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or ☒ PLEADSTO: ATTEMPTED MURDERin violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory CPS ☐ §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.The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Mary T. Johnson-Lee
Johnson-Lee, Mary T

65347

SC Bar#

Samuel Lee Mcneil
Defendant[Signature]
Attorney for Defendant[Signature]
SC Bar# 78266WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 17 days/months/years Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.446 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.

TRUE CERTIFIED COPY,

[Signature]CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.MRSH

STATE VS Samuel Lee Mcneil INDICTMENT/CASE#: 2018-GS-16-1135

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years
And Other Terms Listed Below:**24 CP 160565**

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ Domestic Violence Intervention Program
- ☐ Mental Health Counseling ☐ May serve WE beginning: _____ days/hours

☐ 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: THIS SENTENCE SHALL BE CONCURRENT WITH A CRIMINAL SENTENCE FROM FLORENCE COUNTY HE IS CURRENTLY SERVING☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered**THE DEFENDANT HAS BEEN FOUND GUILTY BUT MENTALLY ILL, UNDER SC. CODE 17-24-20**

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

Payment Term _____ ☐ 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)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

	\$
Beginning	\$
§100	\$
§100	\$ 100.00
\$12	\$
\$25	\$
\$25	\$ 25.00
\$150	\$
\$41	\$
\$50	\$
\$40/ea	\$
TBD	\$ 3.75
\$500	\$
TBD	\$
TOTAL	\$ 128.75

Clerk of Court/ Deputy Clerk: Lisa Carter

Court Reporter: _____

Presiding Judge: Michael StoltJudge Code: 2772Sentence Date: 6-26-23

SCCA/217 (07/2021)

Page 2 of 2

TRUE CERTIFIED COPY,

Scott B. SuggsCLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

SAMUEL McNEIL #239653
121 SNA217
1578 CLARENCE COKER HWY
TURBEVILLE, S.C. 29162

COLUMBIA SC 290

29 MAY 2024PM 2 L



FOREVER / USA

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MAY 28 2024

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TURBEVILLE CI

Scott B. Suggs
CLERK of COURT
1 Public Sq Rm 404
Darlington, S.C. 29532



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29532-321304



24CP160565

STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON

Samuel L. McNeil, #239653,

Applicant,

v.

State of South Carolina,

Respondent.

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

) CASE NO. 2024-CP-16-00565
)
)
)
)
)
)
)
)
)
)
)
)

RETURN
(Counsel Appointment)

SCOTT R. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

2025 JUL 18 A 11:1

FILED

In response to Applicant Samuel L. McNeil's (Applicant) application for post-conviction relief (PCR) commenced June 4, 2024, Respondent, the State of South Carolina, makes the following Return:

PROCEDURAL HISTORY

Applicant is presently confined with the South Carolina Department of Corrections (SCDC). During the July 2018 term, the Darlington County Grand Jury indicted Applicant for Kidnapping (2018-GS-16-1130), Domestic Violence of a High and Aggravated Nature (DVHAN) (2018-GS-16-1131), two (2) counts of Possession of a Weapon During Commission of Violent Crime (PWDCVC) (2018-GS-16-1132, -1133), two (2) counts of Attempted Murder (2018-GS-16-1134, -1135). During the July 2020 term, the Darlington County Grand Jury indicted Applicant for Assault and Battery – 2nd Degree (2020-GS-16-1026). Applicant was represented by Kyle Michael Hobbs, Esquire (Plea Counsel). Fourth Circuit Assistant Solicitor Mary T. Johnson-Lee prosecuted the case.

On June 26, 2023, Applicant appeared before the Honorable Michael S. Holt and proceeded to a jury trial. After picking a jury, Applicant informed the court that he was going to straight up plead guilty but mentally ill on both Attempted Murder indictments. Judge Holt sentenced

Applicant to seventeen (17) years for each Attempted Murder to be served concurrently.

Applicant did not appeal his convictions and sentences.

FACTUAL BASIS FOR GUILTY PLEA

The facts are taken from the guilty plea transcript as articulated by the State:

Judge, this occurred on March 4, 2018 here in Darlington County at the residence of Mr. Andrew McNeil, brother of defendant. Andrew is often referred to as Andre. That is his nickname. Present in that residence was his mother. Lois McNeil, whom you heard from. His sister, Sammy Jean McNeil, who was known as Jean. And Angela Chandler who is seated right here. Ms. Chandler had brought a rental vehicle. She and the defendant had had an off and on relationship. But there was a rental vehicle that needed to be cleaned out. She carried it over there. The defendant cleaned out that rental vehicle. It was made known to him that there is no further relationship of a romantic nature between them and that's when he sort of flipped out. She was shoved to the ground. She advises that Mr. Andrew McNeil came and was there to sort of assist and when he apparently touched the defendant, the defendant started with two knives, just going and going and going. And the brother, Andre, was actually gutted. Initially his guts were in his hand. He falls to the ground. His guts are on the ground. They were able to save his life. He was taken to McLeod Hospital in Florence to the Trauma Unit. They saved his life. As Angela Chandler was cut multiple times about her face and her head and she still has scarring from this. Her thumb was, the tip of her thumb was almost cut off. Most importantly one of the blades was rammed down into her skull and with such force that the tip of the blade broke off. She had to have surgery. The neurosurgeon had to cut out a circular portion of her skull in order to remove the blade tip. And then her skull was reattached with plates and nuts and bolts. I have photographs from the hospital when she initially went. She initially went to McLeod Regional. All they did was they didn't x-ray her, they basically stitched up all the cuts and the wounds and I have some photographs just of some of those wounds to hand up and sent her home. She was still having severe headaches. So she went the very next day to Urgent Care. They said no you go to the hospital. She went to Carolina's Hospital which is now MUSC Florence and when they x-rayed her that's when they found there was actually a tip of a blade in her skull. And I have some photographs actually taken during the surgery. The surgical nurse, Neva Lawson, was actually subpoenaed to testify tomorrow had this gone to trial. But these were taken by medical personnel in the operating room showing the piece of the skull with the blade in and also the blade tip and the blade tip is in evidence now, Your Honor.

(GP Tr. pp. 63–65).

CURRENT APPLICATION

On June 4, 2024, Applicant timely filed this application for post-conviction relief, in which

Applicant alleges she is being held in custody unlawfully based on the following:

1. Ineffective Assistance of Plea Counsel
 - a. Failed to meet with his sufficiently.
 - b. Failed to review discovery.
 - c. Failed to explain the charges and consequences of pleading guilty.
 - d. Failed to explain plea offers.
 - e. Failed to investigate.
 - f. Failed to discuss potential defenses.
2. Involuntary Guilty Plea

Applicant requests relief in the following:

"this court vacate the conviction."

Attached to this return and incorporated by reference are the Darlington County Clerk of Court records regarding the subject's convictions and sentences, Applicant's records from the SCDC, the guilty plea transcript, and the records of the current PCR action. Respondent reserves the right to amend this return upon receiving any relevant materials.

Response to Allegations of Ineffective Assistance of Plea Counsels

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

In a post-conviction relief action, the applicant bears the burden of proving the allegations

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

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

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

Accordingly, "[j]udicial scrutiny of counsel's performance must be highly deferential[, as]

[i]t is all too tempting for a defendant to second-guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable." Strickland, 466 U.S. at 689; see also Yarborough v. Gentry, 540 U.S. 1, 8 (2003) ("The Sixth Amendment guarantees reasonable competence, not perfect advocacy judged with the benefit of hindsight."). Unlike a later reviewing court, the attorney observed the relevant proceedings; knew of materials outside the record; and interacted with the client, opposing counsel, and the judge. Thus, the question is whether an attorney's representation amounted to incompetence under "prevailing professional norms," not whether it deviated from best practices or most common custom. Id. (quoting Strickland, 466 U.S. at 690).

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

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

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

The second, or "prejudice" prong of Strickland is rooted in the very purpose of the Sixth Amendment guarantee of counsel—to ensure a defendant has the assistance necessary to justify reliance on the outcome of the proceeding. Id. at 691–92. In order to prove prejudice, an applicant must demonstrate counsel's deficient performance prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability "sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 694. Thus, it is not enough "to show that the errors had some conceivable effect" on the outcome of the proceeding—counsel's errors must be "so serious as to deprive the defendant of a fair trial." Id. at 693 (emphasis added).

Because the Sixth Amendment right to counsel also applies to a defendant entering a guilty plea, Hill v. Lockhart extended the two-part Strickland test to challenge guilty pleas based on

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

The analysis of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show counsel's representation fell below the objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the range of competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56.

The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59. This inquiry "focuses on a defendant's decision making" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 358 (2017). However, an applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question here is whether the applicant, if correctly informed of

circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him or her to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Surmounting Strickland's high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." Lee, 582 U.S. at 368-69 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 ("[R]equiring a 'prejudice' showing from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'"). Reviewing "[c]ourts should not upset a plea solely because of post hoc assertions from a defendant about how he would have pleaded but for his attorney's deficiencies." Lee, 582 U.S. at 369. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences. Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the PCR hearing. Harres, 282 S.C. at 134, 318 S.E.2d at 361.

The performance and prejudice standards, however, "do not establish mechanical rules; [t]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged." Id. at 696. Moreover, "there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one." Id. at 697. The court "need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. Id. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, the court may evaluate the

prejudice prong only. Id.

In the present case, Applicant has asserted that Plea Counsel's representation was constitutionally ineffective for various reasons. Because these allegations likely raise questions of fact not conclusively refuted by the record, the State requests an evidentiary hearing to fully resolve the issues. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

RESPONSE TO ALLEGATION OF INVOLUNTARY GUILTY PLEA

Applicant further claims his plea was not entered knowingly or voluntarily. To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a full understanding of the consequences of his plea and the charges against him. See Boykin v. Alabama, 395 U.S. 238, 243 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as the evidence presented at the PCR hearing. See Harris v. Leeke, 282 S.C. 131, 134, 318 S.E.2d 360, 361 (1984).

The transcript reflects that the guilty plea was knowingly and voluntarily entered with a full understanding of the charges and consequences of the plea. Because a guilty plea is a solemn, judicial admission of the truth of the charges against an individual, the PCR applicant's right to contest the validity of such a plea is usually, but not invariably, foreclosed. See Blackledge v. Allison, 431 U.S. 63, 73-74 (1977). Statements made during a guilty plea should be considered conclusively unless an Applicant presents valid reasons why he should be allowed to depart from the truth of his statements. See Crawford v. U.S., 519 F.2d 347, 350 (4th Cir. 1975) (overruled on other grounds by U.S. v. Whitley, 759 F.2d 327 (4th Cir.1985)). Applicant presented no reasons

to show that he should be allowed to depart from the truth of the statements he made during his guilty plea hearing.

An applicant who enters a 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 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. See Roscoe v. State, 345 S.C.16, 20, 546 S.E.2d 417, 419 (2001); see also Richardson v. State, 310 S.C. 360, 362, 426 S.E.2d 795, 797 (1993). Given Applicant's burden of proof and the analysis to be applied to this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

Respondent submits Applicant cannot satisfy the requirements of Strickland or Hill. However, the record likely does not refute or disprove Applicant's allegations. Therefore, Respondent requests an evidentiary hearing to fully resolve the issues. See Sharper, 279 S.C. at 265, 305 S.E.2d at 248 (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

REQUESTED RELIEF UNAVAILABLE IN PCR ACTIONS

In her prayer for relief, Applicant requests are unavailable in a post-conviction relief action. If this Court finds a defect in the original proceedings, the appropriate relief would be a new trial on the original indictments. Gilstrap v. State, 252 S.C. 625, 168 S.E.2d 88 (1969); see also Smith v. State, 413 S.C. 194, 195, 775 S.E.2d 696, 696 (2015) ("We now clarify the proper remedy is a new trial."); Grant v. MacDougall, 244 S.C. 387, 391, 137 S.E.2d 270, 272 (1964) (relief of absolute release not available). Where an applicant seeks only relief to which he or she is not

entitled, "it is not incumbent upon [the] court to pass upon what relief, if any, he [or she] might, perchance, be entitled to." Young v. State, 250 S.C. 476, 479, 158 S.E.2d 764, 765 (1968).

For these reasons, if the application is not otherwise amended before the evidentiary hearing to reflect a desire for appropriate relief, Respondent would respectfully request this Court engage in a *thorough* colloquy with Applicant to apprise him of the relief available in a PCR. If at the evidentiary hearing, Applicant indicates no desire for appropriate relief but a desire to proceed, Respondent will at that time move to dismiss the application.

ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY PROCESS

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

Pursuant to S.C. Code Ann. § 17-27-150, Applicant may not invoke formal discovery processes to issue subpoenas or otherwise obtain discovery materials unless granted leave from the Court upon a showing of good cause. Furthermore, the State requests that all potential exhibits and materials used to produce potential expert witness testimony be sent to the State well in advance of the evidentiary hearing. As noted above, the State reserves the right to request a

continuance and oppose witness testimony and exhibits that are withheld until the last-minute resulting in undue prejudice to the State. See Love, 428 S.C. 231, 834 S.E.2d 196.

CONCLUSION

WHEREFORE, Respondent respectfully requests that an evidentiary hearing be held on the claims of ineffective assistance of counsel.

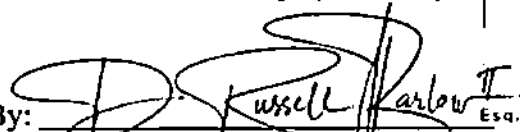
Respectfully submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

D. RUSSELL BARLOW, II
Senior Assistant Deputy Attorney General

By:

A handwritten signature in black ink, appearing to read "D. Russell Barlow II", is written over a horizontal line. To the right of the signature, the letters "Esq." are printed.

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

July 16, 2025

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF DARLINGTON	)	2024-CP-16-00565
	)	
	)	
	)	
	)	
SAMUEL MCNEIL,	)	
APPLICANT,	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
STATE OF SOUTH CAROLINA,	)	
RESPONDENT.	)	
	)	

September 2, 2025
Darlington, South Carolina

B E F O R E:

THE HONORABLE BRYAN DOBY, JUDGE.

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

STEVEN W. FOWLER, ESQ.
Attorney for the Applicant

MACKINNON WESTRAAD, ESQ.
Attorney for the Respondent

Brenda Jones, Court Reporter
Transcribed by Penny M. Johnson

I N D E X

(AW) - Denotes Applicant's Witness
(RW) - Denotes Respondent's Witness

	<u>Page No.</u>
<u>(AW) SAMUEL MCNEIL:</u>	
Direct Examination by Mr. Fowler.....	10
Cross-Examination by Ms. Westraad.....	42
Redirect Examination by Mr. Fowler.....	47
<u>(RW) KYLE M. HOBBS:</u>	
Direct Examination by Ms. Westraad.....	52
Cross-Examination by Mr. Fowler.....	64

E X H I B I T S

(There were no exhibits submitted.)

P R O C E E D I N G S

THE COURT: Our next case, Samuel L. McNeil is the Applicant.

Good morning, are you Samuel McNeil?

THE APPLICANT: Yes, sir.

THE COURT: Good morning, sir.

This is 2024-CP-16-00565. This is Darlington County case; is that correct?

MS. WESTRAAD: Yes, Your Honor.

THE COURT: Thank you. I'll get the State to give me a brief procedural history in regards to Mr. McNeil.

MR. FOWLER: Your Honor, may I -- I was in the process of speaking to my client. Can I have just a moment with him standing here?

THE COURT: Yes, sir.

(Pause.)

MR. FOWLER: Your Honor, I apologize.

THE COURT: That's all right.

MR. FOWLER: I apologize. I think the Attorney General is ready to call the case?

THE COURT: Yes.

MS. WESTRAAD: May it please the Court, MacKinnon Westraad on behalf of the State of South Carolina. This is the Post-Conviction Relief matter of Samuel L. McNeil vs. The State. That's case number 2024-CP-16-00565 out of

1 Darlington County.

2 During the July 2018 term, the Darlington County Grand
3 Jury indicted Applicant for kidnapping in case number
4 2018-GS-16-1130, domestic violence of a high and aggravated
5 nature, that's case number 2018-GS-16-1131, two counts of
6 possession of a weapon during the commission of a violent
7 crime, that's case number 2018-GS-16-1132 and 1133, two
8 counts of attempted murder, that's case number
9 2018-GS-16-1134 and 1135. And during the July 2020 term,
10 the Darlington County Grand Jury indicted Applicant for
11 assault and battery second degree. That was case number
12 2020-GS-16-1026.

13 Applicant was represented by Kyle Michael Hobbs,
14 Esquire. The Fourth Circuit Assistant Solicitor Mary T.
15 Johnson-Lee prosecuted the case. On June 26th, 2023,
16 Applicant appeared before the Honorable Michael S. Holt and
17 proceeded to a jury trial.

18 After picking a jury, Applicant informed the Court that
19 he was going to straight up plead guilty, but mentally ill
20 on both attempted murder indictments. Judge Holt sentenced
21 Applicant to 17 years for each attempted murder to be served
22 concurrently. Applicant did not appeal his convictions or
23 sentences.

24 Applicant timely commenced this PCR action on June 4th,
25 2024, alleging he is being held in custody unlawfully based

1 on the following allegations: Number one, ineffective
2 assistance of counsel, failed to meet with him sufficiently,
3 failed to review discovery, failed to explain the charges
4 and consequences of pleading guilty, failed to explain plea
5 offers, failed to investigate and failed to discuss
6 potential defenses. And number two, involuntary guilty
7 plea.

8 The State made its return filed on July 18th, 2025.
9 Applicant request relief in the form of this Court vacating
10 a conviction.

11 For the record, Mr. McNeil was served with a life
12 without parole notice in this case. His current estimated
13 release is 2036, so he has just over ten years to serve.
14 And he is facing the possibility of life without parole if
15 he is successful here today.

16 At this time, the State would ask Mr. Fowler to state
17 for the record which allegations he intends to move forward
18 on.

19 THE COURT: Thank you, Ms. Westraad.

20 MR. FOWLER: Your Honor, after discussing with Mr.
21 McNeil, he indicates he wishes to go forward on his
22 application today.

23 THE COURT: All right. Thank you.

24 Anything you'd like to add to the procedural history as
25 relayed to me by the Attorney General's Office?

1 MS. WESTRAAD: Your Honor, the State just wants to put
2 on the record that the additional assault and battery second
3 degree charge, that's case number 2020-GS-16-1026 was a
4 separate incident from the attempted murder pleas, but it
5 was dropped as part of the plea deal.

6 THE COURT: That potential sentence would run
7 potentially consecutive to the sentences he could receive,
8 which could be up to life without possibility of parole?

9 MS. WESTRAAD: Yes, Your Honor.

10 THE COURT: Thank you.

11 MR. FOWLER: And, Your Honor, just to be clear on that,
12 you're saying that that assault and battery second degree
13 from, I think, July of 2020, you're saying that could be run
14 consecutively, not concurrently in this matter; is that
15 correct?

16 THE COURT: That would be my understanding. I mean,
17 that was a separate charge. A distinct charge, obviously,
18 from the charges that he pled to and, at least, from the
19 procedural history, it appears that that was not proessed as
20 a result of the plea agreement as well. I think that's what
21 the Attorney General has indicated.

22 MR. FOWLER: Your Honor, I've gone over that my with
23 client, Mr. McNeil. He indicates that he understands it.

24 THE COURT: Mr. McNeil, would you stand, please?

25 (WHEREUPON, Applicant stands.)

1 THE COURT: Good morning, Mr. McNeil. How are you
2 today?

3 THE APPLICANT: All right, sir.

4 THE COURT: Mr. McNeil, in a Post-Conviction Relief
5 application such as this, I am limited -- the only thing I
6 could give you would be a new trial in this case. So the
7 only thing I could do would be to set aside your guilty plea
8 and you would then be charged and have to face all of the
9 charges the Attorney General just listed.

10 Do you understand that?

11 THE APPLICANT: Yes, sir.

12 THE COURT: So I can't cut your sentence. I can't say
13 Mr. McNeil is serving too much time on that, I'm going to
14 cut his sentence. I can't say you're entitled to parole. I
15 can't give you a break on any of those things. The only
16 thing if you're successful on your application that I can do
17 is to say Mr. McNeil is entitled to a new trial, for which
18 you would then face the potential punishment of life without
19 parole under these circumstances.

20 Do you understand that?

21 THE APPLICANT: Yes, sir.

22 THE COURT: So whatever sentence that you are currently
23 serving, that really wouldn't make any difference if I grant
24 your application because then, you're going to go back and
25 you're going to face the potential of life without parole.

1 Any question about that at all?

2 THE APPLICANT: No, sir.

3 THE COURT: I'm sure you've discussed that with Mr.
4 Fowler; is that correct?

5 THE APPLICANT: Yes, sir.

6 THE COURT: Any question at all about that?

7 THE APPLICANT: No, sir.

8 THE COURT: Knowing that, do you want to go forward on
9 your application?

10 THE APPLICANT: Yes, sir.

11 THE COURT: All right. Any question about that?

12 THE APPLICANT: No, sir.

13 THE COURT: Thank you. You may be seated. Thank you,
14 sir.

15 Mr. Fowler, you ready to go forward?

16 MR. FOWLER: Judge, today's decision would, also, be
17 subject to the appeals process, that the Attorney General
18 could have the option to appeal this and future appellate
19 work down the road; is that correct?

20 THE COURT: Do you understand that, Mr. McNeil? That
21 if I were to grant you your application for post-conviction
22 relief, then the Attorney General could appeal that, they
23 could say that I was wrong and then it would be up to the
24 appellate courts to decide whether or not your application
25 for post-conviction relief should be granted.

1 Do you understand that?

2 THE APPLICANT: Yes, sir.

3 THE COURT: And even during the pendency of that
4 appeal, however long that might take, you would still be
5 incarcerated with the Department of Corrections.

6 Do you understand that?

7 THE APPLICANT: Yes, sir.

8 THE COURT: Any question at all about that?

9 THE APPLICANT: No, sir.

10 THE COURT: Mr. Fowler, does that cover what you were
11 asking me?

12 MR. FOWLER: Yes, sir. Thank you.

13 THE COURT: Thank you, sir.

14 Are you ready to go forward, Mr. Fowler?

15 MR. FOWLER: Yes, sir. I'd like to call Mr. McNeil to
16 the stand.

17 THE CLERK: Please come forward, sir. If you would
18 please your left hand on the Bible and raise your right.

19 SAMUEL MCNEIL,

20 after being duly sworn, testified as follows:

21 THE APPLICANT: Yes, ma'am.

22 THE COURT: Have a seat and state your name for the
23 record.

24 THE APPLICANT: Samuel O'Neil.

25 THE COURT: Mr. McNeil, if you would raise that

1 microphone just a little bit. I want to make sure that we
2 can hear you. And speak loudly and clearly into that
3 microphone. Okay, sir?

4 THE APPLICANT: Yes, sir.

5 THE COURT: Thank you.

6 Yes, sir, Mr. Fowler.

7 DIRECT EXAMINATION

8 BY MR. FOWLER:

9 Q Mr. McNeil, you've been in court since the Judge called
10 the case; is that correct?

11 A Yes, sir.

12 Q You heard what the Attorney General said about the
13 charges that you faced and what potential time exposure you
14 have; is that correct?

15 A Yes, sir.

16 Q And you, also, heard that your current sentence would
17 end approximately 2036; is that correct?

18 A I think so.

19 Q But you do understand -- how much time did you get
20 sentenced, do you remember?

21 A 17 years.

22 Q And how much of that have you served?

23 A Two.

24 Q Does that include the time that you spent in a local
25 detention center?

1 A No.

2 Q How much time did you spend in a local detention
3 center, do you remember?

4 A 16 months.

5 Q Okay. Well, anyway, you want to go forward -- and
6 after the Judge asked you the questions, you still want to
7 go forward with the PCR; is that correct?

8 A Yes, sir.

9 Q And you and I spoke previously about these matters; is
10 that correct?

11 A Yes, sir.

12 Q I want to take a look at your application.

13 MR. FOWLER: Your Honor, if I might approach fairly
14 liberally if that's okay for you?

15 THE COURT: Yes, sir.

16 BY MR. FOWLER:

17 Q This is the verification at the back of what I
18 understand is the application for post-conviction relief.
19 That's your signature verifying that you understand this and
20 this is your creation; is that correct?

21 A Yes, sir.

22 Q And you still stand by this application, correct?

23 A Yes, sir.

24 Q Let's take a look at a couple of issues with this.

25 Question number nine says, If you answer no, it says in your

1 words, I believe, this is the Applicant's first appeal. You
2 understand this is not an appeal of the General Sessions
3 case, but a look into what your attorney's performance was;
4 is that correct?

5 A Yes, sir.

6 Q So you understand this is not an appeal of those
7 charges; is that correct?

8 A Yes, sir.

9 Q And then, also, on number 19, it says, Applicant --
10 your response says, Applicant seeks relief from his
11 conviction and sentence. Applicant seeks relief that this
12 Court vacate the conviction.

13 So you answered the Judge's questions a few minutes ago
14 about that, correct?

15 A Yes, sir.

16 Q And you understand this is not a time-cut or a
17 time-served process, right?

18 A Yes, sir.

19 Q And, also, you had these amendments, these attachments,
20 rather, at the back and there's several pages of those. And
21 that's what you contend is your PCR conviction, correct?

22 A Yes, sir.

23 Q Let me ask you a few questions about that. Picking up
24 on the attachments, it says number 6C, after a plea and nolo
25 contendere under North Carolina vs. Alford via guilty, but

1 mentally ill, and that refers back to question six. It says
2 check whether a finding of guilty was made.

3 So you do say that after a plea of nolo contendere under
4 North Carolina vs. Alford via guilty but mentally ill, you
5 said mentally ill. Was that part of your plea to the Court?

6 A That was the plea.

7 Q Pardon?

8 A That was the plea.

9 Q Okay. When you say mentally ill, what do you mean by
10 that?

11 THE COURT: Mr. Fowler, hold on a second.

12 Mr. McNeil, will you speak a little bit louder on
13 there. My court reporter is having a little trouble hearing
14 you and I am as well. Make sure you talk into that
15 microphone.

16 Is there any way I can turn that microphone up as
17 loudly as possible?

18 THE CLERK: Yes, sir, I have it.

19 THE COURT: I don't know. It might be already. That's
20 more technology than I know what to do with.

21 His microphone is at full volume now?

22 THE CLERK: Yes, sir, it is.

23 THE COURT: Thank you, I appreciate that.

24 Yes, sir, Mr. Fowler, sorry to interrupt you.

25 MR. FOWLER: Thank you, Your Honor.

1 BY MR. FOWLER:

2 Q So it says at 6C, your response to question number six,
3 it says, Mentally ill. When you say mentally ill, what did
4 you mean by that?

5 A I still don't understand that.

6 Q Okay. So when you said in your words that after a plea
7 of nolo contendere under Alford, pled guilty, but mentally
8 ill; is that right?

9 A Yes, sir.

10 Q When you say mentally ill, what did you mean by that?

11 A That's what I want to know. Like I say, I never talked
12 to him. We never had discussions. I thought North Carolina
13 vs. Alford was mentally ill.

14 Q So did you indicate to your attorney that you were
15 mentally ill?

16 A He knew that.

17 Q What do you mean he knew that?

18 A He had all my mental health records.

19 Q But did you ever go over it with him?

20 A No, I did not.

21 Q So what is your contention was the mentally ill process
22 of that that you pled under Alford?

23 A I don't understand the question.

24 Q Was there a certain mental illness that you've been
25 diagnosed with?

1 A Yes, sir.

2 Q What were those?

3 A Schizophrenia, multiple personality disorder, anger
4 issues and [indiscernible].

5 Q Okay. Did you go over those with your attorney?

6 A Yes.

7 Q You did?

8 A I tried, but he didn't really discuss anything.

9 Q Okay. How did you try to talk to him about those
10 diagnoses?

11 A I wrote a letter.

12 Q Pardon me?

13 A I wrote a letter.

14 Q Did he respond to the letter?

15 A No, sir.

16 Q But you still felt comfortable pleading under mentally
17 ill?

18 A At the moment, yes.

19 Q But your contention is he never went over it with you
20 at length, did he?

21 A No.

22 Q You feel like he should have?

23 A For me to understand it, yeah.

24 Q Why is that?

25 A Explain to me how I get North Carolina vs. Alford and

1 mentally ill instead of just mentally ill like I discussed
2 with the prior attorney.

3 Q So just to rephrase your answer, it's my understanding
4 you said why did you plead under Alford and mentally ill --
5 but mentally ill instead of just mental illness to begin
6 with, right?

7 A That was my understanding.

8 Q Did your attorney ever consult with any of your
9 physicians or anybody who diagnosed you with that?

10 A No.

11 Q Did he ever indicate why he did not?

12 A We never discussed it.

13 Q But you said you wrote him a letter; is that correct?

14 A Yes.

15 Q Did you ever talk to him in person about it?

16 A Not until the 25th.

17 Q What did you talk to him about on the 25th with it?

18 A That was when he was telling that -- he informed me he
19 was not my attorney, he would not be representing me.

20 Q But he was there with you at the plea, correct?

21 A Yes.

22 Q So let's just back this up a second. So you're saying
23 that he said that he was not your attorney?

24 A Yeah, he was saying something about he was not going to
25 be able to represent me. He later called me on the 7th and

1 told me he was still representing me and we was going to
2 proceed to trial.

3 Q So was he your attorney or not? Because it seems like
4 what you're saying is he told you that he wasn't going to
5 represent you, but then he wound up representing you; is
6 that correct?

7 A That's what happened.

8 Q Did you bring that to the Court's attention?

9 A Yes, sir.

10 Q What --

11 A They said it wasn't a problem, that wasn't an issue.

12 Q Question number ten on your application -- well, let me
13 ask you this question before we move on. Did that create
14 any confusion in your mind about what he -- his
15 representation of you? Were you sure that he was
16 representing you when you pled?

17 A From my understanding, yes.

18 Q Question number ten states, State concisely the grounds
19 on which you have your allegation that you are being held in
20 custody unlawfully. And it says here in 10A, Pursuant to
21 Strickland vs. Washington, per counsel's deficient and
22 prejudicial performance, deprived Applicant of his right to
23 effective assistance of counsel guaranteed by the Sixth
24 Amendment in violation of the due process pursuant to the
25 14th Amendment.

1 So you're saying that his performance was deficient and
2 prejudicial. What do you mean by that?

3 A Like I said, this case was going on for a minute and I
4 had no idea who I was being represented by. So when I wrote
5 the letter, he never responded. Then when I did find out
6 who he was on that day, he told me he wasn't going to be
7 representing me. So my understanding, okay, if he's not
8 representing me, we don't need to be talking. He called
9 back about seven days later and said that he will represent
10 me. We'll proceed to trial. When I get to trial, I don't
11 have a defense at all. So how you can possibly represent
12 me? We can't go to trial like this.

13 Q When you say you didn't have a defense, what do you
14 mean by that? That he didn't go over defenses with you?

15 A I never met with the man until that day.

16 Q The day of what?

17 A May 25th.

18 Q So other than that, is there anything else that you
19 feel like -- which is quite significant and we'll discuss
20 this a little bit later, is there any other issues that you
21 say is deficient and prejudicial performance that you can
22 think of?

23 A Not that I can think of right now.

24 Q So you said he didn't meet with you in person but one
25 time; is that correct?

- 1 A Yeah, one time.
- 2 Q How long was he your attorney?
- 3 A I have no idea.
- 4 Q Was he appointed to you?
- 5 A He was court-appointed.
- 6 Q Do you know when he was appointed?
- 7 A I have no idea, sir.
- 8 Q So did he ever indicate why he didn't meet with you?
- 9 A No, sir.
- 10 Q Do you feel like that was a problem, him not meeting
11 with you?
- 12 A Yeah, that's a big problem, you know, with what I was
13 facing at the time.
- 14 Q Okay.
- 15 A And then him telling me he was not going to represent
16 me and then seven days later calling back and saying I guess
17 I will be representing you. And him doing nothing in a
18 period of 19 days.
- 19 Q Did he ever explain the apparent back and forth on
20 that, that he said -- you're alleging that he said he was
21 not going to represent you and then he wound up representing
22 you. Did he ever explain that to you?
- 23 A No.
- 24 Q Did you ask him?
- 25 A Yeah, I wanted to know and he said he would talk to me

1 more when we get to court. And I got to court, we went
2 straight to trial.

3 Q All right. In 10B, it says, Plea counsel did not
4 consult with Applicant until May 25th, 2023 for the first
5 time to advise Applicant that he will be representing
6 Applicant at trial. Plea counsel later retracted his prior
7 statement of June 7th, 2023.

8 Now, is that -- was all this in 2023? Because the May
9 25th and then you said June 7th advising Applicant that
10 counsel would be representing Applicant at trial. The third
11 consulting was on June 26th at the time of trial and then
12 you quote some case law there. The absence of counsel
13 during pretrial procedures deprived Applicant of effective
14 counsel?

15 So let's break that down. So we've got three dates
16 here, okay. May 25th, 2023, June 7th, 2023 and then June
17 26th, 2023. What were those dates? Were those --

18 A May 25th, 2023 is the first time I spoke to him. Like
19 I say, he called back on June 7th, 2023 and told me he will
20 be representing me. I went to trial June 26th.

21 Q So there's, at least, a week or two there, it seems,
22 between May 25th and June 7th that you -- did you have an
23 attorney at that time in that week or were you --

24 A No, because he was telling me he wasn't representing
25 me.

1 Q So did you, like, want to -- did you try to hire an
2 attorney or call the public defender's office or what did
3 you do?

4 A No. I wrote another letter to the court -- well,
5 actually, I wrote a letter to the Office of Disciplinary
6 Counsel about this issue, which they said it was not an
7 issue.

8 Q Okay. Did you file a complaint against him with Office
9 of Disciplinary Counsel?

10 A Yes.

11 Q Did they ever respond to you or what did they do?

12 A Yes, they said it wasn't an issue and my complaint was
13 dismissed.

14 Q Okay. Even though you're saying -- telling the Court
15 today that between May 25th and June 7th, you're thinking
16 you didn't have an attorney, right?

17 A Yes, sir.

18 Q And then June 26th, that was the date of trial, right?

19 A Yes, sir.

20 Q So being deprived of an attorney less than a month
21 before trial, how would you characterize that?

22 A What do you mean?

23 Q Would you describe that as deficient or problematic or
24 prejudicial?

25 A All of that.

1 Q Did he bring that to the Court's attention, that he's
2 indicated that he was not your attorney for several weeks or
3 several days between May 25th and June 7th?

4 A I'm not sure.

5 Q But, basically, you're saying that less than a month
6 before you went to trial, you felt like you did not have an
7 attorney?

8 A I didn't have an attorney. He told me he wasn't going
9 to represent me, then he called and said he would. So
10 that's my point, I know I didn't have an attorney because
11 those were his words.

12 Q Do you think that lack of attorney representation
13 between those dates has put you in the position you're in
14 now, you know, with whatever happened with that General
15 Sessions court, do you think -- let me rephrase that, do you
16 think that that was a problem for you in your case not
17 having an attorney between May 25th and June 7th?

18 A Yes, it was.

19 Q How so?

20 A (No response.)

21 Q Let me rephrase it. You're indicating in your
22 application that you felt and you said officially that you
23 did not have an attorney between May -- all these dates are
24 in 2023 so far. That between May 25th and June 7th, you did
25 not have counsel?

1 A Yes.

2 Q And then the trial was scheduled for June 26th, right?

3 A Yes.

4 Q So how was that performance of your attorney deficient
5 telling you that you did not have his representation between
6 May 25th and June 7th? Was that a problem? And maybe I'm
7 rephrasing it, but I just want to get to the point. My
8 indication is that you were going to trial in late June. In
9 early June, you felt you didn't have an attorney, right?

10 A Yes.

11 Q And you're familiar with the Strickland vs. Washington
12 standard, right?

13 A No.

14 Q Well, I think it's mentioned in your application. But
15 you're saying that his performance or his lack of
16 representation of you was a problem in your trial
17 preparation, correct?

18 A Yes.

19 Q Anything else about that between that gap -- that lack
20 of coverage between May 25th and June 7th that you wish to
21 bring to the Court's attention?

22 A No, sir.

23 Q After June 7th and until June 26th, did he meet with
24 you? And I think you may have answered this, but did he
25 send you letters or call you on the phone? What was his

1 communication between June 7th and the June 26th date that
2 you mentioned in your application?

3 A There wasn't any, except for the 7th of June when he
4 called and said he would represent me. After that, I didn't
5 see or hear from him again until the 26th.

6 Q And the 26th was the scheduled trial date; is that
7 correct?

8 A It was the date of trial.

9 Q So there was no communication even after he said he was
10 your attorney; is that correct?

11 A Yes, sir.

12 Q Was that a problem?

13 A Yeah.

14 Q How?

15 A Because then I'm confused about what to do.

16 Q Do you think that that affected your final decisions in
17 this case?

18 A Yes, it did.

19 Q How so?

20 A Because I didn't know what to do. At one point, I have
21 an attorney and the same attorney is telling me he's not my
22 attorney. So I have no kind of guidance of what to do.

23 Q Well, you're not an attorney, are you?

24 A No, I'm not.

25 Q So you didn't have -- you said you didn't have any

1 guidance, right?

2 A No, sir.

3 Q What do you mean by that?

4 A I took a plea so I could get on [indiscernible] some
5 information about this. Like I said, when I did talk to an
6 attorney, that was a prior attorney in which that was
7 screwed up as well.

8 Q So on June -- we're continuing on with 10B. So on June
9 26th, that was your scheduled trial date?

10 A Yes.

11 Q Did he ask for any continuance from the Court?

12 A No, he did not.

13 Q Did he tell the Court what had went on about that
14 apparent lack of representation, at least, between May 25th
15 and June 7th?

16 A No, he did not.

17 Q Do you think he should have?

18 A Yeah, he should have.

19 Q Why?

20 A That would, at least, give me time to get prepared, not
21 just with him, but someone to get a legal understanding of
22 what was actually going on with my cases.

23 Q Now, he was appointed, correct?

24 A Yes, sir.

25 Q So you didn't have money for your own private counsel,

1 did you?

2 A No, sir.

3 Q So you, basically -- did you have to go through the
4 public -- so you felt like you were tied to him; is that
5 correct?

6 A Almost.

7 Q So you felt like you couldn't get another attorney, did
8 you?

9 A No.

10 Q All right. If nothing else about that, it says -- in
11 number 11, it says, State concisely in the same order the
12 facts which support each of the grounds set out in 10. And
13 we have A, continued on two pages and then we go to 16. So
14 it says here, Plea counsel failed to adequately review
15 discovery with Applicant and advise him accordingly.

16 What do you mean by that?

17 A I never saw him.

18 Q Did he --

19 A Actually, I didn't even see my whole file until the day
20 of trial.

21 Q Why not?

22 A I can't answer that.

23 Q Did he explain to you why you didn't see it until the
24 day of trial?

25 A Did not.

1 Q Do you feel like that was prejudicial to your
2 representation?

3 A Yes, sir.

4 Q Why is that?

5 A It was for the no counsel. And I'm starting to repeat
6 myself here. If we didn't talk and he wasn't there, I had
7 no counsel.

8 Q And I think we can parse it out a little bit. So you
9 had no counsel, but you, also, didn't get your discovery,
10 did you?

11 A No, I did not.

12 Q And he never gave you the discovery before May 25th,
13 did he?

14 A No, sir.

15 Q And you said he presented it to you the day of the
16 scheduled trial, correct?

17 A Yes.

18 Q How many pages was it, do you remember?

19 A Couple hundred.

20 Q So you're telling me and the Court today that he gave
21 you a couple hundred pages on the day of court?

22 A Day of trial.

23 Q Day of trial. Did he indicate why he presented it so
24 late to you?

25 A No.

1 Q Okay.

2 A No, no, I lied. He didn't give me, but he showed me --
3 he showed me a video on the 25th. He showed me a video on
4 the 25th. Other than that, I didn't get the actual
5 discovery until the day of trial.

6 Q Okay. Let's be clear about that. So you saw the video
7 when, the day of trial?

8 A No, I saw the video on the 25th of May.

9 Q Well, that was, also, the day he said he was no longer
10 representing you, right?

11 A Wasn't representing me.

12 Q So why would he present you a video if he was not going
13 to be your attorney?

14 A In his words, he said this is what you're against.

15 Q This is what?

16 A This is what you're against.

17 Q A video?

18 A Yes.

19 Q How long was the video?

20 A I want to say 15, maybe 20 minutes.

21 Q Where did you watch it?

22 A At the courthouse.

23 Q Now, let's be clear about the dates here, okay? So you
24 saw that video on May 25th or June --

25 A May 25th.

1 Q May 25th?

2 A May 25th.

3 Q You saw it at the courthouse?

4 A Yes, sir.

5 Q And, basically, generally, what was the -- without
6 getting --

7 A The witness statements.

8 Q Well, you said he said that this is what you're
9 against?

10 A Yes.

11 Q In your opinion, what did he mean by that?

12 A I guess, what the State -- the State may show. Okay.
13 This is what's going to be on the stand. This is what
14 you're facing.

15 Q But there was no, like -- it was individuals speaking,
16 right, it wasn't actual video of the crime, was it?

17 A No, no.

18 Q Did he explain to you what he meant by that, that this
19 is what you're against, the statements of the witnesses?

20 A I mean, I just assumed that, okay, this is -- like I
21 said, this is what I'm against.

22 Q Okay. And was it after that that he resigned from you
23 or did he do it in person or how -- how did you -- okay,
24 you're telling me that he showed the video on or around May
25 25th?

1 A On May 25th.

2 Q On May 25th. Did he tell you that he was no longer
3 your attorney after watching the --

4 A On May 25th.

5 Q -- video? Repeat that, please.

6 A On May 25th.

7 Q Was that after you watched the video?

8 A After I watched the video.

9 Q Did he connect the two, that he felt like he could no
10 longer represent you because of the witness statements that
11 you saw?

12 A No, from my understanding, he was going to a private
13 practice.

14 Q Okay. So it wasn't in regards to the evidence or
15 apparent evidence he showed you, was he?

16 A No.

17 Q Plea counsel failed to explain the nature of the
18 charges as well as the consequences or implication that
19 result from the imposition of his plea in sentence.

20 So once again, you're saying that no discussion was
21 problematic, right? He never went over anything with you,
22 did he?

23 A No.

24 Q Plea counsel, also, failed to adequately explain any
25 plea offers, terms and relative advantages or disadvantages

1 as opposed to proceeding to trial. So how did you get word
2 of your plea offer?

3 A The day of trial.

4 Q Day of trial. Did he go over the advantages and
5 disadvantages of the plea offer with you?

6 A No, sir.

7 Q Did he explain why he had not given you the plea offer
8 earlier?

9 A No, sir. He explained to me that Alford vs -- Alford,
10 but mentally ill was the best way for me to go.

11 Q And you had not had counsel before then, had you?

12 A No.

13 Q At least, not officially, did you?

14 A No.

15 Q Similarly, plea counsel failed to sufficiently advise
16 the Applicant on the trial rights waived by the plea,
17 specifically, the waiver of the Applicant's rights to
18 present a defense to the charges.

19 All right. What do you mean by that, that he didn't go
20 over your waiver of rights; is that correct?

21 A (No response.)

22 Q I'll repeat it. Similarly, plea counsel failed to
23 sufficiently advise Applicant on the trial rights waived by
24 way of his plea, specifically, the waiver of the Applicant's
25 right to present a defense to the charges.

1 You see right here about midway down?

2 A Yes, sir.

3 Q So he didn't go over what your waiver of rights were,
4 did he?

5 A No, sir.

6 Q And it says here, Submit evidence in support thereof,
7 call supporting witnesses to testify, et cetera. So it
8 sounds like here that he didn't go over evidence with you,
9 did he?

10 A No, sir.

11 Q And he didn't go over any witnesses that could be
12 helpful to you, did he?

13 A No, sir.

14 Q Did he go over any witnesses that might be called by
15 the State?

16 A No, sir.

17 Q All right. Says, Plea counsel failed to adequately
18 investigate the facts of the case, potential defenses and
19 legal theories available to Applicant.

20 Anything else about that that you wish to bring to the
21 Court's attention? He didn't investigate the facts, he
22 didn't present potential defenses or legal theories, did he?

23 A No, sir.

24 Q So my question at this point, before May 25th, how long
25 was he your attorney?

1 A I don't know.

2 Q Well, you received the appointment letter, didn't you?

3 A No, I did not.

4 Q So you don't know how long he represented you before
5 May 25th, 2023?

6 A No, sir.

7 Q And then you quote some case law here, Plea counsel,
8 likewise, failed to investigate several viable dispositive
9 pretrial motions, trial strategies and defenses made to
10 Applicant.

11 Did he offer any pretrial motions to the Court?

12 A Not that I know of.

13 Q Did he go over with you any trial strategies?

14 A No, sir.

15 Q Did he go over with you any defenses?

16 A No, sir.

17 Q Did he go over any -- you said that he did -- correct
18 me if I'm wrong, but that you notified him of your mental
19 health issues; is that correct?

20 A Yes.

21 Q Did he go into those in depth, what might be helpful to
22 you?

23 A No, he did not.

24 Q In 11A continued, it says, Plea counsel, likewise,
25 failed to undertake reasonable measures to engage in plea

1 negotiation and bargaining opportunities with the State.

2 So what -- okay. First of all, what discussions did
3 your attorney and the prosecuting state solicitor's office
4 have on your case, do you know?

5 A I don't understand the question.

6 Q Okay. What discussions did your attorney before May
7 25th have with the State about your case?

8 A I don't know.

9 Q Could you repeat that, please?

10 A I don't know.

11 Q Well, then, how did the plea offer come along on June
12 26th?

13 A June 26th?

14 Q Yeah, how did that come up?

15 A I was sitting in the holding cell. He came up to me
16 and he said, Me and him worked out a deal for you.

17 Q Okay.

18 A And so I would be able to plead under Alford vs. North
19 Carolina by way of mentally ill. And I'm like, okay, I'm
20 not getting anywhere with this, that might be the best thing
21 for me to do.

22 Q Why did you feel it was the best thing for you to do at
23 that time?

24 A Because I wasn't getting anywhere.

25 Q Did your plea counsel say hey, we can ask for a

1 continuance on this?

2 A No, he did not.

3 Q Did he say, look, I screwed up or whatever, can we do
4 this or that?

5 A No.

6 Q So he didn't really just give you any other options
7 other than a plea, did he?

8 A That's all.

9 Q It says here, Plea counsel's errors and omissions
10 directly impacted Applicant's decisionmaking on whether to
11 plea or proceed into trial and, also, render his plea not
12 knowingly or voluntarily entered.

13 So how did it affect your decisionmaking, his errors
14 and omissions, according to you?

15 A Like I say, I mean, at the time, [indiscernible] life
16 without the possibility of parole. Okay, I'm not getting
17 anywhere with counsel. No one was talking to me, so let me
18 try to figure this out on my own.

19 Q How would you describe you accepting the plea that day?

20 A That day, my state of mind was confused.

21 Q Did you feel like you were forced to take the plea?

22 A Very much the way I was told, yes.

23 Q Let's break this down. How were you confused? You
24 said your state of mind that day was confused, right?

25 A Yes, sir.

1 Q What was it confused about?

2 A Not having representation for what I actually wanted to
3 do, which was actually go to trial. I can't go to trial
4 without any type of defense. I can't sit here -- how am I
5 going to go to trial and know what's going on without
6 talking?

7 Q And that was all that day of trial, right?

8 A Yes.

9 Q And you, also, say it was not -- the plea offer, that
10 your plea was not knowingly or voluntarily entered. What do
11 you mean by that?

12 A (No response.)

13 Q Do you feel like you had a complete understanding of
14 the plea?

15 A (No response.)

16 Q Let me rephrase that. On the day of trial, do you feel
17 like you had a complete understanding of the charge that
18 your plea was made?

19 A No.

20 Q Why not?

21 A Because I didn't understand my charges.

22 Q It's right there on this 11A page, whatever that is.
23 So you went into a plea not understanding your charges,
24 right?

25 A Yes, sir.

1 Q And whose responsibility was that?

2 A Understanding my charges?

3 Q Yes.

4 A Or understanding the plea?

5 Q Understanding the charges. Was it your appointed
6 attorney's responsibility?

7 A To assist me, yes.

8 Q And was it, also, their responsibility to understand
9 what plea you were entering?

10 A Yes.

11 Q But you're saying that it was not voluntarily entered,
12 right?

13 A No, it wasn't.

14 Q I'm going to read this verbatim here. But for plea
15 counsel's errors, Applicant would not have pled and instead
16 would have proceeded with trial. In the alternative, plea
17 counsel was ineffective for failing to adequately present an
18 argument for mitigation purposes at sentencing.

19 So what do you mean by that?

20 A I did not [indiscernible] the incident, even prior to
21 then. I would have made a better judgment.

22 Q How would you describe your judgment going into the
23 plea?

24 A I did not understand it. I still don't understand it.

25 Q Okay. And why not?

1 MS. WESTRAAD: Your Honor, the State would object to
2 asked and answered. I feel like this exact question has
3 been asked and answered multiple times.

4 THE COURT: I overrule the objection.

5 BY MR. FOWLER:

6 Q We're still in that same section.

7 A (No response.)

8 Q Do you wish to answer that?

9 A North Carolina vs. Alford, but mentally ill. I
10 understand North Carolina vs. Alford. I don't understand
11 about the mentally ill part. Those are two entirely
12 different entities.

13 Q So you're contention is that Alford is a stand-alone
14 plea, correct?

15 A From my understanding.

16 Q And that the mentally ill is a stand-alone plea,
17 correct?

18 A Yes.

19 Q Are you saying that in retrospect that you feel like
20 that was a -- let me see how I can phrase this. So you
21 could have pled to Alford, you could have pled to mentally
22 ill, but do you feel like the Court was in error by pleading
23 Alford under mentally ill?

24 A The Court, I don't know, but my attorney, at the time
25 not explaining this stuff to me, I was real confused. Like

1 I said, I'm saying the same thing. I'm starting to repeat.
2 From my understanding, on the 25th of May, my attorney
3 informed me that he was no longer my attorney, yet he still
4 showed me the video showing a statement that would be given
5 at trial. On the 7th of June, you tell me that somehow you
6 will be representing me. On the day of trial, the 26th,
7 after picking a jury, he explained to me that North Carolina
8 vs. Alford via mentally ill would be the best way for me to
9 go right now. Not really understanding it, I took that
10 because I knew for a fact that ain't no way in the world I
11 was going to sit in front of this jury facing what happened
12 without any assistance. I just couldn't do it.

13 Q Anything else on that?

14 A No.

15 Q I think my question to you is this, talking about the
16 Alford plea, that in retrospect, Alford is an Alford plea
17 and mental illness is a mental illness plea, but do you feel
18 like the Court, in accepting your plea combined the Alford
19 statute case law, whatever plea option with mentally ill?
20 Do you think that there was a problem with that plea on the
21 surface of it, the way you pled, not pleading exclusive to
22 Alford by adding mental illness to it?

23 A What is that question --

24 Q My question is that, apparently, your plea having the
25 words, but mentally ill, so shouldn't you have just pled to

1 Alford straight out instead of Alford, but mentally ill? Do
2 you understand what I'm saying? It kind of added a
3 qualifier to Alford in Alford, but mentally ill. Could it
4 have possibly just been an Alford plea straight up? Do you
5 understand the legality of what I'm asking?

6 A Yeah, I understand. I mean, how am I possibly going to
7 say that now? [Indiscernible].

8 Q That's fine. That's fine. Let's move on. We've only
9 got a few more questions. In 16, on the next page, I
10 believe, it says, If any grounds set forth in 10 have not
11 previously been presented to any court, state or federal,
12 set forth the ground and state precisely the reasons why
13 such ground has not previously been presented.

14 And your answer to it, I believe, in 16A is this PCR
15 action is Applicant's first opportunity to raise the
16 ineffective assistance of counsel, which is recognizable for
17 relief under the PCA act.

18 So this is your first chance to have the ineffective
19 assistance of counsel raised; is that correct?

20 A Yes, sir.

21 Q Now, you did plea, correct?

22 A Yes, sir.

23 Q And the Court asked you a series of questions, right?

24 A Yes.

25 Q Why did you answer those questions the way you did if

1 there was a history of your attorney saying he wasn't your
2 attorney for several weeks before trial? What were your
3 feelings on pleading at that point knowing the history of
4 the professional relationship you guys had?

5 A I didn't say it was the best for me. It really was the
6 best for me at that moment to go ahead and get this -- so I
7 can get started and try and figure out how to get
8 [indiscernible].

9 Q Okay. And your attorney was James -- it says, If you
10 answered yes to one or more, 17, the name and address of
11 each attorney who represented you. And you list four
12 people, James Hodges Scruggs, Patricia C. Rivers, Erin
13 O'Neal Gaddy and Kyle Hobbs; is that correct?

14 A Yes.

15 Q Who was -- just to be clear, who was the attorney that
16 said that they were not your attorney on May 25th, according
17 to your testimony?

18 A Kyle Michael Hobbs.

19 Q And he's been in the courtroom today, correct?

20 A I don't know.

21 Q Pardon me?

22 A I don't know.

23 Q But anyway, he's the one this is, basically, against;
24 is that correct?

25 A Yes.

1 Q Do you have any charges against the other attorneys,
2 Scruggs, Rivers or Gaddy?

3 A Yes. Erin O'Neal, she -- well, even Patricia Rivers
4 did more than O'Neal [indiscernible]. She wasn't even a
5 judge or an attorney in South Carolina.

6 Q She wasn't an attorney in South Carolina?

7 A She's not a judge or an attorney in South Carolina --
8 MS. WESTRAAD: Objection, hearsay.

9 THE COURT: Sustained.

10 BY MR. FOWLER:

11 Q But your complaints that we've raised today are against
12 Kyle Michael Hobbs; is that correct?

13 A Yes.

14 Q All right. That brings me to the end of the
15 application attachments as I see them. Is there anything
16 else that you wish to bring to this Court's attention about
17 Mr. Hobbs and his performance or any of the other counsel
18 that you feel like needs to be brought to the Court's
19 attention at this time?

20 A No, sir.

21 MR. FOWLER: No further questions, Your Honor.

22 THE COURT: Ms. Westraad?

23 CROSS-EXAMINATION

24 BY MS. WESTRAAD:

25 Q Good afternoon, Mr. McNeil.

1 A Good afternoon.

2 Q I just want to confirm for the record that you
3 understand if you're successful here today, the result will
4 be that you're guaranteed a new trial with the original
5 indictments? I know they went over that with you earlier,
6 but I just want to reiterate, you understand that?

7 A Yes, ma'am.

8 Q And you still wish to proceed?

9 A Yes, ma'am.

10 Q Okay. So I just want to read to you -- so do you
11 recall that at your plea hearing the Judge asked you, he
12 said, You're pleading under what is known as an Alford plea
13 and that's where you are not admitting I did these things,
14 but you're not contesting it, you're not challenging it. Is
15 that your understanding of an Alford plea? And you
16 responded yes. Do you remember that?

17 A Yes, ma'am.

18 Q And the Judge then asked you if that was how you wished
19 to proceed and you said yes?

20 A Yes.

21 Q And then the Judge asked you if you had talked to Mr.
22 Hobbs, your attorney, about that. Do you remember that?

23 A Yes.

24 Q And you said yes?

25 A Yes, ma'am.

1 Q And then your attorney asked you, You're entering into
2 this plea freely and voluntarily? Do you remember that?

3 A Yes, ma'am.

4 Q And you said you were?

5 A Yes.

6 Q And you confirmed that nobody had threatened you or
7 coerced you into the plea. Do you remember that?

8 A Yes.

9 Q Did you say yes?

10 A Yes.

11 Q And do you remember that the Court talked about you had
12 an excellent lawyer, Mr. Hobbs, you might be his last case
13 and the Court holds him in high regard? Do you remember the
14 Judge saying that?

15 A Yes.

16 Q Okay. So then the Judge asked you, so have you had a
17 chance to talk to him about all of these things that we've
18 discussed today? Do you remember him asking you that?

19 A Yes.

20 Q Do you remember? Did you say yes?

21 A Yes.

22 Q And the Judge asked you if he had answered all of your
23 questions that you asked him and you said yes?

24 A Yes.

25 Q And you confirmed that your attorney, Mr. Hobbs, had

1 done what you asked him to do. Do you remember that?

2 A No, I don't remember that.

3 Q Okay. So you were -- you met with your attorney --
4 from what you were just saying on direct, you met with him a
5 month before is what you're saying, a month before you went
6 to trial?

7 A Yes.

8 Q And you proceeded to a jury trial, then decided to
9 plead guilty. And at the time, that's what you said you
10 were comfortable with?

11 A Yes.

12 Q Okay. The Court, also, explained your options to go to
13 trial and reminded you that you were set for trial the next
14 morning. Do you remember that?

15 A I was going to start trial that morning.

16 Q Okay. And you confirmed that you understood you were
17 waiving the trial and the associated rights. Do you
18 remember that?

19 A Yes.

20 Q Do you recall your attorney explaining that it took
21 many meetings, discussions, explanations and communications
22 with you and your family before you pled guilty?

23 A (No audible response.)

24 Q Do you remember the Judge at your plea hearing stating
25 that the plea was a global resolution of a number of charges

1 that even exceed beyond what you were prepared to be tried
2 for that day? Do you remember him saying that?

3 A No.

4 Q Okay. Do you remember the Judge saying that your
5 attorney would be right there to explain or interpret
6 anything that might confuse you?

7 A I don't know.

8 Q Do you recall the Judge explaining that a straight-up
9 plea meant there was no recommendation and he would make the
10 final decision?

11 A I don't know.

12 Q Do you remember your mother being at the hearing to
13 testify?

14 A Yes.

15 Q Do you remember what she testified to?

16 A No.

17 Q Do you, also, recall that your brother testified in
18 your support?

19 A (No audible response.)

20 Q Do you remember confirming with the Judge that you
21 understood the conversation that he had with you?

22 A (No audible response.)

23 Q Do you remember the Judge asking if you were under the
24 influence of any substance that would cause you to be
25 confused?

1 A (No audible response.)

2 Q Do you remember telling the Judge that you believed
3 under the circumstances pleading guilty was in your best
4 interest?

5 A (No audible response.)

6 Q Do you remember about when the Judge asked you is it
7 correct that you're not admitting to the facts, you're only
8 contesting them and you said correct?

9 A Not that I remember.

10 MS. WESTRAAD: No further questions.

11 THE COURT: Any redirect?

12 MR. FOWLER: Yes, sir, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. FOWLER:

15 Q So you did not have enough funds to hire a private
16 attorney, did you?

17 A No.

18 Q So were you using the public defender's office?

19 A I assume so.

20 Q Did you have any discussions with Mr. Hobbs about
21 changing attorneys in the public defender's office?

22 A No, sir.

23 Q Did you know if the public defender would change --
24 give you another attorney instead of Mr. Hobbs?

25 A No.

1 Q Did you have the option to get another public defender?

2 A I didn't have an option.

3 Q So you can't hire private counsel because of your
4 resources is what my understanding of your answer was and
5 Mr. Hobbs was assigned through the public defender's office,
6 correct?

7 A Yes.

8 Q So was your only option going through the public
9 defender's office for representation in this matter?

10 A Yes.

11 Q Why is that?

12 A I don't understand the question.

13 Q Okay. Did you have the resources to hire private
14 counsel?

15 A No, I did not.

16 Q So you were using the public defender's office in the
17 district, correct?

18 A Yes.

19 Q And Mr. Hobbs worked through the public defender's
20 office in the district, right?

21 A Yes.

22 Q So do you know if you could have gotten another public
23 defender or not or be in the same office?

24 A I tried that and that didn't work out well.

25 Q Tell me about that. What do you mean you tried that?

1 A Like I said with Ms. O'Neal, when we was having -- when
2 I had a conflict with her, I actually wrote the disciplinary
3 counsel and they told me she wasn't an attorney or a judge
4 in this state --

5 MS. WESTRAAD: Your Honor, we would object to hearsay
6 again.

7 THE COURT: Sustained. The answer is stricken.

8 MR. FOWLER: Your Honor, may I have a moment.

9 (Pause.)

10 BY MR. FOWLER:

11 Q You didn't have any options outside the public
12 defender's office, did you?

13 A No.

14 Q So you had to use them, correct?

15 A Yes.

16 Q And he was the one representing the public defender's
17 office, right?

18 A Yes.

19 Q So was it because you didn't have any resources
20 monetarily that you were forced to go with the public
21 defender's office?

22 A Yes.

23 Q So you had to go with what they said, right?

24 A Yes.

25 Q In your words, how do you feel like all this came

1 about? Do you feel like you were forced to take what they
2 offered you or what?

3 A Pretty much.

4 Q Is that a yes or a no?

5 A Yes. Like I said, after what I was told, I just gave
6 up.

7 Q Now, it was mentioned that it was said many meetings
8 were indicated with Mr. Hobbs. How many meetings did you
9 have with him before May 25th and then before the June 26th
10 date?

11 A May 25th and none before June 26th. Just the one on
12 May 25th.

13 Q In your opinion, is that many meetings?

14 A That's not many.

15 Q Just to be clear, did you plead under Alford or did you
16 plead under Alford, but mentally ill? In your mind, what
17 did you plead to? Did you plead to Alford straight-up or
18 did you plead to Alford, but mentally ill or some variation
19 of that?

20 A I pled to Alford, but mentally ill, I'm not sure.

21 Q Yeah, but you said somewhere in here that you pled to
22 Alford, but mentally ill?

23 A But mentally ill.

24 Q Okay. In 6C, you state, After a plea of nolo contendere
25 under North Carolina vs. Alford being guilty, but mentally

1 ill. So in your mind, were you pleading under Alford or
2 some variation of Alford or Alford, but mentally ill?

3 MS. WESTRAAD: Your Honor, we would object to asked and
4 answered.

5 THE COURT: Overruled.

6 BY MR. FOWLER:

7 Q You can answer the question, I believe.

8 A Like I said, I really didn't understand. I still don't
9 understand how I'm both.

10 MR. FOWLER: No further questions, Your Honor.

11 THE COURT: Thank you.

12 Mr. McNeil, you may step down.

13 MR. FOWLER: Your Honor, may I speak with my client for
14 just a moment, please?

15 THE COURT: Yes, sir.

16 (Pause.)

17 MR. FOWLER: Your Honor, I consulted with my client,
18 Mr. McNeil, and we have no further witnesses at this time.

19 THE COURT: Thank you. The Applicant rests.

20 Yes, ma'am.

21 MS. WESTRAAD: Your Honor, the State would call Kyle
22 Hobbs.

23 THE COURT: Mr. Hobbs.

24 KYLE HOBBS,

25 after being duly sworn, testified as follows:

1 THE WITNESS: I do.

2 THE CLERK: Thank you. Have a seat and state your name
3 for the record.

4 THE WITNESS: My name is Kyle Hobbs, H-O-B-B-S.

5 DIRECT EXAMINATION

6 BY MS. WESTRAAD:

7 Q Good afternoon, Mr. Hobbs. I'm just going to start
8 with a few general questions.

9 A Sure.

10 Q How long have you been practicing law?

11 A 16 years.

12 Q And how much of your practice has been in criminal law?

13 A Almost entirely.

14 Q How long before Mr. McNeil's plea were you appointed or
15 retained?

16 A I was appointed to his case in March of 2022, which was
17 after, I believe, Ms. Erin O'Neal was either fired or
18 relieved as counsel.

19 Q How many times did you meet with Mr. McNeil between the
20 time you were appointed and the date of the hearing?

21 A Specifically, it was one time, on May 25th. It was in
22 person. Otherwise, it was a phone conference that he
23 referenced on June 7th. And there was a particular reason
24 why that was the case as well.

25 Q Do you want to go into that at all?

1 A Absolutely. Mr. McNeil had just been convicted at a
2 trial in Florence County and received a 20-year sentence.
3 Because of that sentence, there was a lack of clarity about
4 whether or not the State was, actually, going to prosecute
5 the charges because of the lengthy sentence that he had
6 received in Florence.

7 So throughout 2022, I had his file. Of course, he
8 received notice of my appointment through a letter. He did
9 send -- just kind of getting into the factual history here.
10 He did send a letter to the public defender's office that
11 was forwarded to me in May of 2022 with some concerns about
12 his LWOP, life without parole, classification. And it was
13 not until the end of April of 2023 when I was told for the
14 first time that they intended to prosecute him and proceed
15 to trial.

16 So there was about a two-month window that I finally
17 had clarity that the State was going to prosecute the
18 charges because up until that point, there was no direct
19 answer to them. There was no need to get a bond for Mr.
20 McNeil because he was serving a 20-year sentence.
21 Essentially, I was in a holding pattern until I got clarity
22 from the State as to if they were, actually, going to
23 prosecute these charges.

24 Q Did you review discovery with him?

25 A Absolutely. On May 25th -- well, I'll even back up a

1 little bit further than that. At the end of April of 2023,
2 I was given notice by Mary Thomas that she intended to
3 prosecute. She, also, conveyed an offer of a 20-year
4 concurrent sentence to his Florence sentence that he
5 received.

6 At that point, since he was in SCDC, I made
7 arrangements or attempted to make arrangements to have him
8 transported on the week of May 12th so we could have a
9 face-to-face meeting, review the digital discovery that I
10 had and answer any questions and talk about his case. There
11 was an issue with the transport order on the 12th of May of
12 2023 and so, he was subsequently transported on May 25th.

13 At that time, I had a paper copy of all of the
14 discovery that I received and, also, a copy of the digital
15 evidence that I had received. We had the time blocked out
16 and the room blocked out where we could sit down and review
17 everything. Mr. McNeil had received the Rule 5 in his case.
18 He brought his file with him that day. He had a stack of
19 papers.

20 We reviewed the digital evidence that he didn't have
21 access to on May 25th and then went through the paper
22 discovery as well. The items within his paper discovery
23 that he said he did not have, I sent home with him with --
24 to SCDC. I didn't retain those copies. I just gave them to
25 him to make sure that he had a full and complete copy of the

1 file.

2 That meeting alone was several hours of us talking
3 about the plea offer, talking about the evidence in the case
4 and then talking about the intent of the State to call him
5 to trial on those cases.

6 Q Would you briefly characterize the State's evidence in
7 this case and what that discovery entailed?

8 A Other than some medical records, the State's evidence
9 was primarily testimonial, including members of his family
10 as well as his significant other. There were some forensic
11 and crime scene digital photographs and things like that,
12 but I don't believe that they ever located the alleged
13 weapons. They were able to, I believe, pull a piece of the
14 knife out of his girlfriend's head. That was part of the
15 evidence. We talked about that. And we, also, reviewed her
16 statement. But the statements, in general, including his
17 brother, would be testimonial at trial.

18 Q And do you know what those statements -- that testimony
19 would have entailed?

20 A Yes. The only issue with his brother's statement --

21 MR. FOWLER: Objection, Your Honor. They're going into
22 statements of a brother, someone who's not here, Your Honor,
23 so I would move to strike that as hearsay.

24 MS. WESTRAAD: It's all in the record in the transcript
25 of the plea hearing and it, also, pertains to Mr. Hobbs'

1 representation as to why he decided --

2 MR. FOWLER: Well, anything that stands for itself
3 that's being judicially noticed, Your Honor, but I would
4 object to Mr. Hobbs testifying to what somebody who's not
5 here had to say.

6 THE COURT: Overruled.

7 THE WITNESS: So his brother's testimony would have
8 kind of explained the events that led up to this particular
9 situation, which was the source of these charges. His
10 brother has these recollections about this encounter with
11 Mr. McNeil. His stomach being sliced open and the aftermath
12 of that, medically what happens when your stomach gets
13 sliced open.

14 The caveat there was he always maintained he didn't see
15 the knife in his brother's hand, which kind of created some
16 -- you know, maybe something to work with. Every indication
17 that I had from his brother was that he was going to testify
18 at trial that that was really the only caveat.

19 The girlfriend's testimony is much more
20 straightforward. And I think that that's kind of reflected
21 in her statement that she made at the plea and her general
22 stance about moving forward.

23 But it really would be -- the characters there, the
24 family members that I spoke to would be the primary
25 witnesses of what happened that day as well as the female

1 victim and her testimony.

2 Q Did you investigate the facts of this case?

3 A I did. You know, first of all, the things that were
4 missing from his file that I was curious about were
5 statements from his brother and his mother, who were primary
6 witnesses on scene. There was a written statement from, I
7 think it might have been sister that was provided in
8 evidence that we went over. But I did follow up with the
9 mother and the brother and the sister to talk about their
10 testimony.

11 Also, there was an underlying issue throughout this
12 entire case about mental health and capacity. Mr. McNeil
13 was subject to two competency evaluations, if I recall
14 correctly. So we reviewed those. We talked about the
15 medication that he was on, his diagnoses. He explained to
16 me that one of the medications that he was on created some
17 sort of difficulty or effect on sleep pattern, which might
18 have affected his ability to recall and know what was going
19 on at that time.

20 I did try to reach out to one of his medical providers
21 that he told me about, but was unable to reach them through
22 the office to try to subpoena any of his medical records. I
23 did independently investigate the side effects of the
24 medication that he reported to me. But, primarily, there
25 had been substantial diligence done on his mental health

1 through South Carolina Department of Mental Health in his
2 two competency evaluations. So, really, that was
3 substantially rooted out.

4 So other than my independent investigation into the
5 side effects of the medication, trying to reach out to
6 independent doctors. I, also, had his mother send me a copy
7 of all the pill bottles that were in her possession. That
8 was Mr. McNeil's idea saying that one of these pill bottles
9 of the medication I was taking at the time should still be
10 in my mother's possession.

11 So within the few conversations I had with his mother
12 after May 25th, that was part of it, saying hey, can you
13 send me an image of these pill bottles so that I can do a
14 little bit of investigation and understand what was going on
15 with his medication. I was never able to bring forward any
16 defenses that would change the direction of the trial,
17 change the competency evaluations that had previously been
18 made or move us to not guilty by reason of insanity. I
19 never was able to develop that. I don't think that was
20 factually in the cards based on the mental health
21 information I had from Mr. McNeil.

22 Q I just want to confirm for the record, were you present
23 in the courtroom for Mr. McNeil's testimony?

24 A Yes.

25 Q I know you said you reviewed discovery with him, but he

1 mentioned that you didn't discuss the charges with him. Can
2 you talk about that?

3 A Yes. So absolutely, that would have been a big part of
4 my advisement on May 25th, was what the plea offer was,
5 which was a 20-year concurrent sentence, what was the life
6 without the possibility of parole notice that had been
7 served on him, the legal applicability of that notice and
8 how it would stick if any of these most serious offenses
9 were to, essentially, be levied against him as a guilty
10 verdict.

11 So we did talk about the possible punishments of each
12 charge. We talked about the defenses that would be
13 associated with them, although, in all candor, I was having
14 a hard time finding defenses to this other than trying to
15 develop that mental health history that could maybe help us
16 understand why this would have happened and why Mr. McNeil
17 says he doesn't remember it happening.

18 Other than that, really, the life without the
19 possibility of parole notice and the legal applicability of
20 that notice to his case was probably the thing that I
21 emphasized the most because it seemed to me to be the most
22 likely outcome if he was to proceed to trial.

23 Q You were just talking about that 20-year plea offer.
24 Can you, also, now talk about the plea that he, ultimately,
25 took, how that came about?

1 A Sure.

2 MR. FOWLER: Your Honor, I guess my question is, if the
3 Attorney General could add a little bit more specificity
4 about how that plea came about, some more specific questions
5 about that she could provide to Mr. Hobbs' response to her
6 questions. It's fairly vague and broad how it came about.
7 I would like a little bit more specificity for the record.

8 THE COURT: So your objection is you want the question
9 to be more specific?

10 MR. FOWLER: It's vague, Your Honor, in my opinion.
11 And she saying how it came about is not very specific in
12 terms of what she's asking, Your Honor. It gives him the
13 opportunity just to kind of bring in a lot. I'd like a
14 little more specificity with that question and, overall, in
15 general.

16 MS. WESTRAAD: Well, it's direct examination, Your
17 Honor.

18 THE COURT: Objection overruled.

19 MS. WESTRAAD: Thank you.

20 THE WITNESS: So if we're going to talk about the plea
21 offer, we have to go back to the end of April when I was
22 first informed by the State that they intended to prosecute
23 this matter.

24 The end of April, I was told by Mary Thomas that they
25 would intend to call this in June as a trial and that he had

1 a plea offer of a concurrent 20-year sentence to his
2 Florence conviction.

3 At that point, I worked with the State to try to
4 arrange his transport on May 12th so I could review his
5 evidence and talk to him about that plea offer. However,
6 that did not work, so he was not transported until May 25th,
7 at which time, I told him about the plea offer. I reviewed
8 the evidence and I told him to consider the plea offer and
9 let me know if he intended to accept it.

10 I then scheduled a phone conversation with him on June
11 7th to see if he intended to accept the plea offer, which he
12 indicated that he did not. At that time, I, also, asked him
13 if there was anything else I needed to do to prepare for his
14 defense. His direct quote was, Keep doing your job. And I
15 said, Yes, sir.

16 At that point, we entered into the day of trial on June
17 26th without a plea offer because that plea offer had been
18 revoked. So the only option for us at that juncture was to
19 plead straight-up to the charges. And then after long
20 counseling with Mr. McNeil and his family that day, there
21 was a deal that was, ultimately, struck to allow him to plea
22 straight-up to two attempted murders and allow the Judge to
23 have the discretion on the sentencing.

24 BY MS. WESTRAAD:

25 Q So he wanted to go to trial for that?

1 A Every indication that I ever got from Mr. McNeil was to
2 go to trial. And then that day, in particular, as we
3 approached trial, as every witness showed up that was
4 supposed to show up there, including his own family, we had
5 long conversations about the direction all of this was
6 taking, the efforts that I had made in the period of time
7 since we had last met.

8 And then there was an extensive conversation about
9 trying to reap the benefit of a guilty, but mentally ill
10 designation. In particular, Mr. McNeil was seeking some
11 additional treatment in SCDC that wouldn't have otherwise
12 been available to him without that tag.

13 So when we add up his inability to recall certain
14 instances from that day, his unwillingness to make factual
15 admissions on the record to the Judge and the attempted
16 based on all of the information that I have to derive a
17 benefit from this statutory enablement of designating the
18 plea as mentally ill would give him the benefit within SCDC
19 to get further treatment and diagnoses. And that was
20 something that Mr. McNeil wanted and that we talked about at
21 length.

22 Q Did he seem to understand everything you discussed with
23 him?

24 A Yes, he did. And we discussed it at length. There was
25 even one point, I believe, where he wanted to speak to his

1 family and talk to them about the decision he had made. I
2 think he had the opportunity to speak one-on-one with his
3 brother and talk about the options that we had. Again, at
4 that point, there was a degree of confidence that I could
5 steer us to a plea with the beneficial tag of his mental
6 illness that was still in line with what his previous plea
7 offer was.

8 So we had the opportunity to develop the case, see if
9 it was actually going to be called, see that the witnesses
10 going to show up, allow me to do additional investigation
11 and then he made the decision to move forward.

12 Q And can you go a little more into that guilty, but
13 mentally ill combining the Alford plea?

14 A I don't view those as inconsistent. The ability for an
15 individual to plea under North Carolina V. Alford was
16 utilized in this case to avoid any sort of need for factual
17 admissions by Mr. McNeil, but that there was an
18 acknowledgment of there being substantial evidence of his
19 guilt, which we had gone over at length.

20 I don't believe that in any way a North Carolina V.
21 Alford contradicts the Court's finding in an in-camera
22 hearing as for the application of guilty, but mentally ill
23 as a designation to the plea. Because that's not something
24 that a person can independently elect to have as a guilty
25 plea option. That requires the Court to conduct an

1 in-camera hearing to determine whether or not that is an
2 appropriate designation for the Defendant.

3 So even as we went back and forth with Mr. McNeil on
4 the stand today, I don't believe that there is legal
5 contradiction in his plea to North Carolina V. Alford with
6 the Court making that designation of his mental illness.

7 Q And you said that that designation of mental illness
8 requires a hearing. Did that happen at this plea?

9 A Yes. We had that hearing and had his mother testify
10 about his previous history. Even in my colloquy to the
11 Judge, you see substantial emphasis on his mental health
12 history. And even the months leading up to this incident
13 and how all that interplayed with what happened with Mr.
14 McNeil in encouraging the Court to accept that and give
15 great consideration to his mental history and illness.

16 Q As his attorney, did you agree with his choice to plead
17 guilty?

18 A Yes, 100 percent.

19 Q And do you stand by your representation of him?

20 A I do.

21 MS. WESTRAAD: No further questions.

22 THE COURT: Mr. Fowler.

23 CROSS-EXAMINATION

24 BY MR. FOWLER:

25 Q Mr. Hobbs, you were here during Mr. McNeil's testimony;

1 is that correct?

2 A Yes, sir.

3 Q So what was your relationship with him between May
4 25th, 2023 and the scheduled trial date, as I understand it,
5 of June 26th, 2023?

6 A I was his attorney.

7 Q Did you hear him testify that he indicated that he
8 thought you were not his attorney?

9 A I did.

10 Q So did you provide him any indication that you were not
11 representing him after May 25th?

12 A I did not, but I can explain where he got that idea
13 from.

14 Q Okay.

15 A I was set for a very long time to relocate, shut down
16 my law practice and start a new job on July 3rd of 2023. In
17 my conversations with Mr. McNeil on May 25th, I explained to
18 him that his case was subject to be called on June 26th, but
19 that there was another trial currently scheduled to move
20 forward on that day. And if his trial did not move forward
21 on that day, then he would have to get a new attorney
22 because I was no longer going to be serving in the capacity
23 as indigent counsel after that date.

24 So there was never any confusion about whether or not I
25 was -- well, I can't say if there was any confusion. There

1 was never any lack of direction that I gave Mr. McNeil about
2 my representation. I explained to him that if the trial did
3 not go forward on the 26th that I would no longer be
4 representing indigent counsel in that capacity per my notice
5 to South Carolina Commission on Indigent Defense and that he
6 would likely need to be appointed new counsel at that time.

7 Q Okay. But you didn't clarify that if things were going
8 to go as planned, you would still be his attorney, right?

9 A I did. I did explain to him that if the trial moved
10 forward in the month of June that I would be handling it for
11 him and representing him.

12 Q But you didn't wait until after June 26th when it was
13 scheduled to tell him at that point that you would no longer
14 be his attorney, did you? You told him in May instead of in
15 June, right?

16 A I told him on May 25th that if the case was not called
17 to trial in June that I would no longer be serving in the
18 capacity of representing indigent clients and he would
19 likely need to get another attorney at that point.

20 Q But it was scheduled for June at that time, right?

21 A It was, but there was another trial in front of him, so
22 I was not sure if that trial was going to move forward. But
23 by the time our phone conversation on June 7th occurred, I
24 knew that that first trial had been cleared up and that we
25 were moving forward on June 26th. So I took away any

1 contingency of the possibility of me not representing him in
2 the future at that time.

3 Q So what was the connection -- did you guys communicate
4 with each other between May 25th and June 7th of 2023?

5 A We did not.

6 Q So do you understand where he's coming from on that in
7 terms of there might be some confusion of you not
8 representing him any longer?

9 A I don't understand that question.

10 Q Well, I guess the thing about it is you didn't talk to
11 him for several days afterwards, right?

12 A That's correct.

13 Q And you didn't clarify the case was going to be
14 scheduled for June 26th, did you?

15 A I didn't tell him then until I knew, which was on June
16 7th, that the case was going to move forward because it was
17 no longer second up, that it was now first up for trial.

18 Q Did you do any investigation between May 25th and June
19 7th?

20 A Yes, sir, those that I outlined in my testimony
21 previously.

22 Q Okay. In terms of what he did plea to, did he plead to
23 Alford or Alford via guilty but mentally ill?

24 A He pled under North Carolina V. Alford with the Court
25 making the statutory determination that he qualified as a

1 Defendant pleading guilty, but mentally ill.

2 Q So you said earlier that there is a guilty, but
3 mentally ill status that could -- and I was unclear on this,
4 but you said without that tag there was some benefits or
5 something that he would not be eligible for with SCDC, but
6 if he did plead to being mentally ill with a guilty plea in
7 some fashion that it would help him in SCDC. What's your
8 understanding of that?

9 A That the statutory designation for somebody being
10 guilty, but mentally ill provides certain benefits and
11 treatment options within SCDC that would otherwise not be
12 available without that designation.

13 Q Do you know what those benefits are?

14 A I believe it's placement, treatment and diagnosis
15 services. But I can only extend my representation so far
16 because after a plea, it's in the hands of SCDC.

17 Q Did he get those benefits after the June 26th trial
18 plea date?

19 A I have no clue.

20 Q But he pled in the way that you felt like he was going
21 to get benefits from SCDC; is that correct?

22 A The intent of pleading in that manner was to hopefully
23 get those benefits from SCDC.

24 Q And do you know if he got those benefits?

25 A No, sir.

1 Q In terms of the discovery -- well, my understanding is
2 that you were -- on your own direct testimony, you said that
3 you were appointed in March of 2022, correct?

4 A Yes, sir.

5 Q And you had no communication with him until April of
6 2023; is that correct?

7 A I think that really the first time we had a chance to
8 talk was on May 25th when I had him transported to meet me
9 in person. He did receive notice of my representation via
10 letter, but otherwise, there was no other communication
11 during that time period.

12 Q So just to be clear, from March of 2022 until April of
13 2023, there was no communication between you and him?

14 A Other than the notice of my representation.

15 Q Okay. So with that being said, I mean, you didn't even
16 send him a -- you said he got a letter. Was that letter
17 from your office?

18 A That letter should have been generated from my office,
19 yes, sir.

20 Q Did you hear any response from him about that?

21 A I did not.

22 Q And you said there was some issues with the transport.
23 Where was he housed during that time, around April or May of
24 2023, do you remember?

25 A I don't recall which facility he was at.

1 Q But you were waiting on him to be transported to you;
2 is that correct?

3 A That's correct.

4 Q You didn't go to his SCDC facility, did you?

5 A No, it would be better and more efficient for him to be
6 transported to the courthouse where I can have access to him
7 and present digital discovery to him and review his paper
8 evidence unimpeded by SCDC and their processes.

9 Q Okay. So that may have been more efficient, but you
10 did not speak to him since your appointment in March of
11 2022, right?

12 A Other than a letter informing him of my appointment.

13 Q When did you get the discovery in this case?

14 A The discovery would have been transported to me around
15 the time of my appointment. I believe the public defender's
16 office had a copy of it that they forwarded to me.

17 Q How many pages was it?

18 A I wouldn't be surprised if it was a couple hundred
19 pages like Mr. McNeil said.

20 Q So you had a couple hundred pages of discovery starting
21 in approximately March of 2022 and you did not provide that
22 to him until May of 2023?

23 A He already had it.

24 Q How do you know that?

25 A Because that was confirmed at the hearing where he

1 relieved Ms. O'Neal's counsel.

2 Q Okay.

3 A That he had received all of his Rule 5.

4 Q All right. Did he relieve Ms. O'Neal or how did
5 termination with her --

6 A He had, I think, three attorneys before me. Two of
7 them were either fired or requested to be relieved from Mr.
8 McNeil. I can't -- that was Ms. Rivers and Ms. O'Neal. I
9 can't speak to which procedure that was.

10 Q Well, I asked about Ms. O'Neal and you. Was she part
11 of the public defender's office?

12 A She was a private attorney that was handling indigent
13 appointed cases, as was I.

14 Q But he did not relieve her, did he?

15 A I think he might have, Mr. Fowler, but I don't want to
16 say something with certainty and be incorrect. But I
17 believe that he asked for her to be relieved.

18 Q So you told him that -- let's go back to our first
19 question. You told him that if the case went into June, you
20 wouldn't be representing him, right?

21 A That I would be representing him.

22 Q That you would be in June, but not in July, right?

23 A That's correct.

24 Q Did you make any attempts to get another public
25 defender or another attorney to represent him just in case

1 that you were leaving and it would go over into July?

2 A That's not my responsibility. If I could not handle
3 his case, then he would be appointed a new attorney and the
4 Court would take that into consideration with the docketing
5 and scheduling of his case. But, again, I told him, as I'm
6 saying here today, that if the case moved forward in June
7 that I would be representing it and handling it, but if it
8 was continued past July, then he would have to get a new
9 attorney appointed to his case.

10 Q And it was up to him to get it continued in July,
11 right? It was up to him or somebody else?

12 A No, sir, I didn't say that.

13 Q Well, I guess what I'm trying to state here is that if
14 the case was in June, you could represent him?

15 A Uh-huh.

16 Q But if the case went into July, you could no longer
17 represent him?

18 A Uh-huh.

19 Q Did you take any steps to go ahead -- you know, with
20 the possibility of it being in July to go ahead and get
21 other counsel appointed or named for him just in case it
22 went into July?

23 A Yeah, I wasn't just going to disappear. So there was a
24 substantial amount of effort that was taken to replace
25 counsel on all of my cases that needed counsel to be

1 replaced on. That involved coordination with Hervery Young
2 at South Carolina Commission of Indigent Defense as well as
3 the Chief Administrative Judge Burch, who oversaw the
4 execution of all of those substitution of counsel orders.
5 However, there was not a need for me to substitute counsel
6 on Mr. McNeil's case until there was clarity about whether
7 or not his case was moving forward of which I received in
8 early June and I told Mr. McNeil that.

9 Q But if the case did get continued into July, he
10 wouldn't have an attorney, would he, at that point?

11 A He would have gotten an attorney because I would have
12 gotten a new attorney appointed like I did with all of my
13 other cases.

14 MR. FOWLER: Your Honor, may I have a moment to speak
15 with my client?

16 THE COURT: Yes, sir.

17 (Pause.)

18 MR. FOWLER: Your Honor, I have consulted with my
19 client and we have no further questions.

20 THE COURT: Anything on redirect, Ms. Westraad?

21 MS. WESTRAAD: No, Your Honor.

22 THE COURT: Thank you. You may step down, sir.

23 Any further witnesses on behalf of the State?

24 MS. WESTRAAD: No, Your Honor, the State rests.

25 THE COURT: Anything on rebuttal, Mr. Fowler?

1 MR. FOWLER: If I may have just a moment?

2 THE COURT: Yes, sir.

3 (Pause.)

4 MR. FOWLER: Your Honor, after consultation with my
5 client, nothing further.

6 THE COURT: Thank you.

7 Anything, Mr. Fowler -- let me ask you specifically.
8 You think -- you had some questions in regards to the
9 propriety, it sounded like, of pleading under North Carolina
10 vs. Alford to a guilty, but mentally ill. Do you contend
11 that that was below an acceptable standard for Mr. Hobbs
12 under the circumstances?

13 MR. FOWLER: Your Honor, Mr. Hobbs is still in the
14 courtroom. I guess my question was this, and this is a
15 legal technical question. I believe I tried to articulate
16 it correctly. You can plead under Alford, okay, but the way
17 it's phrased in Mr. -- my client's statement, number 6C, it
18 says, After plea of nolo contendere under North Carolina vs.
19 Alford via guilty, but mentally ill.

20 My question is, is Alford a stand-alone plea that you
21 plead under Alford or is there a qualifier that you can
22 plead under Alford with mentally ill designation or is it
23 just -- and Mr. Hobbs brought up the issue, and it was
24 interesting to me, apparently, you can get some kind of
25 assistance for benefits if there's a mentally ill tag. Does

1 that come under only guilty with mental illness or does that
2 come under Alford with a mental illness designation?

3 I've always thought that the Alford, perhaps, was a
4 stand-alone-type thing that can you, actually, plead -- you
5 can plead guilty with mentally ill, okay, I get that, but my
6 understanding is that this was an Alford plea. And does the
7 Alford plea allow for some kind of qualification of pleading
8 under Alford with mental illness? That was my line of
9 questioning or what have you, if that was adequately
10 explained to my client? I think he indicated it was not. I
11 just want to make sure that the plea was not void on its
12 face going Alford with mental illness as opposed to guilty
13 with mental illness.

14 THE COURT: Probably the more correct designation would
15 have been I'm pleading under North Carolina vs. Alford, but
16 mentally ill. Maybe that was, perhaps, the more correct
17 designation, but you still get to the same spot under Alford
18 or under guilty, but mentally ill. Because he didn't plead
19 guilty. He accepted a plea under North Carolina vs. Alford
20 with the designation of mentally ill as well. I mean, can
21 you point me to something that says he can't do both of
22 those things?

23 MR. FOWLER: Your Honor, I don't have any case law or
24 anything like that. I guess what my line of questioning to
25 him, at least, was, was the plea void on its face by

1 pleading Alford by guilty -- excuse me, by pleading Alford
2 with mental illness as opposed to guilty with mental
3 illness. That was just my trying to flush that out with my
4 client in terms of could he plead under Alford with a mental
5 illness qualifier. Does SCDC recognize that? Mr. Hobbs
6 indicated on his cross-examination that he did not know.

7 So I'm just wondering if the -- and this is just my
8 perspective, trying to dig into it a little bit more. Was
9 the pleading void on its face because he pled Alford with
10 mental illness as opposed to guilty with mental illness?
11 Did the SCDC benefits that Mr. Hobbs explained or tried to
12 explain, I guess, did that come in only under guilty with
13 mental illness or does it come in with Alford with mental
14 illness? You know, I was just saying was the plea void on
15 its face? Mr. Hobbs seems to think it was not. I always
16 thought Alford was a stand-alone plea, that once you go
17 Alford, you don't have a qualifier to it.

18 THE COURT: And just from looking at it, why couldn't
19 you do North Carolina vs. Alford with a designation of
20 mental illness and, perhaps, he would get the services in
21 SCDC or, perhaps, Mr. Hobbs is entitled to an award for some
22 pregame lawyering, perhaps?

23 MR. FOWLER: Well, Your Honor, that's an excellent
24 point. My understanding is that Alford is, basically,
25 saying -- you know, the way I try to explain it to people in

1 layman's terms is, okay, I'm not guilty, but there's a
2 mountain of evidence against me. And the mountain of
3 evidence against me, I'm pleading Alford because that's
4 there.

5 My concern with this is that -- especially with Mr.
6 Hobbs bringing up the guilty, but mentally ill qualifier, as
7 he stated on his direct examination. He said without that
8 tag, there's certain designations, including diagnosis
9 services, what have you, my question was this, if you plead
10 guilty with mental illness, is that different than Alford
11 with mental illness?

12 I thought it was kind of like once you went to Alford,
13 there was no other qualifier -- I'm just proposing this, I
14 don't know for a fact, that once you go Alford, you can't
15 have a qualifier to it. And that's kind of what I was
16 getting at on direct examination, was did he -- did Mr.
17 McNeil understand that he would still be getting those
18 services, that he could do -- or was the plea void on its
19 face because it was Alford -- the way it's written in here,
20 Alford via guilty, but mentally ill as opposed to guilty,
21 but mentally ill.

22 THE COURT: Thank you.

23 Ms. Westraad, you got anything to add to that? Any
24 clarification from the Attorney General?

25 MS. WESTRAAD: No, Your Honor, I don't think so. I

1 think we agree with your indication that Mr. McNeil gets to
2 the same place, whether it's the Alford, guilty, but
3 mentally, whether there was no Alford. And he comes to the
4 same place and that's Alford says and that's what the Judge
5 explained to him as well. And as well as Mr. Hobbs
6 indicating that he wanted him to get the mental health
7 treatment that he needs and that's the only thing that the
8 guilty, but mentally ill tag does. And that's all we would
9 have.

10 THE COURT: Thank you, Ms. Westraad.

11 Mr. McNeil, I have to look at all of the information
12 that I have in this case. It will require me to review both
13 the testimony and the information that is made a part of
14 this case. I will review that and I will get a decision as
15 quickly as I possibly can, sir.

16 Thank you, Mr. McNeil.

17 THE APPLICANT: Thank you, sir.

18 THE COURT: If there's nothing further, we will recess
19 from this case.
20
21
22
23
24
25

CERTIFICATE OF TRANSCRIBER

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

January 21, 2026

Penny M. Johnson
Penny M. Johnson
Transcriber

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF DARLINGTON	)	FOR THE FOURTH JUDICIAL CIRCUIT
	)	
Samuel L. McNeil, #385957,	)	CASE NO. 2024-CP-16-00565
	)	
Applicant,	)	
	)	
v.	)	ORDER OF DISMISSAL
	)	WITH PREJUDICE
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

FILED
 2025 OCT 24 A 10:50
 SCOTT B. SUGGS
 CLERK OF COURT/R.O.D.
 DARLINGTON COUNTY, S.C.

Presiding Judge:	Hon. S. Bryan Doby
Applicant's Attorney:	Steven W. Fowler, Esq.
Respondent's Attorney:	MacKinnon Westraad, Esq.
Plea Counsel:	Kyle M. Hobbs, Esq.
Date of Hearing:	September 2, 2025
Court Reporter:	Brenda L. Jones

This matter comes before this Court by way of Samuel L. McNeil's (Applicant) application for Post-Conviction Relief (PCR) commenced June 4, 2024. Respondent, the State of South Carolina, filed its Return on July 18, 2025, requesting an evidentiary hearing.

On September 2, 2025, an evidentiary hearing was held at the Darlington County Courthouse before the Honorable S. Bryan Doby. Applicant was present at the hearing and represented by Steven W. Fowler, Esquire. Assistant Attorney General MacKinnon Westraad appeared on behalf of the Respondent. Applicant proceeded on the allegations within his original PCR application. In support of these claims, Applicant testified on his own behalf. Respondent called Kyle M. Hobbs, Esquire (Plea Counsel) to testify.

Following a thorough review of the record in its entirety, along with the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant has failed to establish any constitutional violations or deprivations entitling him to any form of relief. Accordingly, this

Court denies relief and dismisses this action with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections. During its July 2018 term, the Darlington County Grand Jury indicted Applicant for Kidnapping (2018-GS-16-1130), Domestic Violence of a High and Aggravated Nature (2018-GS--16-1131), two counts of Possession of a Weapon During Commission of Violent Crime (2018-GS-16-1132, -1133), and two counts of Attempted Murder (2018-GS-16-1134, -1135). During its July 2020 term, the Darlington County Grand Jury indicted Applicant for Assault and Battery - 2nd Degree (2020-GS-16-1026).¹ Plea Counsel represented Applicant. Fourth Circuit Assistant Solicitor Mary T. Johnson-Lee prosecuted the case.

On June 26, 2023, Applicant appeared before the Honorable Michael S. Holt and proceeded to a jury trial. After picking a jury, Applicant informed the court that he was going to straight up plead guilty but mentally ill on both Attempted Murder indictments (-1134; -1135) in addition to pleading under North Carolina v. Alford, 400 U.S. 25 (1970). Judge Holt sentenced Applicant to seventeen years for each Attempted Murder to be served concurrently. Applicant did not appeal his convictions and sentences.

FACTS GIVING RISE TO THE PLEA

At Applicant's plea hearing, Fourth Circuit Solicitor Mary T. Johnson-Lee articulated the facts giving rise to the plea as follows:

MRS. JOHNSON-LEE: Judge, this occurred on March 4, 2018 here in Darlington County at the residence of Mr. Andrew McNeil, brother of defendant. Andrew is often referred to as Andre. That is his nickname. Present in that residence was his mother, Lois McNeil, whom you heard from. His sister, Sammy Jean McNeil, who was known as Jean. And Angela Chandler who is seated right here. Ms. Chandler had brought a rental vehicle. She and the defendant had had an off and on

¹ All of the indictments listed, except for the two counts of Attempted Murder, were nolle prossed as part of the guilty plea.

relationship. But there was a rental vehicle that needed to be cleaned out. She carried it over there. The defendant cleaned out that rental vehicle. It was made known to him that there is no further relationship of a romantic nature between them and that's when he sort of flipped out. She was shoved to the ground. She advises that Mr. Andrew McNeil came and was there to sort of assist and when he apparently touched the defendant, the defendant started with two knives, just going and going and going. And the brother, Andre, was actually gutted. Initially his guts were in his hand. He falls to the ground. His guts are on the ground. They were able to save his life. He was taken to McLeod Hospital in Florence to the Trauma Unit. They saved his life. As Angela Chandler was cut multiple times about her face and her head and she still has scarring from this. Her thumb was, the tip of her thumb was almost cut off. Most importantly one of the blades was rammed down into her skull and with such force that the tip of the blade broke off. She had to have surgery. The neurosurgeon had to cut out a circular portion of her skull in order to remove the blade tip. And then her skull was reattached with plates and nuts and bolts. I have photographs from the hospital when she initially went. She initially went to McLeod Regional. All they did was they didn't x-ray her, they basically stitched up all the cuts and the wounds and I have some photographs just of some of those wounds to hand up and sent her home. She was still having severe headaches. So she went the very next day to Urgent Care. They said no you go to the hospital. She went to Carolina's Hospital which is now MUSC Florence and when they x-rayed her that's when they found there was actually a tip of a blade in her skull. And I have some photographs actually taken during the surgery. The surgical nurse, Neva Lawson, was actually subpoenaed to testify tomorrow had this gone to trial. But these were taken by medical personnel in the operating room showing the piece of the skull with the blade in and also the blade tip and the blade tip is in evidence now, Your Honor.

(Plea Tr. pp. 63–65).

CURRENT ACTION BEFORE THIS COURT

In his *pro se* application, Applicant alleges he is being detained unlawfully for the following reasons:

1. Ineffective Assistance of Plea Counsel²
 - a. Failed to meet with him sufficiently.
 - b. Failed to review discovery.
 - c. Failed to explain the charges and consequences of pleading guilty.
 - d. Failed to explain plea offers.
 - e. Failed to investigate

² During the hearing, Applicant indicated he may have allegations against his previous attorneys, Erin O'Neal and Patricia Rivers, but did not present any evidence or discuss such allegations. This Court takes note that those issues were raised at the hearing, but does not treat them as separate allegations.

- f. Failed to discuss potential defenses
- 2. Involuntary Guilty Plea

Applicant requests relief in the form of "this court vacate the conviction."

Before this Court are the Darlington County Clerk of Court records regarding the subject's convictions and sentences, Applicant's records from the SCDC, the guilty plea transcript, and the records of the current PCR action.

STANDARD OF REVIEW

The Uniform Post-Conviction Procedure Act³ provides that any person who has been convicted of a crime may seek post-conviction relief based on the following types of allegations:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy[.]

S.C. Code Ann. § 17-27-20(A).

The Sixth and Fourteenth Amendments to the United States Constitution guarantee Applicant, like all other defendants, the right to effective assistance of counsel. Strickland v. Washington, 466 U.S. 668 (1984); Taylor v. State, 404 S.C. 350, 359, 745 S.E.2d 97, 101 (2013). Ordinarily, PCR allegations are centered upon an allegation that the applicant did not receive *effective* assistance of counsel guaranteed by the Sixth Amendment. The allegation of denial of such representation sets forth a *prima facie* violation of this constitutional right and raises a

³ S.C. Code Ann. §§ 17-27-10 to -160.

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

In a post-conviction relief action, the applicant bears the burden of proving the allegations by a preponderance of the evidence—a mere allegation of ineffective assistance is not sufficient to warrant granting relief. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). The reviewing court applies the two-part test outlined in Strickland v. Washington to determine whether counsel's conduct "was so [ineffective] as to require reversal" of the applicant's conviction. 466 U.S. 668, 687 (1984). To obtain relief, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice as a result of counsel's deficient performance. Id. at 687–88; accord. Cherry v. State, 300 S.C. 115, 117–18, 386 S.E.2d 624, 625 (1989). Failure to make the required showing of either deficient performance or sufficient prejudice defeats the ineffectiveness claim. Strickland, 466 U.S. at 700; see also Bell v. Cone, 535 U.S. 685, 695 (2002) (explaining that "[w]ithout proof of both deficient performance and prejudice to the defense, . . . it could not be said that the sentence or conviction resulted from a breakdown in the adversary process that rendered the result of the proceeding unreliable." (citation and internal quotation marks omitted)).

Regarding the deficiency prong of the Strickland analysis, the proper measure of performance is whether counsel provided representation within the reasonable range of competence required in criminal cases. Butler, 286 S.C. at 442. When analyzing counsel's performance, the reviewing court will strongly presume counsel provided adequate assistance, and the applicant is responsible for rebutting that presumption "by proving that his attorney's representation was unreasonable under prevailing professional norms and that the challenged action was not sound strategy." Kimmelman v. Morrison, 477 U.S. 365, 384 (1986); cf. Cullen v.

Pinholster, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation).

Furthermore, the reviewing court will scrutinize counsel's performance in a highly deferential manner, make every effort "to eliminate the distorting effects of hindsight," and "evaluate the conduct from counsel's perspective at the time" in light of then-existing circumstances. Strickland, 466 U.S. at 689. In order to establish counsel's performance was deficient, the applicant must demonstrate that "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 687. Accordingly, counsel's performance will be considered deficient only when it was objectively incompetent under prevailing professional norms and *not* when it simply "deviated from best practices or most common custom." Harrington v. Richter, 562 U.S. 86, 105 (2011).

Beyond satisfying the burden required by the deficiency prong, an applicant also bears the burden of establishing prejudice in order to be entitled to relief as "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment." Strickland, 466 U.S. at 691. To meet this burden, counsel's deficient performance must have prejudiced the applicant to such an extent, there is a reasonable probability the result of the proceeding would have been different but for counsel's unprofessional errors. Cherry, 300 S.C. at 117–18; see Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) ("To establish a claim of ineffective assistance of trial counsel, a PCR applicant has the burden of proving counsel's representation fell below an objective standard of reasonableness and, but for counsel's errors, there is a reasonable probability the result at trial would have been different.").

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

The analysis of counsel's performance under the first prong of Strickland remains unchanged—the applicant must show counsel's representation fell below the objective standard of reasonableness demanded of attorneys in criminal cases. Hill, 474 U.S. at 58–59; accord Thompson v. State, 340 S.C. 112, 115, 531 S.E.2d 294, 296 (2000). An applicant alleging his plea was induced by ineffective assistance of counsel must prove counsel's advice to plead guilty was not "within the range of competence demanded of attorneys in criminal cases." Hill, 474 U.S. at 56.

The second, or "prejudice" prong, however, "focuses on whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Id. at 58–59. Specifically, when an applicant claims counsel's deficient performance caused him to accept a plea, the applicant "must show that there is a reasonable probability that, but for [plea] counsel's [alleged] errors, he would not have pleaded guilty and would have insisted on going to trial." Id. at 59. This inquiry "focuses on a defendant's decision making" and does not turn on the outcome of a defendant's actual criminal proceeding or potential outcome had a defendant chosen to proceed to trial. Lee v. United States, 582 U.S. 357, 137 S. Ct. 1958, 1966, 198 L. Ed. 2d 476 (2017). However, an

applicant must convince the court that a decision to reject the plea bargain would have been rational under the circumstances. Padilla, 559 U.S. at 372. The question is whether the applicant, if correctly informed of circumstances surrounding the plea, would have pleaded guilty—not whether counsel would have still advised him to plead guilty. Turner v. State, 335 S.C. 382, 385, 517 S.E.2d 442, 444 (1999).

Surmounting Strickland's high bar is never an easy task, and the strong societal interest in finality has "special force with respect to convictions based on guilty pleas." Lee, 582 U.S. at 368–69 (internal citations and quotation marks omitted); cf. Hill, 474 U.S. at 58 ("[R]equiring a showing of 'prejudice' from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel 'will serve the fundamental interest in the finality of guilty pleas.'"). Reviewing "[c]ourts should not upset a plea solely because of *post hoc* assertions from a defendant about how he would have pleaded but for his attorney's deficiencies. Lee, 582 U.S. at 369. Rather, judges should "look to contemporaneous evidence to substantiate a defendant's expressed preferences." Id. In determining whether a guilty plea was taken in accordance with constitutional standards, the reviewing judge must analyze and consider the entire record, including the transcript of the plea and the evidence presented at the Evidentiary hearing. Harres v. State, 282 S.C. at 134, 318 S.E.2d at 361 (1984).

Finally, the Strickland standard must be applied with scrupulous care, lest "intrusive post-trial inquiry" threaten the integrity of the very adversary process the right to counsel is meant to serve. 466 U.S. at 689–90. Courts must be wary of second-guessing counsel's tactics, and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). The applicant's burden of proving both Strickland components is heavy in light of the strong presumption that

counsel's conduct fell within the range of reasonable professional legal assistance. 466 U.S. at 690.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Applicant has alleged and elected to pursue various claims of ineffective assistance of counsel through the post-conviction relief action presently before this Court. In analyzing these claims, this Court has considered the legal arguments by counsel and thoroughly reviewed the record in its entirety. This Court additionally heard the testimony presented at the evidentiary hearing and was able to observe the witnesses, which allowed the Court to evaluate and scrutinize their credibility. See, e.g., State v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) (“In this post-trial setting, our jurisprudence recognizes the gatekeeping role of the trial court in making a credibility assessment.”); Clemons v. Mississippi, 494 U.S. 738, 766 (1990) (Blackmun, J., concurring in part and dissenting in part) (“The trial judge who hears the witnesses live, observes their demeanor and in general smells the smoke of the battle is by his very position far better equipped to make findings of fact which will have the reliability that we need and desire.”).

Upon conducting and completing its analysis, this Court finds that Applicant has failed to establish any constitutional violations or deprivations that would require this Court to grant his application for post-conviction relief. See Rule 71.1(e), SCRPC (stating that in a post-conviction relief action, “[t]he applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”); Lucero v. State, 414 S.C. 238, 244, 777 S.E.2d 409, 412 (Ct. App. 2015) (“In a PCR proceeding, the applicant bears the burden of establishing that he or she is entitled to relief.”); Butler, 286 S.C. at 442 (“The burden of proof is on the Applicant in post-conviction proceedings to prove the allegations in his application.”).

Accordingly, set forth below are the relevant findings of facts and conclusions of law as required by § 17-27-80 of the South Carolina Code:

INITIAL FINDINGS

This Court finds applicable the strong presumption that at all stages of Plea Counsel's representation of Applicant he rendered adequate assistance and exercised reasonable professional judgment in his representation. Ard v. Catoe, 372 S.C. 318, 331, 642 S.E.2d 590, 596 (2007) (citing Strickland, *supra*). The United States Supreme Court has cautioned that “every effort be made to eliminate the distorting effects of hindsight” and evaluate counsel's decisions at the time they were made. Strickland, 466 U.S. at 689; see Whitehead v. State, 308 S.C. 119, 122, 417 S.E.2d 529, 531 (1992).

This Court makes the following findings from the record: 1. Applicant understood the charges and sentences he faced at his plea hearing (Plea Tr. p. 63); 2. Applicant understood the details of his guilty plea and wished to go forward with this plea (Plea Tr. pp. 57-58); 3. Applicant clearly indicated he was satisfied with Plea Counsel and had a chance to discuss everything with him (Plea Tr. p. 59-60); 4. Applicant understood his right to a jury trial and heard the Court describe those rights and did not have any questions about them (Plea Tr. p. 60-61); 5. Applicant indicated Plea Counsel answered all of his questions (Plea Tr. p. 59); 6. Applicant agreed he was not contesting the statement of facts as recited by the Solicitor (Plea Tr. p. 66); 7. Applicant indicated no promises or threats were made to him to plead guilty, and that he was not under the influence of any alcohol or drugs at time of plea (Plea Tr. pp. 59, 62).

INEFFECTIVE ASSISTANCE OF PLEA COUNSEL ALLEGATIONS ON THE MERITS

- | | |
|-------------------------|--|
| Allegation 1(a): | Plea Counsel was ineffective for failing to meet with him sufficiently. |
| Allegation 1(b): | Plea Counsel was ineffective for failing to review discovery. |

Allegation 1(e): Plea Counsel was ineffective for failing to investigate.

Applicant alleges Plea Counsel was ineffective for failing to investigate, meet with him sufficiently, and adequately review discovery with him prior to his plea. Specifically, Applicant testified that Plea Counsel only met with him one time, caused confusion about his representation, and that he did not get his discovery until the day of trial. This Court finds these allegations are without merit.

Federal case law holds that there is no constitutional minimum number of meetings between attorneys and their clients to satisfy competency. Campbell v. Polk, 447 F.3d 270, 279 fn.2 (4th Cir. 2006) (no constitutional minimum number of meetings to satisfy competency); United States v. Olson, 846 F.2d 1103, 1108 (7th Cir. 1988) (reciting that there is no constitutional minimum number of meetings between attorney and client and observing that an experienced attorney may get more out of a single meeting than a neophyte). “Brevity of time spent in consultation, without more, does not establish that counsel was ineffective.” Easter v. Estelle, 609 F.2d 756, 759 (5th Cir. 1980) (holding it is not enough to merely show that counsel only met with his client twice before trial as long as counsel devoted sufficient time to ensure an adequate defense and to become thoroughly familiar with the facts of the case and the law applicable to the case, and holding the record revealed that counsel was so prepared.).

In order to prevail upon a claim that counsel did not adequately prepare, investigate, or review discovery in a case, an applicant must present evidence to show how additional time spent in consultation regarding discovery would have resulted in a different outcome or what other defenses applicant could have requested counsel develop and present had counsel been more prepared. Harris v. State, 377 S.C. 66, 75–76, 659 S.E.2d 140, 145–46 (2008) (citing Jackson v. State, 329 S.C. 345, 353–54, 495 S.E.2d 768, 772 (1998), abrogated on other grounds by Smalls

v. State, 422 S.C. 174, 810 S.E.2d 836 (2018). The applicant must further present evidence demonstrating how the discoverable matters or defenses would have resulted in a different outcome. Id. Mere speculation as to how the alleged lack of preparation prejudiced an applicant is not sufficient to support a grant of relief. Id. at 75, 659 S.E.2d at 145 (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995)).

PCR Evidentiary Hearing

On direct examination, Applicant testified that he and Plea Counsel never discussed his mental illness. Applicant testified that Plea Counsel knew he was mentally ill because Plea Counsel had his medical records, but also testified he never told Plea Counsel he was mentally ill. Applicant testified he tried to go over his diagnoses with Plea Counsel by writing a letter, but that he received no response. Applicant testified Plea Counsel never went over his mental illness at length, but Applicant thought he should have. Applicant testified Plea Counsel never consulted any physicians.

Applicant testified that on May 25th before the plea in 2023, Plea Counsel told Applicant he was not his attorney and was not representing him anymore, but then Plea Counsel called him at the jail and said he was representing him. Applicant testified he brought this to the court's attention, but they said it wasn't an issue. Applicant testified he understood Plea Counsel was representing him when he pleaded guilty. Applicant testified there was a while where he had no idea who was representing him, and after he sent a letter, Plea Counsel finally called seven days later and said he was representing Applicant and they were going to trial. Applicant testified he and Plea Counsel never met until May 25th. Applicant also testified he and Plea Counsel only met one time. Applicant testified he did not know why Plea Counsel didn't meet with him, but that he thought it was a problem because there was a lot of back

and forth confusion within a 19-day period about who was representing him. Applicant testified that between May 25th and June 7th, he thought he did not have an attorney.

Applicant testified he tried to ask Plea Counsel about these issues, but that Plea Counsel did not explain them because they only met one time, and they were about to go to trial. Applicant then testified he spoke with Plea Counsel a second time on June 7, 2023, where Plea Counsel confirmed he was representing him. Applicant testified they also consulted on June 26th, which was the first day of trial. Applicant testified that the confusion in his representation was a problem in his trial preparation.

Applicant testified Plea Counsel was appointed, but he could not remember when. Applicant testified there was no communication from Plea Counsel between June 7th and June 26th. Applicant testified this was also a problem because he didn't know what to do without guidance or legal advice. Applicant testified Plea Counsel did not ask for a continuance or tell the court about a lack of preparation or communication. Applicant testified that Plea Counsel should have done that because it would have given him time to talk with Applicant and prepare. Applicant testified he didn't feel like he could get another attorney.

Applicant testified he did not see his discovery until the day of trial, but later testified that he lied because he did see a video on May 25th when he and Plea Counsel first met. Applicant testified Plea Counsel did not say why they did not have discovery earlier, but that Plea Counsel presented the discovery to him the day of trial and it was a couple hundred pages. Applicant testified that when Plea Counsel showed him the video, he said, "this is what you're up against." Applicant testified it was just a ten to fifteen-minute video of witness statements that he watched at the courthouse. Applicant testified Plea Counsel said he could not represent Applicant after showing him the video, because he was going into private

practice. Applicant testified he answered the questions about communication with Plea Counsel at his guilty plea the way he did because it was the best way to get things going so that he could get it handled.

On cross-examination, Applicant testified that he did not recall telling the court that Plea Counsel had done everything Applicant asked him to do. Applicant testified he remembered Plea Counsel referring to many meetings with him and his family to come to a decision. Applicant testified that he did not know if the judge at his plea told him Plea Counsel would be right there to explain or interpret anything confusing. Applicant also testified he did not remember what his mother testified to at the hearing, and did not remember his brother testifying in his support.

On direct examination, Plea Counsel testified that he was appointed to the case in March of 2022, which was after Applicant's previous attorney was either fired or relieved as counsel. Plea Counsel testified he met with Applicant once on May 25th, which was in person. Plea Counsel testified they also had a phone conference on June 7th because Applicant had just been convicted at trial of separate charges in Florence, and there was a lack of clarity about whether Darlington was going to prosecute these charges due to the lengthy sentence from Florence. Plea Counsel testified that it was not until the end of April of 2023 that he was told Darlington intended to prosecute Applicant on these charges and proceed to trial. Plea Counsel testified he did not need to get bond or anything prior to that because Applicant was already incarcerated for his other sentence.

Plea Counsel further testified that he attempted to make arrangements for transport on May 12th to meet with Applicant, but there was an issue with the transport order so the transport was May 25th instead. Plea Counsel testified he had paper and digital copies of the

evidence, and he met with Applicant in a room with his file and the digital evidence which Applicant did not otherwise have access to. Plea Counsel testified he gave Applicant copies of the papers he did not have from the discovery. Plea Counsel testified he went over everything with Applicant, including several hours of discussing the plea offer, the evidence, the discovery, and the state's intent to go to trial.

Plea Counsel testified the evidence was primarily testimonial, but they had some medical records and forensic crime scene photos. Plea Counsel testified he did not believe they ever located the alleged weapons, but they did pull a piece of the knife out of Applicant's girlfriend's head. Plea Counsel testified he reviewed the girlfriend's statement and Applicant's brother's statement. Plea Counsel testified the brother's testimony was mostly the events leading up to the incident and the brother's recollection of his stomach being sliced open but also that he never saw the knife in Applicant's hand, and it was indicated to Plea Counsel that the brother would testify at trial. Plea Counsel testified the girlfriend's statement was much more straightforward.

Plea Counsel testified he investigated the facts of the case, and that when he was curious about some things that were missing from Applicant's file, they turned out to be the statements from Applicant's mother, brother, and sister. Plea Counsel also testified there was an underlying issue of mental health and capacity, and that Applicant was subject to two competency evaluations. Plea Counsel testified that the South Carolina Department of Mental Health did a thorough evaluation of Applicant. Plea Counsel testified he remembered Applicant saying one medication messed up his sleep patterns and might affect his ability to recall information. Plea Counsel testified he reached out to medical personnel but was unable to subpoena any medical records, so he did his own research on the side effects of the

medication and tried to reach out to independent doctors, as well as having Applicant's mother send him pictures of the pill bottles Applicant was taking at the time of the crime.

Plea Counsel testified he reached out and asked Applicant about taking a plea offer, but Applicant said no. Plea Counsel testified he asked what else he needed to do for Applicant, and Applicant said nothing, just keep doing your job. Plea Counsel testified as they approached trial and had some more conversations, Applicant wanted to be part of some program for mental health that would not be available without the "but mentally ill" tag on his conviction, which would give him the benefit of further treatment and diagnosis. Plea Counsel testified that designation required an in-camera hearing, which he requested and held before the judge at the plea hearing, and he also had Applicant's mother testify at that hearing.

On cross examination, Plea Counsel testified he explained to Applicant that Applicant's case was set to be called June 26th, and there was another trial set to move forward that day, so if Applicant's trial got bumped back, Plea Counsel would not be available anymore due to his new job and Applicant would have to be assigned a new lawyer. Plea Counsel testified he explained to Applicant he would still be representing him if the trial went forward in June. Plea Counsel testified he did not communicate with Applicant between May 25th and June 7th, and on June 7th he told Applicant when he found out that the other case set for June 26th had dropped off and Applicant's would be set to go first.

Plea Counsel testified Applicant received a notice of Plea Counsel's representation when he was appointed, but otherwise they did not have communication during that timeframe. Plea Counsel testified he did not get any response from Applicant after the notice of representation was sent. Plea Counsel testified he did not recall where Applicant was

housed, but he was waiting for Applicant to be transported to him because it's better and more efficient since they are not impeded by SCDC procedures.

Plea Counsel testified he got discovery, which was a couple hundred pages, around the time of his appointment. Plea Counsel testified Applicant already had the discovery from when his previous attorney was removed as counsel. Plea Counsel testified he thought Applicant had three attorneys before him, all of which were either fired or requested to be relieved. Plea Counsel testified Applicant would get appointed another attorney if the case got continued to July. Plea Counsel testified he never said it was up to him to get it continued in July. Plea Counsel testified he did not need to replace counsel on this case until he got clarity about the date of the case, but he would have gotten a new attorney appointed for Applicant like he does in all his other cases.

Findings

This Court finds the combination of the record and Plea Counsel's testimony that Applicant has failed to overcome the "strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in [his] case." Ard v. Catoe, supra. This Court finds that Applicant has failed to overcome his burden in proving Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. Applicant admitted he had multiple discussions with Plea Counsel and met with him on May 25th. Although Applicant claimed he did not see the discovery until the day of trial, Plea Counsel **credibly** testified that he reviewed all the discovery with Applicant during their May 25th meeting, and that he provided Applicant with the paper discovery he did not already have. Plea Counsel **credibly** testified that the meeting was several hours long. Plea Counsel **credibly** testified he looked into Applicant's mental illness, Applicant's complaints about his medication, and

issues with missing pages in the discovery. The record also reflects that he brought Applicant's mother to testify at the plea hearing to get Applicant the mentally ill tag added to his conviction. Plea Counsel cannot be found deficient when there is ample evidence indicating Plea Counsel conducted a reasonable investigation, reviewed discovery with Applicant, and spoke with him at length multiple times about his case.

However, even if Plea Counsel's representation was deficient, Applicant is unable to prove that he suffered any resulting prejudice. Applicant was potentially facing life without parole prior to the guilty plea. Plea Counsel testified that the evidence against Applicant included the testimony of both victims of attempted murder, one of whom was his own brother. In exchange for his plea, Applicant not only obtained the benefit of the bargain, but he also received the "guilty but mentally ill" classification that allowed him to receive the mental health treatment he wanted. In support, Applicant merely offered speculation that the confusion about whether Plea Counsel represented him was a problem in his preparation for trial. See Clark v. State, 315 S.C. 385, 388, 434 S.E.2d 266, 267 (1993) (concluding pure conjecture fails to establish prejudice). Furthermore, Applicant has failed to provide what additional evidence Plea Counsel could have reviewed with him that would have changed his decision to plead and instead proceed to trial.

Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel, or any prejudice flowing therefrom. Thus, these allegations must be **DENIED** and **DISMISSED** with prejudice.

Allegation 1c: Plea Counsel was ineffective for failing to explain the charges and consequences of pleading guilty.

Allegation 1d: Plea Counsel was ineffective for failing to explain plea offers.

Allegation 1f: Plea Counsel was ineffective for failing to discuss potential defenses.

Allegation 2: Involuntary Guilty Plea

Applicant alleges Plea Counsel was constitutionally ineffective for failing to explain the charges and consequences of pleading guilty, failing to explain the plea offers, and failing to discuss potential defenses. Specifically, Applicant alleged that he did not understand the terms of his guilty plea before he entered it. This Court finds these allegations are without merit.

To find a guilty plea is voluntarily and knowingly entered into, the record must establish Applicant had a complete understanding of the consequences of the plea and the charges against him or her. Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991); see also Boykin v. Alabama, 395 U.S. 238, 244 (1969) (Courts must make sure defendants have “a full understanding of what the plea connotes and of its consequences. When the judge discharges that function, he leaves a record adequate for any review that may be later sought and forestalls the spin-off of collateral proceedings that seek to probe murky memories.”). In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as the evidence presented at the PCR hearing. See Harres v. Leeke, 282 S.C. 131, 133, 318 S.E.2d 360, 361 (1984) (finding the voluntariness of a guilty plea “is not determined by an examination of the specific inquiry made by the sentencing judge alone but is determined from both the record made at the time of the entry of the guilty plea and the record of the post-conviction hearing.”).

An applicant who enters a plea on the advice of counsel may only attack the voluntary and intelligent character of the plea by showing that counsel's representation fell below an objective standard of reasonableness and that there is a reasonable probability that, but for counsel's errors, the applicant 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). Given Applicant's burden of proof and the analysis to be applied to

this claim, Applicant's claim of involuntary plea is, in essence, a claim of ineffective assistance of counsel, and it will be treated as such.

A defendant has the right to effective assistance of counsel during the plea bargaining process. Davie v. State, 381 S.C. 601, 675 S.E.2d 416 (2009) (abrogated on other grounds by Smalls v. State, 422 S.C. 174, 810 S.E.2d 836 (2018)). “The United States Supreme Court has held that ‘defense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused.’” Collins v. State, 422 S.C. 250, 261, 810 S.E.2d 871, 876 (2018) (quoting Missouri v. Frye, 566 U.S. 134, 145 (2012)); see also Lafler v. Cooper, 566 U.S. 156, 169-70 (2012) (rejecting proposition that a fair trial wipes clean any deficient performance by defense counsel during plea bargaining). Generally, defense counsel provides deficient performance when he or she does not communicate such an offer to the defendant. Frye, 566 U.S. at 145.

To show prejudice, an applicant for post-conviction relief “must demonstrate a reasonable probability that: (1) he [or she] ‘would have accepted the earlier plea offer had [he or she] been afforded effective assistance of counsel;’ (2) ‘the plea would have been entered without the prosecution canceling it or the trial court refusing to accept it;’ and (3) ‘the end result of the criminal process would have been more favorable by reason of a plea to a lesser charge or a sentence of less prison time.’” Collins, 422 S.C. at 262, 810 S.E.2d at 877 (quoting Frye, 566 U.S. at 147; citing Lafler v. Cooper, 566 U.S. 156, 164 (2012)). An applicant must show actual prejudice, but depending on the facts of the case, an applicant’s self-serving statement *may* be sufficient to establish actual prejudice. Davie, 381 S.C. at 613, 675 S.E.2d at 422.

Due process prohibits the conviction of a person who is mentally incompetent, and that right cannot be waived by a guilty plea. Jeter v. State, 308 S.C. 230, 232, 417 S.E.2d 594, 595

(1992) (citing Bishop v. U.S., 350 U.S. 961 (1956); Pate v. Robinson, 383 U.S. 375 (1966)).⁴ The test of competency to enter a plea is the same as required to stand trial: the accused must have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding and have a rational as well as factual understanding of the proceedings against him. Id., 417 S.E.2d at 596 (citing State v. Lambert, 266 S.C. 574, 225 S.E.2d 340 (1976); Carnes v. State, 275 S.C. 353, 271 S.E.2d 121 (1980)). An applicant alleging incompetence in fact must show by a preponderance of the evidence he was incompetent at the time of his plea. Id.

An applicant alleging ineffective assistance of counsel for failure to seek a mental health evaluation, however, must still satisfy the two prongs of Strickland, though considered in reverse as a practical necessity: applicant must demonstrate (1) a 'reasonable probability' that he was not competent at the time of the crime or at the time of the plea, and (2) that counsel's failure to seek an evaluation was unreasonable. Id. at 233, 417 S.E.2d at 596. Counsel may reasonably rely on his own perceptions in deciding if a client is competent to stand trial. Id.

Plea Hearing

The following colloquy occurred between Applicant and the Court:

THE COURT:	Okay. You're pleading under what is known as an Alford plea. And Mr. McNeil that is where you are, you're not admitting, hey, I did these things but you're not contesting it. You're not challenging it. Is that your understanding of an Alford plea?
MR. McNEIL:	Yes, Your Honor.
THE COURT:	And that's how you wish to proceed today, is that correct?
MR. McNEIL:	Yes, Your Honor.
THE COURT:	And you've talked to Mr. Hobbs about this?
MR. McNEIL:	Yes, Your Honor.
THE COURT:	Now, you understand that even though you say I didn't admit it, I'm not contesting it, you understand I still treated as a guilty plea but mentally ill, you understand that?

⁴ Although Applicant did not specifically raise competency as one of his allegations, out of an abundance of caution, this Court addresses the issue as it relates to whether the plea was voluntary.

MR. McNEIL: Yes, Your Honor.
 THE COURT: All right. You're entering into this plea freely and voluntarily, is that right?
 MR. McNEIL: Yes, Your Honor.
 THE COURT: Nobody threatened you, to hurt you, or anything like that to get you to plea?
 MR. McNEIL: No, Your Honor.
 THE COURT: No one has promised you money or anything like that to get you to plea?
 MR. McNEIL: No, Your Honor.
 ...
 THE COURT: [Y]ou've had a chance to talk to your lawyer about all of these things that we discussed today, is that right?
 MR. McNEIL: Yes, Your Honor.
 THE COURT: He has answered your questions that you've asked him?
 MR. McNEIL: Yes, Your Honor.
 THE COURT: He's answered your questions?
 MR. McNEIL: Yes.
 THE COURT: He's done what you've asked him to do within the bounds of the law?
 MR. McNEIL: Yes, Your Honor.
 THE COURT: And you're satisfied with his help to this point, is that correct?
 MR. McNEIL: Yes, Your Honor.
 THE COURT: Do you need to talk to him about anything else related to this plea today?
 MR. McNEIL: No, Your Honor.
 ...
 THE COURT: [Y]ou understand all these rights and you understand that when you plead guilty you waive all these rights. You understand that?
 MR. McNEIL: Yes, Your Honor.
 THE COURT: I understand that you do suffer from a mental illness. You've understood my conversation with you today?
 MR. McNEIL: Yes, Your Honor.
 THE COURT: You're not under the influence of any medication or substance that would cause you to be confused or you?
 MR. McNEIL: No. No, sir.
 THE COURT: And you understand what you're doing?
 MR. McNEIL: Yes, sir.

(Plea Tr. pp. 58-62)

PCR Evidentiary Hearing

At the evidentiary hearing on direct examination, Applicant testified that his guilty plea was guilty but mentally ill. Applicant testified he tried to go over his mental illness with Plea Counsel, but that they never went over the “guilty but mentally ill” designation at length. Applicant testified he still felt comfortable pleading guilty but mentally ill, but he thought Plea Counsel should have gone over the guilty but mentally ill issue more. Applicant testified he got notice of his plea offer on the day of trial. Applicant testified Plea Counsel did not explain why he didn’t get the offer earlier, he just said that a plea under *Alford v. North Carolina* was the best way for Applicant to go.

Applicant testified Plea Counsel did not go over Applicant’s waiver of rights, nor did he go over evidence or witnesses that might be helpful to Applicant. Applicant testified that Plea Counsel did not go over defenses or offer any pretrial motions to the court. Applicant testified that Plea Counsel knew about his mental health issues, but that Plea Counsel did not offer any evidence of that. Applicant testified he did not know what discussions were had about plea negotiations. Applicant testified Plea Counsel told him they worked up a deal for Applicant to plead under *Alford*, and Applicant felt that was the best thing to do at that point because the case wasn’t going anywhere.

Applicant testified that his option was life without parole, and since he wasn’t getting anywhere with Plea Counsel, he wanted to figure it out on his own. Applicant testified he felt he was forced to take the plea and that he gave up, and his state of mind was confused because he felt like he did not have a lawyer, despite his desire to go to trial. Applicant testified he did not feel like he completely understood the plea or charges. Applicant agreed it was his attorney’s responsibility to assist him and relay plea offers and explain the consequences. Applicant testified he would have made better choices going into the plea. Applicant agreed his contention was that

Alford was a standalone plea and “guilty but mentally ill” was a standalone plea. Applicant testified that he did not understand the qualifier to Alford and still did not understand it. Applicant testified that while the court was maybe not in error for allowing the plea, his counsel did not explain that plea to him, so he was confused. Applicant testified he could not face the jury alone for all those charges.

On cross-examination, Applicant testified he recalled the judge informing him of what an Alford plea was and what it meant. Applicant testified he remembered answering the judge’s questions about the plea being free and voluntary and speaking to his attorney about everything. Applicant also testified that he recalled the court advising him of his rights and that he waived those rights by pleading guilty. Applicant testified he did not recall the judge asking him if he was under the influence, nor did he recall telling the judge that the Alford plea was in his best interest. Applicant testified he did not remember what his mother testified to at the hearing.

On direct examination, Plea Counsel testified that he was forwarded a letter about Applicant’s LWOP classification. Plea Counsel testified that he and Applicant went over the plea offer and the intent to go to trial. Plea Counsel testified that he advised Applicant of the charges, which was a significant part of their May 25th meeting. Plea Counsel testified he explained the “most serious” and “violent” classifications of the crimes, the possible punishments, potential defenses, the elements of the charges, and what the State had to prove. Plea Counsel testified he was having issues finding defenses besides mental health, but other than that, he just wanted to emphasize the possibility of life without parole.

Plea Counsel testified that at the end of April, he was told by the State that they planned to call the case to trial in June, and they were offering a concurrent offer with the 20-year Florence sentence that was already running. Plea Counsel testified that he informed Applicant about the

offer and asked Applicant to let him know if he intended to accept. Plea Counsel testified that Applicant decided not to take it, so the plea offer was revoked, and their only options were trial or pleading straight up with discretion on sentencing from the judge. Plea Counsel testified Applicant wanted to go to trial, but as they approached trial and had long conversations, Applicant wanted to be part of the program that required a “guilty but mentally ill” conviction, which would give him the benefit of further treatment and diagnosis. Plea Counsel testified that Applicant seemed to understand all their conversations, and they discussed everything at length. Plea Counsel testified Applicant wanted to discuss the options with his family. Plea Counsel testified that he was confident he could steer Applicant towards a plea similar to the first offer, while also providing the benefit of prison's mental health programs.

Plea Counsel testified he did not believe Alford contradicted a finding of guilty but mentally ill, because one could elect to have an Alford plea, but a mentally ill tag required an in-camera hearing to determine the designation of mental illness. Plea Counsel testified he had Applicant's mother testify at the plea hearing to get that designation, and Plea Counsel also put a great emphasis on mental health issues at the plea hearing and asked the judge to take that into consideration.

On cross-examination, Plea Counsel testified that Applicant pleaded under Alford and qualified as guilty but mentally ill. Plea Counsel testified that the statutory designation allowed Applicant to get certain benefits and treatment options, but he didn't know what benefits or treatment Applicant got, because after the plea, it was out of Plea Counsel's hands.

Findings

This Court finds the combination of the record and Plea Counsel's testimony that Applicant has failed to overcome the “strong presumption that counsel rendered adequate assistance and

exercised reasonable professional judgment in making all significant decisions in [his] case.” Ard v. Catoe, *supra*. This Court finds that Applicant has failed to overcome his burden in proving Plea Counsel's representation was deficient and any resulting prejudice from that alleged deficiency. See Butler, *supra*.

Plea Counsel credibly testified that he thoroughly discussed the charges and plea offers with Applicant. Plea Counsel credibly testified that although the initial plea offer had expired, he was able to get a similar plea with the statutory designation of guilty but mentally ill that Applicant wanted. Plea Counsel credibly testified that Applicant had competency evaluations and seemed to understand all their conversations. It is clear from the record that Applicant had a history of mental health concerns, and Plea Counsel acted reasonably in negotiating this plea agreement based on that history. It is also clear from the record that Applicant's trial had already begun when he decided to plead guilty, which reflects Plea Counsel's willingness to go forward with Applicant's decision. Although Plea Counsel had Applicant's mother testify about his mental illness to get the guilty but mentally ill designation, Applicant testified he did not even recall what his mother testified to at the hearing. Additionally, Plea Counsel credibly testified that Applicant thought about the plea offer and wanted to discuss the options with his family. Plea Counsel cannot be deemed deficient for facilitating and securing a plea of guilty but mentally ill under Alford, where this strategy enabled the Applicant to receive the necessary treatment while protecting him from having to concede to any facts he disputed. The approach taken not only upheld the integrity of the judicial process, but it also prioritized the Applicant's mental health needs.

Applicant is unable to prove that he suffered prejudice. Any potential deficiency due to Applicant not understanding the charges, plea, or waiving of his rights was cured by the colloquy between Applicant and the plea court. Additionally, Plea Counsel credibly testified that he did his

own research on the side effects of Applicant's medications to ensure he was competent. Plea Counsel credibly testified that Applicant was facing life without parole and was already serving a recent 20-year sentence from Florence. The record reflects Applicant was facing seven indictments, one of which involved a different incident, and managed to get a plea only on the two attempted murder indictments.⁵ Therefore, this Court finds Applicant received the benefit of a lesser sentence because he received a significantly reduced sentence, whereas he was initially facing up to a life sentence. Accordingly, this Court finds Applicant has failed to establish any deficiency by Plea Counsel, or any prejudice flowing therefrom. Thus, these allegations must be **DENIED** and **DISMISSED** with prejudice.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be **DENIED** and **DISMISSED WITH PREJUDICE**.

This Court notifies the Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 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. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

⁵ Plea Tr. pp. 62-63.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 21 day of Oct, 2025.



THE HONORABLE S. BRYAN DOBY,
Presiding Judge 2784
Fourth Judicial Circuit

Bishopville, South Carolina

FILED

2025 OCT 24 A 10:50

SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

WITNESSES

Valerie P Freeman

Darlington County Sheriff

Law Enforcement Case #: 201803-0069
440

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2018A1610400142

ARRESTED ON: 2018-03-08

ACTION OF GRAND JURY

TRUE BILL


Grand Jury Foreperson

Date

JUL 12 2018

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2018-GS-16-1130

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
July 2018

THE STATE

vs.

Samuel Lee Mcneil

INDICTMENT FOR
Kidnapping / Kidnapping
§16-03-0910

CDR Code: 0095

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Kidnapping / Kidnapping

§16-03-0910

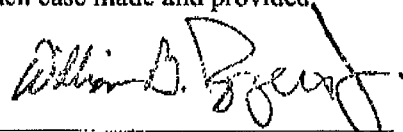
At a Court of General Sessions, convened on July 12, 2018, the Grand Jurors of Darlington County present upon their oath:

KIDNAPPING

CDR: 0095 16-03-0910

That Samuel Lee Mcneil did in Darlington County on or about March 4, 2018, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Angela Chandler, without authority of law, in violation of Section 16-03-0910, S. C. 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,



WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Valerie P Freeman

Darlington County Sheriff

Law Enforcement Case #: 201803-0069
440

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

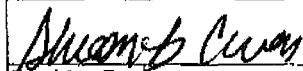
Defendant

ARREST WARRANT NUMBER
2018A1610400144

ARRESTED ON: 2018-03-07

ACTION OF GRAND JURY

TRUE BILL


Grand Jury Foreperson

Date

JUL 12 2018

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2018-GS-16-1131

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
July 2018

THE STATE

vs.

Samuel Lee Mcneil

INDICTMENT FOR

Domestic Violence of a High and Aggravated
Nature

§16-25-65

CDR Code: 3814

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON) Domestic Violence of a High and Aggravated Nature

§16-25-65

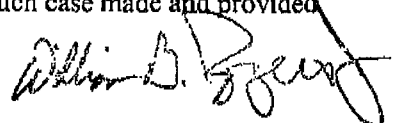
At a Court of General Sessions, convened on July 12, 2018, the Grand Jurors of Darlington County present upon their oath:

DOMESTIC VIOLENCE
HIGH AND AGGRAVATED NATURE

CDR: 3814 16-25-0065

That Samuel Lee Mcneil did in Darlington County on or about March 4, 2018, commit the offense under circumstances manifesting extreme indifference to the value of human life and great bodily injury results; commit the offense, with or without an accompanying battery, under circumstances manifesting extreme indifference to value of the human life and would reasonably cause a person to fear either great bodily injury or death; or violate a protection order or and, in the process, commit first degree domestic violence, Angela Chandler, which involved the use of a deadly weapon or resulted in serious bodily injury to the victim, in violation of Section 16-25-65, S. C. 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

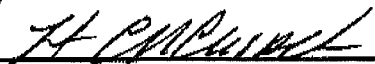


WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Valerie P Freeman

Darlington County Sheriff

Law Enforcement Case #: 201803-0069
440

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

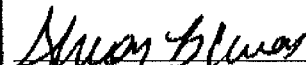
Defendant

ARREST WARRANT NUMBER
2018A1610400146

ARRESTED ON: 2018-03-07

ACTION OF GRAND JURY

TRUE BILL


Grand Jury Foreperson

Date

JUL 12 2018

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2018-GS-16-1132

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
July 2018

THE STATE

vs.

Samuel Lee Meneil

INDICTMENT FOR

Weapons / Poss. weapon during violent crime,
if not also sentenced to life without parole or
death

§16-23-0490

CDR Code: 0549

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Weapons / Poss. weapon during violent crime, if not
also sentenced to life without parole or death

§16-23-0490

At a Court of General Sessions, convened on July 12, 2018, the Grand Jurors of Darlington County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Samuel Lee Mcneil did in Darlington County, on or about March 4, 2018, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. 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.



WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Valerie P Freeman

Darlington County Sheriff

Law Enforcement Case #: 201803-0069

440

H. C. P. P. P.

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2018A1610400150

ARRESTED ON: 2018-03-07

ACTION OF GRAND JURY

TRUE BILL

Sharon D. Cullen
Grand Jury Foreperson

Date

JUL 12 2018

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2018-GS-16-1133

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:

July 2018

THE STATE

vs.

Samuel Lee Mcneil

INDICTMENT FOR

Weapons / Poss. weapon during violent crime,
if not also sentenced to life without parole or
death

§16-23-0490

CDR Code: 0549

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Weapons / Poss. weapon during violent crime, if not
also sentenced to life without parole or death

§16-23-0490

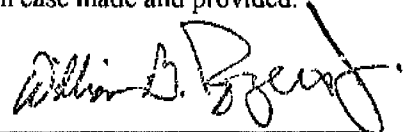
At a Court of General Sessions, convened on July 12, 2018, the Grand Jurors of Darlington County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION
OF A VIOLENT CRIME

CDR: 0549 16-23-0490

That Samuel Lee Meneil did in Darlington County, on or about March 4, 2018, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. 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.



WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Valerie P Freeman

Darlington County Sheriff

Law Enforcement Case #: 201803-0069
440*JP C. Busant*

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2018A1610400147

ARRESTED ON: 2018-03-07

ACTION OF GRAND JURY

TRUE BILL*Sharon B. Cuen*
Grand Jury Foreperson

Date JUL 12 2018

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:

2018-GS-16-1134

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
July 2018**THE STATE**

vs.

Samuel Lee Mcneil

INDICTMENT FOR

Murder/Attempted murder Penalty statutes
16-03-0029; Felony Class A - eff date 6-02-
2010

§16-03-0029

CDR Code: 3410

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Murder/Attempted murder Penalty statutes 16-03-0029; Felony Class A - eff date 6-02-2010

§16-03-0029

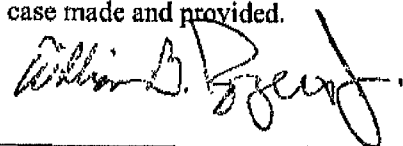
At a Court of General Sessions, convened on July 12, 2018, the Grand Jurors of Darlington County present upon their oath:

ATTEMPTED MURDER

CDR: 3410, 16-3-29

That Samuel Lee Mcneil did in Darlington, on or about 2018-03-04, with specific intent to kill, attempt to kill Andrew Lamont McNeil, with malice aforethought, either expressed or implied, in violation of Section 16-3-29 of S.C. 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.

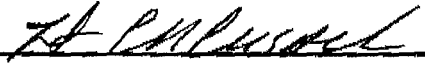


WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Valerie P Freeman

Darlington County Sheriff

Law Enforcement Case #: 201803-0069
440

WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and
plead guilty to the within indictment or to:

Defendant

ARREST WARRANT NUMBER
2018A1610400149

ARRESTED ON: 2018-03-07

ACTION OF GRAND JURY

TRUE BILL
Grand Jury Foreperson

Date JUL 12 2018

VERDICT

Petit Jury Foreperson

Date

DOCKET NUMBER:
2018-GS-16-1135

The State of South Carolina

County of Darlington

COURT OF GENERAL SESSIONS

Term:
July 2018

THE STATE

vs.

Samuel Lee Mcneil

INDICTMENT FOR

Murder/Attempted murder Penalty statutes
16-03-0029; Felony Class A - eff date 6-02-
2010

§16-03-0029

CDR Code: 3410

William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Murder/Attempted murder Penalty statutes 16-03-0029; Felony Class A - eff date 6-02-2010

§16-03-0029

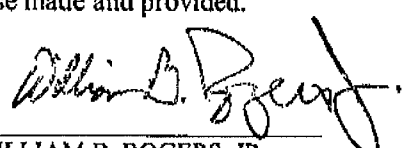
At a Court of General Sessions, convened on July 12, 2018, the Grand Jurors of Darlington County present upon their oath:

ATTEMPTED MURDER

CDR: 3410, 16-3-29

That Samuel Lee Mcneil did in Darlington, on or about 2018-03-04, with specific intent to kill, attempt to kill Angela Chandler with malice aforethought, either expressed or implied, in violation of Section 16-3-29 of S.C. 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.


WILLIAM B. ROGERS, JR.
SOLICITOR

WITNESSES

Jimell D Green

Darlington County Sheriff

Law Enforcement Case #: 202002-0073
440

 WAIVER OF PRESENTMENT

After being fully advised as to my legal rights, I
hereby waive presentment to the Grand Jury.

 Defendant

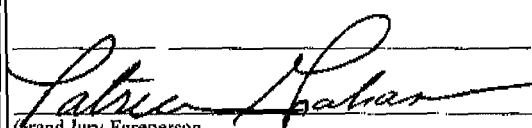
I hereby appear in my own proper person and
plead guilty to the within indictment or to:

 Defendant

 ARREST WARRANT NUMBER
2020A1610400078

ARRESTED ON: 2020-02-06

 ACTION OF GRAND JURY


 Grand Jury Foreperson

Date JUL / 9 2020

 VERDICT

 TRUE BILL

 Petit Jury Foreperson

 Date

DOCKET NUMBER:

2020-GS-16-1026

The State of South Carolina

County of Darlington

 COURT OF GENERAL SESSIONS

 Term:
July 2020

 THE STATE

vs.

Samuel Lee Mcneil

 INDICTMENT FOR

 Assault/Assault & Battery 2nd degree;
Penalty Statute: 16-03-0600(D)(2);
Misdemeanor Class A

§16-03-0600(D)(1)

CDR Code: 3413

 William B. Rogers, Jr., Solicitor

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF DARLINGTON)

Assault/Assault & Battery 2nd degree; Penalty
Statute: 16-03-0600(D)(2); Misdemeanor Class A

§16-03-0600(D)(1)

At a Court of General Sessions, convened on July 9, 2020, the Grand Jurors of Darlington County present upon their oath:

ASSAULT AND BATTERY**SECOND DEGREE**

CDR: 3413, 16-3-600(D)

That Samuel Lee Mcneil did in Darlington County on or about February 4, 2020, did unlawfully injure Lois McNeil, and the act of moderate bodily injury to the victim resulted or could have resulted, in violation of Section 16-3-600(D) of S.C. 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.


WILLIAM B. ROGERS, JR.
SOLICITOR

0-30 years

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF DARLINGTON

STATE

VS.

INDICTMENT/CASE#: 2018-GS-16-1134Samuel Lee McneilA/W#: 2018A1610400147

AKA:

Date of Offense: 3/4/2018Race: Black Sex: M Age: 45S.C. Code § : 16-03-0029DOB: [REDACTED] SS# [REDACTED]CDR Code #: 3410

Address:

City, State, Zip:

DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or ☒ PLEADSTO: ATTEMPTED MURDERin 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) NC
AKWThe plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Mary J. Johnson-Lee
Johnson-Lee, Mary T

65347

SC Bar#

Defendant

Eric L. Holtz
Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 17 days/months/years Time Served ☐ Youthful Offender Act not to exceed yearsand/or to pay a fine of \$ provided that upon the service of days/months/years/Time Served and or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

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

The sentence shall run

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: ☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC.446 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.

MSH

STATE VS Samuel Lee Mcneil INDICTMENT/CASE#: 2018-GS-16-1134

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

☐ Substance Abuse Counseling☐ Completion of GED☐ Random Drug/Alcohol testing☐ Attend Voc. Rehab. or Job Corp☐ No Contact with☐ 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 0 _____ days/hours☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.☒ Other: THIS SENTENCE SHALL BE CONCURRENT WITH A CRIMINAL
SENTENCE FROM FLORENCE COUNTY HE IS CURRENTLY SERVING.☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ OrderedTHE DEFENDANT HAS BEEN
FOUND GUILTY BUT MENTALLY
ILL, UNDER S.C. CODE 17-24-20
MSH

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

Payment Term _____ ☐ 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)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

	\$
	\$
\$100	\$
\$100	\$ 100.00
\$12	\$
\$25	\$
\$25	\$ 25.00
\$150	\$
\$41	\$
\$50	\$
\$40/ea	\$
TBD	\$ 3.75
\$500	\$
TBD	\$
TOTAL	\$ 128.75

Clerk of Court/ Deputy Clerk:

Court Reporter:

Liba Carter

Presiding Judge:

Judge Code:

Sentence Date:

Michelle Stolt
2772
6-26-23

6 - 30 years

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF DARLINGTON

STATE

VS.

INDICTMENT/CASE#: 2018-GS-16-1135Samuel Lee McneilA/W#: 2018A1610400149Date of Offense: 3/4/2018S.C. Code § : 16-03-0029CDR Code #: 3410

AKA:

Race: Black Sex: M Age: 45DOB: [REDACTED] SS# [REDACTED]

Address:

City, State, Zip:

DL#: [REDACTED] SID#: [REDACTED]

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or ☒ PLEADSTO: ATTEMPTED MURDERin 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) NC.v. [REDACTED]The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Mary J. Johnson-Lee
Johnson-Lee, Mary T

65347

SC Bar#

Samuel Lee Mcneil
Defendant[Signature]
Attorney for Defendant

78266

6696950

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,for a determinate term of 17 days/months/years Time Served ☐ Youthful Offender Act not to exceed 17 yearsand/or to pay a fine of \$ [REDACTED] provided that upon the service of [REDACTED] days/months/years/Time Served and or paymentof \$ [REDACTED]; 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: [REDACTED]☒ 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.446 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.

MSH

STATE VS Samuel Lee Mcneil INDICTMENT/CASE#: 2018-GS-16-1135

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol testing
- ☐ Attend Voc. Rehab. or Job Corp ☐ No Contact with ☐ 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 0 _____ days/hours☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

☒ Other: THIS SENTENCE SHALL BE CONCURRENT WITH A CRIMINAL SENTENCE FROM FLORENCE COUNTY HE IS CURRENTLY SERVING.

☐ RESTITUTION:☐ Deferred☐ Def. Waives Hearing☐ Ordered

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

Payment Term _____

Recipient: _____

MSH
THE DEFENDANT HAS BEEN
FOUND GUILTY BUT MENTALLY
ILL, UNDER SC. CODE 17-24-20

MSH

*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)

§14-1-211(A)(2) (DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)

§50-21-114(BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

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

☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund

	\$	
	\$	
\$100	\$	
\$100	\$	100.00
\$12	\$	
\$25	\$	
\$25	\$	25.00
\$150	\$	
\$41	\$	
\$50	\$	
\$40/ea	\$	
TBD	\$	3.75
\$500	\$	
TBD	\$	
TOTAL	\$	128.75

Clerk of Court/ Deputy Clerk: Kisha O'nealCourt Reporter: Lisa CarterPresiding Judge: Michael S. HoltJudge Code: 2772Sentence Date: 6-26-23