

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Marlboro County

R. Ferrell Cothran, Jr., Circuit Court Judge

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S.C. Supreme Court

DEXTER PALMER,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001940

APPENDIX

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THE STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF MARLBORO	)	FOURTH JUDICIAL CIRCUIT
	)	
THE STATE,	)	DECEMBER 6, 2010
	)	
PLAINTIFF,	)	2005-GS-34-0653
	)	
VERSUS	)	
	)	PLEA
DEXTER PALMER	)	
	)	
DEFENDANT.	)	

BEFORE

THE HONORABLE J. MICHAEL BAXLEY

APPEARANCES

Kernard Redmond, Esquire
ATTORNEY FOR THE STATE

Emily Crayton, Esquire
ATTORNEY FOR THE DEFENDANT

Pamela Ozment-Cartee
Circuit Court Reporter

THE STATE VERSUS DEXTER PALMER

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1 (Whereupon, this hearing was held on Monday,
2 December 6, 2010.)

3 THE COURT: Solicitor, please call your case.

4 MR. REDMOND: May it please the Court, Your Honor.
5 Before you at this time is Dexter Palmer, 2005-GS-34-653
6 for Murder. He is pleading with a recommendation of a
7 concurrent thirty year sentence. He plead to two armed
8 robberies in October 2005, and they occurred right about
9 the same time frame as this case. And, obviously we would
10 prefer him getting day-per-day, with armed robbery being a
11 85% offense, and this of course would carry --- He would
12 have to serve day-per-day of his thirty years in jail.

13 I will tell the Court that the state had initially
14 served a notice of intention to seek life without the
15 possibility of parol. We did that back on the 23rd of
16 September, in anticipation of going to trial in this case.
17 Since this case has resolved itself by a plea, the state
18 will hereby withdraw that at this time, only because he is
19 entering into this plea. Otherwise we would have sought
20 that.

21 THE COURT: All right, very good. And you have
22 members of the Gallishaw family with you?

23 MR. REDMOND: I do. I have Johnnie Wright mother,
24 and Ms. Perry, who came in from New York, and there are
25 other family members.

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1 **THE COURT:** And let's ask each of the members of
2 the family so our record will be clear today. We have the
3 mother and father. And, sir, please tell me your name and
4 your relationship to the victim.

5 **MR. GALLISHAW:** Eric Gallishaw.

6 **THE COURT:** Thank you, Mr. Gallishaw.

7 **MR. WHITE:** Frank White, brother.

8 **THE COURT:** All right. Thank you, Mr. White.

9 **MR. PALMER:** Eric Palmer, his father.

10 **THE COURT:** All right, thank you, sir. And, sir,
11 tell me your name if you will on the front?

12 **MR. WRIGHT:** Frank White. I am his step-father.

13 **THE COURT:** Thank you. Let me say to the members
14 of the victim's family, first of all thank you for your
15 presence here today. I know that this is not pleasant to
16 take something from your past and come back in court,
17 review it, and relieve it again. The victims of crime
18 have numerous rights in this process. The fact that I am
19 going to speak with the defendant about his rights first,
20 doesn't mean that they are of greater importance than yours,
21 or of some priority over yours. It is not. It is simply
22 best for the Court to determine first of all, what the
23 Defendant's position is, and then come back and talk with
24 you about your rights. One of the rights that the victim
25 has is to be heard at a plea, or at a trial. And if you

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1 have something that you wish to say today, the Court will
2 be glad to hear from you. But, again I say, before we
3 start, thank you for your courage and your strength in
4 being here today to make sure that as best can be done,
5 that justice is done in this case.

6 All right. Let's place the defendant under oath
7 please.

WHEREUPON, DEXTER PALMER**AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS**

8
9
10 **MR. PALMER:** Yes, I do.

11 **THE COURT:** All right, sir. Are you Mr. Dexter
12 Palmer?

13 **MR. PALMER:** Yes, sir.

14 **THE COURT:** Ms. Crayton, do you represent Mr. Dexter
15 Palmer with regard to this charge of murder?

16 **MS. CRAYTON:** Yes, Your Honor, I do.

17 **THE COURT:** And have you discussed with him the
18 elements of this charge, the penalty for this charge, and
19 his right to a trial on this charge?

20 **MS. CRAYTON:** Yes, Your Honor, we have had numerous
21 conversations.

22 **THE COURT:** All right. So that our record will be
23 clear, what did you tell him murder carries in South
24 Carolina?

25 **MS. CRAYTON:** Up to life, Your Honor, but in this

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1 case he was noticed for life without parole.

2 THE COURT: And what did you tell him the minimum
3 would be for a murder charge as well, without the life
4 without parole?

5 MS. CRAYTON: The recommendation, which is the
6 recommendation for thirty years, Your Honor.

7 THE COURT: Okay. What have you talked to him
8 about the service requirements for a murder conviction in
9 South Carolina?

10 MS. CRAYTON: I and also Will Grove have explained
11 to him that he will have to serve everyday of the thirty
12 years as opposed to his armed robbery charges he is
13 currently serving, which is an 85% crime. I think he fully
14 understands that, Your Honor.

15 THE COURT: All right. And let me ask you, Ms.
16 Crayton, have you had ample time, in your opinion, to
17 discuss these matters and these issues with Mr. Palmer?

18 MS. CRAYTON: Yes, Your Honor.

19 THE COURT: And in your opinion, has he understood
20 the things that you have explained to him?

21 MS. CRAYTON: I think he fully understands, Your
22 Honor.

23 THE COURT: And understanding these things, how
24 does he wish to plea to the murder charge?

25 MS. CRAYTON: Guilty, Your Honor.

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1 **THE COURT:** And do you believe, in your opinion,
2 that this is in his best interest?

3 **MS. CRAYTON:** Yes, Your Honor.

4 **THE COURT:** Do you think he is likely to be
5 convicted to the charge of murder if he goes to trial on
6 the charge of murder?

7 **MS. CRAYTON:** Yes, Your Honor.

8 **THE COURT:** Now, Mr. Palmer, your lawyer tells me
9 that you intend to plead guilty; is that correct?

10 **MR. PALMER:** Yes, sir.

11 **THE COURT:** And are you guilty, sir?

12 **MR. PALMER:** Yes, sir.

13 **THE COURT:** Have you had ample time to talk with
14 Ms. Crayton and other members of the Public Defender's
15 Officer here about where you find yourself?

16 **MR. PALMER:** Yes, I have.

17 **THE COURT:** All right. And have you understood the
18 things that she has explained to you?

19 **MR. PALMER:** Yes.

20 **THE COURT:** All right. We will just wait one
21 moment, please.

22 **(PAUSE.)**

23 **THE COURT:** Do you need further time to discuss
24 with Ms. Crayton the various issues she has explained to
25 you, and where you find yourself today?

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1 MR. PALMER: No, sir.

2 THE COURT: All right. And again, I ask you, have
3 you understood the things that she has explained to you?

4 MR. PALMER: Yes, sir.

5 THE COURT: Do you have any questions for her about
6 the various issues that you all have discussed?

7 MR. PALMER: No, I do not.

8 THE COURT: All right, sir. When you come before
9 this Court to plead guilty, I want to make sure you
10 understand it is what are doing.

11 First of all, do you have any alcohol or drugs in
12 your system today?

13 MR. PALMER: No, sir.

14 THE COURT: Do you take any kind of medication?

15 MR. PALMER: No, sir.

16 THE COURT: Do you have any sort of mental or
17 emotional condition that would prevent you from
18 understanding what you are doing here today?

19 MR. PALMER: I do not.

20 THE COURT: Do you realize then that you are
21 pleading to a charge that if the state accepts the
22 recommendation --- That is that the Court accepts it,
23 that you will be sentenced to thirty-years, to be served
24 day-per-day for murder?

25 MR. PALMER: Yes, sir.

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1 **THE COURT:** Do you also understand that this is a
2 violent charge. It is also a most serious charge. Thus,
3 if you ever are released from corrections, and you have
4 another most serious or serious charge you will likely
5 have a life without parole sentence, and you must serve
6 that time simply because this will be a most serious
7 strike against you today, and you already have strikes
8 against you?

9 **MR. PALMER:** Yes, sir.

10 **THE COURT:** All right. Now, have you understood
11 the benefit that the state is offering you today by
12 entering this plea?

13 **MR. PALMER:** Yes, sir.

14 **THE COURT:** All right. Now, how far did you go in
15 school, Mr. Palmer?

16 **MR. PALMER:** Eleventh grade.

17 **THE COURT:** All right, sir. Tell me, how old are
18 you, sir?

19 **MR. PALMER:** Forty-four.

20 **THE COURT:** And, when you come in this courtroom
21 to plead guilty, I want to make sure that you understand
22 that you are giving up some significant constitutional
23 rights. Each right I am getting ready to discuss with
24 you, you are waiving, giving up by pleading guilty today.
25 And you are not required to do that.

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1 First of all, you have a right to a jury trial. You
2 have the right to remain silent in this courtroom. You
3 have the right not to incriminate yourself, which is what
4 you do when you plead guilty. And you are presumed
5 innocent of these charges. Do you realize that by
6 pleading guilty today you are waiving these constitutional
7 protections?

8 MR. PALMER: Yes, sir.

9 THE COURT: All right, sir. In this courtroom,
10 if you wanted to have a trial, this is how the process
11 would work. First of all, Ms. Crayton and members of the
12 Public Defender's Office who well knows how to represent
13 someone in this courtroom charged with a crime, would be
14 able to work with you to help a jury. You could strike
15 from that jury people you thought might oppose you. You
16 would have the right once we empaneled the jury of twelve
17 to testify to them, to confront the evidence and witnesses
18 against you in the jury's presence. You would also have
19 the right to summons others in here with a subpoena to
20 testify on your behalf to the jury. All of this so the
21 jury would hear your version of whatever happened here, not
22 just the state's version. Do you realize you are waiving
23 these trial rights today by pleading guilty?

24 MR. PALMER: Yes, sir.

25 THE COURT: I said to you a moment ago that you

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1 are presumed innocent. What I really mean by that is this.
2 You don't have anything to prove here. The state has the
3 burden of proof. The state must prove these charges beyond
4 a reasonable doubt, each and every element of the charge,
5 beyond a reasonable doubt, which is a high standard. And
6 they must convince all twelve jurors unanimous, that you are
7 guilty or you would not be convicted. And even if you were
8 convicted by the jury, you could appeal the jury's decision,
9 and you are waiving that right of an appeal of a jury's
10 decision today as well. Do you understand that you are
11 waiving all of these constitutional procedural protections
12 today by pleading guilty?

13 MR. PALMER: Yes, sir.

14 THE COURT: All these rights that I have just
15 discussed with you, do you intend to give them up, go
16 forward, plead guilty, and be sentenced by this Court
17 today?

18 MR. PALMER: Yes, sir.

19 THE COURT: This decision to enter this guilty
20 plea, is it yours or is it someone else's?

21 MR. PALMER: It's mine.

22 THE COURT: Has anyone tried to force you to do
23 this?

24 MR. PALMER: No, sir.

25 THE COURT: Do you have any family members that

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1 you have consulted with about this?

2 **MR. PALMER:** No, sir.

3 **THE COURT:** And, again, then you are telling me
4 this has been yours and no one else's?

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

6 **THE COURT:** So, are you telling me that this is
7 your voluntary decision that you, yourself, have made to
8 enter this guilty plea?

9 **MR. PALMER:** Yes, sir.

10 **THE COURT:** All right. And, I want to ask you
11 about Ms. Crayton's services. Are you satisfied with your
12 lawyer's services, with the Police Department's Office?

13 **MR. PALMER:** Yes, sir.

14 **THE COURT:** Do you believe that they have
15 appropriately investigated this matter, and you have had
16 the benefit of their investigation?

17 **MR. PALMER:** Yes, sir.

18 **THE COURT:** All right, sir. Do you have any
19 complaints about the way they have represented you, because
20 if you do, now would be the time to tell me.

21 **MR. PALMER:** None whatsoever.

22 **THE COURT:** All right. Then what I am going to
23 ask you to do is to listen to our Solicitor, who is going
24 to give us the facts of these charges, and I will be back
25 to you with further questions in just a moment.

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1 Go ahead, Mr. Redmond.

2 **MR. REDMOND:** Thank you, Your Honor, May it please
3 the Court? This incident, as best we can tell, based upon
4 the statement of his nephew, occurred around the 28th of
5 February 2005, almost two years and nine months ago. At
6 that particular time the defendant came into his residence,
7 he and his nephew were living in the Clio section of Dillon
8 County, off of Zion Church Road, that is a Dillon County ---
9 Marlboro County --- Old habits die hard, Your Honor. In
10 Marlboro County, at which time the defendant and the victim
11 came into the house early that morning on the 28th. The
12 defendant goes into another room, comes out, he actually
13 left the residence, came back, went to a room, came back
14 out. The victim was sitting in the front room on the
15 couch, and the witness was also in the residence at the
16 time. And he came around, had two guns drawn, and
17 according to the testimony of the witness, the defendant
18 indicated to Mr. Travis Gallishaw, where is the money?
19 Where is my money? At first the victim thought he was
20 joking, according to a witness, and at that time Mr. Palmer
21 then proceeded to shoot. In cooperation, there were two
22 separate bullet shells found in the victim, Mr. Gallishaw.
23 A .38 caliber and a .380. So, that is also consistent
24 with the witness' statement.

25 After that, the victim, Mr. Gallishaw was not dead,

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1 and at that time he was crying, according to the witness,
2 and was basically asking for his life. At which time the
3 defendant took a cord, and choked, and killed --- according
4 to the witness, Mr. Gallishaw. Subsequent to that --- later
5 on that evening, the body of Mr. Gallishaw was taken from
6 the residence, and taken to an abandoned road off of Dunbar
7 Highway, also in Marlboro County. According to the
8 witness, Mr. Palmer broke off that lock to the gate, and
9 they went in and dumped the body. This property was
10 primarily used for hunting I believe, and the body of Mr.
11 Gallishaw was not found until the 18th of March. At that
12 particular time, some folks who were actually looking, I
13 think it was Realtors that were coming out, looking to buy
14 the property --- to be able to sell the property on behalf
15 of the owner, noticed the body of Mr. Gallishaw. The body
16 was badly decomposed. There were animal --- There was
17 animal intervention with the body of Mr. Gallishaw, which,
18 of course, obviously presented certain challenges as it
19 relates to autopsy. Be that as it may, law enforcement, of
20 course was notified, along with the Sheriff's Department,
21 with assistance with SLED, who came and processed the scene.
22 Mr. Gallishaw was taken for autopsy where it was confirmed.
23 I did not mention, according to the witness, there was
24 pistol whipping that Mr. Palmer inflicted upon Mr. Gallishaw
25 prior to the choking. The autopsy does indicate that blunt

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1 force trauma very well could be the cause of death. It
2 could not rule out asphyxiation, strangulation, based upon
3 he condition of the body.

4 Further, Your Honor, law enforcement gets involved.
5 They were actually able to develop information leading to
6 Dillon. Once the identity of the victim was made by SLED,
7 I believe it was done by fingerprints, that lead them to
8 Dillon, since that is where he resided. The law enforcement
9 interviewed several people at the apartment where the
10 victim stayed, Mr. Gallishaw, and were able to develop
11 leads regarding Mr. Palmer. The fact that he had been in
12 that residence and made comments concerning the fact that
13 Mr. Gallishaw would not return. So, of course, law
14 enforcement, using that information proceeds. A warrant is
15 obtained. There were subsequently a search warrant issued
16 for the house that did yield --- for the house and the
17 vehicle, that did reveal information, which did confirm that
18 Mr. Gallishaw had been placed in a gray Cadillac that was
19 driven by Mr. Palmer. That the defendant was found in the
20 backseat, rear passenger backseat of that Cadillac.

21 Also, Your Honor, the co-defendant, the nephew, did
22 cooperate with law enforcement, and did give actually two
23 statements outlining in great detail what transpired. I
24 can tell the Court now, that one of the reasons the co-
25 defendant was charged with accessory, and since of course,

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1 there is not a jury involved here, we were able to confirm
2 the voracity of that particular individual, not only by way
3 of his testimony or detailed statement, but he also took a
4 polygraph that corroborate the information that he had
5 provided to law enforcement. I can tell the Court that one
6 of the reasons for this particular recommendation, obviously
7 is it has been a very long process. And I would like to
8 apologize for the family that has waited almost six years
9 in order to finally find justice. As you can see, it is
10 still too much of a hurt for the victims.

11 But one of the reasons, in that time witnesses were
12 getting - and there were certain other complications that
13 came. I would be lying to the Court if I said that
14 everybody that I needed was in place, because it has been
15 so long. I can say that we did have the key witnesses
16 involved, especially Mr. McKale James, (phonetics) which
17 obviously leads us to the plea. And he was available to
18 testify. We would have obviously had to rely on his
19 testimony, because a lot of other cooperation would not
20 have been available. And I say that, because I have
21 explained that in great detail to the family, to kind of
22 give the Court a context to what has lead us to this
23 particular point. That will conclude my statements as it
24 relates to the facts. At the appropriate time I would
25 like to address issues for the families benefit as well.

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1 **THE COURT:** Very good. All right. Mr. Palmer,
2 Mr. Redmond gave me some significant facts, substantial
3 facts about the investigation. But, I want to ask you
4 about the facts of the murder.

5 Are the facts that he gave me about you shooting and
6 then strangling Mr. Gallishaw true?

7 **MR. PALMER:** Yes, sir.

8 **THE COURT:** Then based on that admission, I find
9 that this charge has a factual basis to it. You have made
10 this decision voluntarily yourself, to plead guilty. You
11 have done this after I have advised you of your rights,
12 and you have waived those rights. You have done all of
13 this with a capable lawyer, and you tell me you are
14 satisfied with your lawyer. And you tell me that you are
15 in your right mind today. Not on any medication, not on
16 alcohol or drugs. For all these reasons, I am going to
17 accept your plea.

18 Now the question is whether or not to accept the
19 recommendation of a thirty year sentence.

20 I will be glad to hear from the defense on that.
21 If you have something further you wish to say first, Mr.
22 Redmond, we will hear from you first.

23 **MR. REDMOND:** Thank you, Your Honor. And, I am
24 sure the family would like speak at the appropriate time; as
25 it relates to the particular sentence, Your Honor.

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1 At the time, February 15, 2005, the defendant was
2 engaged in a couple of crimes in Dillon County. At the time
3 he was arrested, part of what lead to Dillon actually was
4 the fact that he had witnesses who were able to tie him into
5 that. So, with all of that going on at the same time,
6 the only reason the sentence was twenty-five years on
7 both robberies was quite frankly taking the murder case
8 into consideration at that time. He had also been charged
9 with murder at the time he was charged with those armed
10 robberies.

11 I can also tell the Court that during that particular
12 time --- let me say this. The Dillon case, the Marlboro
13 case, there was no representations made regarding that case
14 as it relates to this case.

15 The other thing that I would like to add is, initially
16 this case in being all candor with the Court, and I think I
17 owe it to the family, this was a case that I was negotiating
18 from the standpoint of a manslaughter, based upon some of
19 the issues that I have addressed with the Court. And Mr.
20 Perry made a trip from New York a couple of months ago, and
21 met with me in Dillon. And in all candor, that
22 significantly changed my thinking, because at least in this
23 situation it is not like he is getting nothing for what he
24 did to Mr. Gallishaw. If we had gone along with the
25 previous negotiations for a manslaughter, even though those

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1 were done all in the same context when we were negotiating
2 the cases in Dillon, I could understand where he was coming
3 from. At that point I did notify the Public Defender's
4 Office that I could not do it. I really do that as much for
5 their benefit, because we had been discussing that
6 particular type of a sentence. And, I am sure Mr. Palmer
7 was somewhat shocked when it all of a sudden changed. So,
8 for their purposes, I want to make it clear how we got to
9 this point. But, quite frankly, if Mr. Perry was where my
10 mind was changed, and we talked about this, and we agreed
11 that I would make this offer, because at least one, he is
12 pleading to murder, and two, he is going to have to do day-
13 per-day for murder, and in essence this will be the
14 controlling sentence that he is serving. So, that is what
15 lead us to this point. And, I want to apologize to the
16 family for having them wait so long. But I would also like
17 to thank them for their patience for over six years. I know
18 as you have seen, has been difficult for them to have to
19 deal with, and I am sure they will want to address the Court
20 at the appropriate time. But, I think that Mr. Gallishaw
21 would feel some comfort in knowing all they fought for him,
22 Mr. Perry came all the way from New York to confront him.
23 And I don't say that in a negative way. Every now and then
24 we all can use a little wake up call, and I appreciate them
25 doing that.

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1 **THE COURT:** Very good. What I would like to do is
2 to hear from the defense side, and then come back to the
3 family to hear at the end of these proceedings before
4 sentencing is passed as to what their position is.

5 All right. Ms. Crayton, if you have something to say I
6 will be glad to hear from you.

7 **MS. CRAYTON:** Yes, Your Honor. I would just like
8 to tell you a little bit about Mr. Palmer.

9 **THE COURT:** Very good.

10 **MS. CRAYTON:** As I indicated to you, he is forty-
11 four years old. He has also indicated that he has an
12 eleventh grade education, however he did receive his GED
13 in 1992.

14 He is originally from New York. He moved to Clio in
15 2003. He has worked most often as a handyman. Most of
16 his family lives in New York. And we would ask for mercy
17 at this time, and ask that you follow the Solicitor's
18 recommendation of the thirty-year sentence, Your Honor.

19 **THE COURT:** Thank you. Mr. Palmer do you have
20 something you wish to say, sir?

21 **MR. PALMER:** Just that I wish it had never happened.

22 **THE COURT:** All right, sir. Now, to the members
23 of the family, Mr. Gallishaw, his wife, or Mr. Perry, if you
24 have something you wish to say. I think Ms. White may have
25 left the room as well. If she wishes to speak, we will be

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1 glad to hear from her.

2 Do you have anything you wish to say gentlemen,
3 anyone. You are not required to speak, but if you do.

4 All right, sir. Mr. Perry, let me ask you to do
5 this, sir. Just remain where you are, and please follow
6 our clerk's instructions. We are going to place you under
7 oath, sir.

8 WHEREUPON, ERIC WILLIE PERRY

9 AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS

10 MR. PERRY: Yes, sir.

11 THE COURT: And, Mr. Perry, tell me your full name,
12 please?

13 MR. PERRY: Eric Willie Perry.

14 THE COURT: Thank you.

15 MR. PERRY: I just want to thank --- I can't think
16 right now. But, I want to thank you for considering our
17 conversation and taking this --- it has just been so much.
18 I don't think thirty-years is enough for what happened.
19 You heard what happened, and, you know, and if you have
20 any children, thirty-years is certainly not enough for what
21 happened to my son. But, we have had enough stress and
22 strain that we wanted it to be over. So, we are going to
23 accept this, but I certainly don't think it is enough time
24 for all that was done to him. But we can't take it no
25 more. His mother can't even go to the grave site to this

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1 day to put a flower on his grave. And we still suffer
2 after all of this time. So, we just want to close this
3 chapter in our life and move on. My son will never be
4 forgotten, what happened to him. We just don't want to
5 keep fighting. We are going to leave it alone. But, I
6 thank you --- and thirty years is not enough for what he
7 did. I will accept the thirty years and move on.

8 **THE COURT:** All right, sir. Mr. Perry thank you
9 again for your stamina and in your courage in being here
10 today.

11 Ms. White, ma'am, did you have something that you wish
12 to say? If you do, please follow our clerk's instructions.

WHEREUPON, MS. WHITE

AFTER BEING DULY SWORN TESTIFIES AS FOLLOWS

14 **MR. WHITE:** Yes, sir. Thank you. Thank you. Thank
15 you, Mr. Kernard. When I heard --- When I heard that on
16 the news that it was a young man and they found his body ---
17 We are people that love the Lord with all of our hearts.
18 And I was praying for that mother. And I said, that poor
19 mother, you know, come to find out that was me. I was
20 that mother. I was that mother. He never learned to
21 drive, Mr. Palmer. My boy never learned to drive. And he
22 clung to older people, because he was a young man that
23 wanted to learn. He wanted to learn. He got books at the
24 house, because he has always read. He always read. But I
25

THE STATE VERSUS DEXTER PALMER

22

1 realize my boy chose a different walk. But, he is gone
2 now. But Mr. Palmer, you never let me saw his body. You
3 never let me saw my son's body. No matter what he did, you
4 could have gave me his body. Everybody deserves something
5 in life, and I deserved to see my son's body. Nothing was
6 left. The elements and the vultures had picked at my boy's
7 body. I couldn't go there because he was always my boy.
8 But you see, he is gone now. And there was a time when I
9 couldn't call your name out, but I want you to know that I
10 call your name out to God, because he can't bring me out of
11 this unless I forgive you. He can't bring me out, and I am
12 ready to come out. I am ready to come out of this. If I
13 could have just have saw his body. If you could have just
14 gave me his body I would have been alright. But my boy is
15 gone now. He is gone now.

16 **THE COURT:** Thank you, Ms. White. All right.

17 Anything further now from the state?

18 **MR. REDMOND:** None from the state, thank you.

19 **THE COURT:** From the defense?

20 **MS. CRAYTON:** No, Your Honor.

21 **THE COURT:** Let me say, Ms. White, as I said to Mr.
22 Perry, ma'am. Thank you for your courage. It takes a lot
23 of strength to be here, to renew old feelings that have been
24 suppressed by your efforts. And I appreciate your
25 willingness to be here to see that as best we can, justice

THE STATE VERSUS DEXTER PALMER

23

1 be done. Again thank you for being here.

2 All right. Mr. Palmer it is clear, I think you can
3 see-as well as everyone else in this courtroom can see, that
4 no matter what the Court sentences you to, it will not be
5 as long of a sentence as this family deserves, and you will
6 be required to endure, serve.

7 This is a brutal crime. The state has given you the
8 benefit for various reasons stated on the record, that the
9 Court most likely would not have given to you but for the
10 recommendation of the state, which has been accepted by
11 the defense, and has been consented to by the family.

12 For that reason I sentence you to thirty years in
13 Department of Corrections to be served concurrently with
14 your present sentence. I am going to allow service ---
15 credit to begin at the time you were initially incarcerated
16 for your other crimes. And will require day-to-day service,
17 based on the fact that this is a most serious offense.

18 And that is the decision of the Court. So, may the
19 Lord be with you.

20 We are going to return you now to The Detention Center,
21 back to Department of Corrections.

22 **MS. CRAYTON:** Thank you, Your Honor.

23 **THE COURT:** Ladies and gentlemen, may God bless you
24 for being here today. Again I realize that this is not an
25 eye for an eye, but it is close. And I wish you well as you

THE STATE VERSUS DEXTER PALMER

24

1 free yourself of this chapter of your life, and move forward
2 and somehow bring some good out what appears to be just the
3 worst circumstances. Again, I wish you well toward that
4 end. God bless you. You are free to go at this time.

5 MR. REDMOND: Thank you, Your Honor.

6 -- END OF TRANSCRIPT -

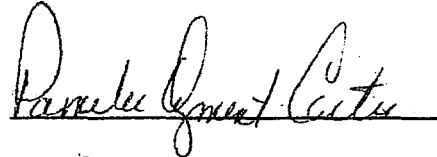
CERTIFICATE OF REPORTER

25

I, the undersigned, Pamela Ozment-Cartee, official Court Reporter for the Fourth Judicial Circuit of South Carolina, do hereby certify, that the foregoing is a true, accurate and complete Transcript of Record in the above captioned case, relative to appeal, in The Court of General Sessions in Sumter County, South Carolina, on the 3rd day of August 2010.

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

November 28, 2012

A handwritten signature in cursive script, reading "Pamela Ozment-Cartee", is written over a horizontal line.

Pamela Ozment-Cartee
Circuit Court Reporter

WITNESSES

George McLeod

Inv. - MCSD

George McLeod

JUL 7 2005

JUL -7 P 3:54

WILLIAM B. FUNDERBURK
CLERK OF COURT
MARLBORO COUNTY, SOUTH CAROLINA

ARREST WARRANT #:

H952015

Arrested on April 01, 2005

ACTION OF GRAND JURY

True Bill

Foreman:

Henry S. Parker
Grand Jury*7/7/2005*

VERDICT

Foreman:

Petit Jury

Date:

DOCKET #: 05GS34-0643

THE STATE OF SOUTH CAROLINA

County of Marlboro

COURT OF GENERAL SESSIONS

Term: July, 2005

THE STATE

vs.

Dexter Palmer

INDICTMENT FOR

0116

MURDER

16-3-10

STATE OF SOUTH CAROLINA)
County of Marlboro)

INDICTMENT #05GS34-0643

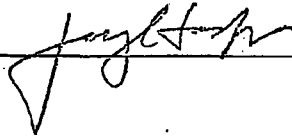
At a Court of General Sessions, convened on July 11, 2005
the Grand Jurors of Marlboro County present upon their oath:

COUNT: MURDER
16-3-10

That Dexter Palmer in the County of Marlboro on or about February 28, 2005,
feloniously, wilfully and with malice and aforethought, kill one Travis
Gallishaw by means of shooting and beating, and that the said Travis Gallishaw
did die in Marlboro County as a proximate result thereof. This incident
occurred in a wooded area off of Dunbar Highway near Clio, in Marlboro County,
SC.

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

SOLICITOR: _____



WILLIAM B. FUMERSON
CLERK OF COURT

'05 JUL -7 P 3:54

FILED

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

29

COUNTY OF Marlboro
STATE VS.
Dexter Palmer

INDICTMENT/CASE#: 05GS34-0643

A/W#: H952015

Date of Offense: 2/28/2005

S.C. Code § : 16-03-0010; 16-03-0020

CDR Code #: 0116

AKA:

Race: Sex: M Age: 44

DOB: SS#: - - - - -

Address:

City, State, Zip:

DL#: SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder / Murder?

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0010; 16-03-0020 of the S.C. Code of Laws, bearing CDR Code # 0116

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State. 30 yrsATTEST: W.B. Rogers 066583 J. Palmer Emily N. B. 78236
Rogers, William B. SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections. Time from initial commitment on James Rogers charges☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)		\$
TOTAL		\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (06/2010)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol testing _____

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

\$ _____ paid to Public Defender Fund

Other: _____

☐ Condition Discharge § 44-53-450(C) requires
\$350 be paid to the Clerk prior to case disposition☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge

Judge Code: _____

Sentence Date: _____

FILED
2010 DEC 6 PM 12
CLERK OF COURT
MARLBORO COUNTY, S.C.

William B. Jundt
2121
12/6/10

30

STATE OF SOUTH CAROLINA)
COUNTY OF DILLON) COURT OF GENERAL SESSION
05-GS-34-0393
05-GS-34-0394
05-GS-34-0395
05-GS-34-0396
05-GS-34-0597

STATE OF SOUTH CAROLINA)
PLAINTIFF)
vs) TRANSCRIPT OF RECORD
DEXTER PALMER)
DEFENDANT)

October 17, 2005
Dillon, South Carolina

B E F O R E:

THE HONORABLE JAMES E. LOCKEMY, JUDGE.

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

KERNARD REDMOND, ASSISTANT SOLICITOR
Attorney for the State

WADE CROW, ESQ.
Attorney for the Defendant

JAMES CAMPBELL, Dillon County Sheriff's Dept.

HATTIE O. GORDON
Circuit Court Reporter

I N D E X

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COURT'S EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
1	Client/Attorney Checklist	21	21
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COLLOQUY

MR. REDMOND: May it please the Court, Your Honor. Before you at this time is Dexter Jerome Palmer. He's before you on 2005-GS-17-0393; that being for possession of a weapon during the commission of certain crimes; -0394 for armed robbery; -0395 for assault and battery with intent to kill; -0396 for possession of a weapon during certain crimes, and, finally, -0397 second count of armed robbery.

He is represented by Ronnie Crow of the Public Defender's Office in Marlboro County. Your Honor, this is a case, just for the record that also had a companion Marlboro County case. That case is not being pled today but I am going to address it briefly as it relates to the terms of the negotiation. Those indictment numbers are ---

THE COURT: And you said the Marlboro case is not being disposed of?

MR. REDMOND: It is not being disposed of today and I will explain that at the time ---

THE COURT: These are all Dillon cases?

MR. REDMOND: These are all Dillon cases, yes, sir. 2005-GS-34-0643 is the charge for murder; -0641, carrying a pistol; -0642, the kidnapping charge was actually dismissed at preliminary hearing. Based upon the fact, too, the case of the State's not pursuing on the

4
1 kidnapping charge against Mr. Palmer in Marlboro County.

2 THE COURT: So, he wasn't indicted on that charge?

3 MR. REDMOND: He was not indicted on that particular
4 charge.

5 MR. CROW: Yes, he was.

6 MR. REDMOND: Oh, he was indicted?

7 MR. CROW: Yes, he was indicted and a second
8 indictment and a matter from the Court, so that the
9 Solicitor can nolle pros.

10 MR. REDMOND: It is, Your Honor.

11 THE COURT: Yeah, because remember a magistrate
12 cannot nolle pros -- cannot find -- cannot dismiss a
13 charge that has been indicted.

14 MR. REDMOND: Exactly. And it actually has been
15 indicted, but pursuant to the case and in light of what I
16 said I've had the chance -- I'm also handling the Marlboro
17 County case and so, the kidnapping charge we know based on
18 the facts, that we are not able to proceed on that.

19 THE COURT: Y'all intend to nolle pros?

20 MR. REDMOND: I will nolle pros it today. And,
21 again, that's -- that is actually something that we
22 thought had been done prior to now.

23 THE COURT: Yes, getting that tied up today is why
24 that's important today.

25 MR. REDMOND: Yes, it's the negotiation, and as I'll

1 get to, Your Honor, the -- he is pleading to 25 years
2 total and the other charges to run concurrent. We have
3 indicated that if the cooperation and information he's
4 given us is credible that we would then plead him to
5 voluntary manslaughter in Marlboro County and allow that
6 to run concurrent since he is pleading to a 25 year, no
7 parole sentence.

8 I can tell the Court that we have gotten some
9 preliminary information and Mr. Palmer knows that he
10 would, in essence, have to give what is defined as
11 substantial assistance.

12 He would have to continue to cooperate with the
13 investigation in crimes in Dillon County, Marlboro County,
14 and in Florence County. The caveat to that, Judge, is
15 that -- and we have explained this and this is agreed to,
16 if it comes out during the course of that information that
17 Mr. Palmer was involved in either anyone being shot or
18 seriously injured during the commission of a crime or
19 obviously murdered, then this agreement does not cover
20 instances such as that.

21 THE COURT: But if I'm taking a plea then that means
22 that those charges are over as far as the Court's
23 concerned.

24 MR. REDMOND: Yes, sir, but I'm just ---

25 THE COURT: You talking about as far as the Marlboro

36
1 County ---

2 MR. REDMOND: Exactly, as far as disposing of the
3 Marlboro County case.

4 THE COURT: Well, he's got one charge of murder.
5 Obviously, the minimum sentence there is 30 years.

6 MR. REDMOND: Exactly. And so, Your Honor, that's
7 why we're saying that the negotiation is that as long as
8 he cooperates with those two caveats, as long as he
9 cooperates truthfully, testifies, continues to give us
10 corroborative information because, again, these things are
11 going to have to be investigated.

12 THE COURT: What would happen if he didn't?

13 MR. REDMOND: Then that's where I'd indicated that we
14 would do 25 years manslaughter, run it concurrent with
15 what he's serving here on the Dillon County charges.

16 THE COURT: And the concern I have is -- is the deal
17 as far as what is he does, who makes the determination
18 about whether he cooperates or not?

19 MR. REDMOND: Well, and that's -- and that's why we
20 put in there -- and that's why I'm putting on the record,
21 I explained to him fully on the record ---

22 THE COURT: (inaudible).

23 MR. REDMOND: Judge, I would comment but I will
24 refrain, but again the -- and we've talked about that.
25 That was something we covered in there. He has given us

1 specific information as it relates to crimes that were
2 involved and given information as to who was involved in
3 those particular crimes.

4 And, again, once we bring charges based on the
5 information, if we are able to bring charges, prosecute
6 those people, he cooperates, including testimony ---

7 THE COURT: Has he given a written statement?

8 MR. REDMOND: He has not yet and that's why I'm not
9 ---

10 THE COURT: Why would y'all not rather have, first,
11 him give a written statement and then if he continues to
12 go along with the statement and if y'all are satisfied
13 with it then you will continue as indicated.

14 My concern is, if the man's truthful and that doesn't
15 help you, then how are you going to -- you know what if he
16 says he's truthful and yet, you all think he knows more?
17 I don't want to be in a situation ---

18 MR. REDMOND: I kind of lost you a little bit there,
19 Judge.

20 THE COURT: I know that y'all don't have a written
21 statement.

22 MR. REDMOND: We don't have a written statement at
23 this time, but, yet---

24 THE COURT: After he gives his plea today and I
25 sentence him and then later on he gives you a written

1 statement which you all don't like but yet he says it's
2 the truth.

3 MR. REDMOND: Well, no, and that's why we also ---

4 THE COURT: What happens then?

5 MR. REDMOND: We also talked about the fact that the
6 information he gives we will investigate. In other words,
7 it's not a situation where we, again, discussed this
8 specifically at the jail Friday. It's not a situation
9 where he gives us information and it's arbitrated whether
10 or not we're going to follow up and investigate it.

11 We will. Now, if during that investigation it turns
12 out the information he's given is not truthful, then, of
13 course ---

14 THE COURT: That could be a situation of one word
15 against the other. What I'm concerned about is why don't
16 y'all want him to go ahead and give you a written
17 statement now, and you all tell him ---

18 MR. REMOND: Yes, sir. See this is a situation,
19 Judge, we know the crimes that have been committed, and,
20 again, we've got enough information ---

21 THE COURT: I know. How about let me finish.

22 MR. REDMOND: Oh, I'm sorry.

23 THE COURT: Why not have him give you a written
24 statement now telling you all he knows and then if you all
25 are satisfied with him testifying to that, it will be of

1 assistance and therefore he would have to agree to testify
2 as to his written statement.

3 MR. REDMOND: Because ---

4 THE COURT: If his written statement is not what you
5 want, then you could make some other type of negotiation.
6 I'm just concerned that what if he says he's cooperative
7 like you say and you say he hasn't, then a Judge has got
8 to make some determination on, really, nebulous things
9 that are sort of ingenuine.

10 MR. REDMOND: Well, and, actually, you just hit it on
11 the head yourself. We aren't going to know right now, so
12 either way we're going to be in the same situation that
13 Your Honor just described. And I'll be frank with the
14 Court ---

15 THE COURT: The pleadings are not going to say he did
16 cooperate. Then y'all say no he's going to murder and
17 then he's going to file a P.C.R.

18 MR REDMOND: Well, that could happen regardless,
19 Judge. And again, I'm doing this akin to the way I used
20 to do a lot of federal practice and this is why I have
21 fashioned it in the way that I have ---

22 THE COURT: Yes, and I've seen federal were in
23 writing.

24 MR. REDMOND: Not all of them. That's not true. Not
25 all of them.

1 THE COURT: I've never seen anything on any bench
2 anywhere where we have this if he cooperates, yet, you
3 don't really know what he's done, whether he's going to be
4 able to help you or not.

5 MR. REDMOND: Well ---

6 THE COURT: Let me ask you this. Does your client
7 feel this is tangible?

8 MR. CROW: Yes, sir, because we discussed the
9 program. He's even willing to submit to a polygraph that
10 they can set up. They can debrief him because it involves
11 Marlboro crimes, Dillon crimes, and Florence County
12 crimes. We have no problem with that. Mr. Palmer, we
13 went through this Friday afternoon. He's agreed that they
14 can debrief him. He will give them the information. He
15 will even submit to a polygraph.

16 THE COURT: That's why I'm curious. Why are y'all
17 doing this with him before the pleading?

18 MR. REDMOND: Well, I actually discussed it to some
19 degree. We have discussed -- we know what specific crimes
20 are involved, and so, Your Honor, we -- and again we've
21 got enough of a catch-all, a safety net so to say that I
22 feel absolutely comfortable going forward with the plea
23 based on the way it is.

24 And I have discussed this with other authority as
25 well including the federal government. So, everybody's

1 aware of what's going on here today.

2 THE COURT: Now, when are the other charges to be
3 disposed of out of Marlboro County?

4 MR. REDMOND: I'm sorry. When ---

5 THE COURT: When do you plan to dispose of the
6 Marlboro County charges?

7 MR. REDMOND: Well, Your Honor, that quite frankly
8 depends on -- on the defendant. Once we get the
9 information and are able to investigate the information,
10 then we will be prepared to go forward once we are able to
11 be sure that he has given substantial assistance, Judge.

12 MR. CROW: And I would like to request that since
13 you're the Chief Administrative Judge that you retain
14 jurisdiction over this matter since you will know more
15 about it.

16 THE COURT: So that means I need to disposed of
17 before the end of the year.

18 MR. REDMOND: Well, Your Honor, actually ---

19 THE COURT: Mr. Crow, what about Marlboro County?

20 MR. REDMOND: No, sir. Actually, if you do that now,
21 then that's why we say -- because Mr. Crow specifically
22 talked about it. And if I'm wrong correct me, but if you
23 retain jurisdiction ---

24 THE COURT: I know I'm just asking.

25 MR. REDMOND: Exactly, Exactly.

1 THE COURT: But I just don't want it to stay open
2 forever.

3 MR. REDMOND: No, and it's not. Our intention is not
4 for it to stay open forever but at the same time, we are
5 interested in meeting the ends of justice. And I'm not
6 necessarily interested in ---

7 THE COURT: Well, give me a time table.

8 MR. REDMOND: I would say within a year I should
9 know. And the reason I say within a year, Judge, we're
10 talking testimony if possible. Again, you're talking
11 about the process and as Your Honor knows if we bring
12 charges today against the individual that he brings what
13 are the chances that those cases against these other
14 individuals will be disposed of?

15 There's also information tying into possible other
16 activities involving people in Dillon and Marlboro County
17 that may reach outside of the state. So, again I'm
18 hesitant, absolutely hesitant to say, well, I absolutely
19 know within a year we'd be able resolve the Marlboro
20 County case.

21 THE COURT: Well, then, Mr. Crow, would your client
22 agree to you that you're going to continue representing
23 him on the Marlboro County charge?

24 MR. CROW: Yes, sir, I can.

25 THE COURT: Well, then he's agreed with you to meet

1 with me without him present, say some time in February
2 with to get some direction and update on this thing and
3 the language to be used.

4 MR. CROW: Yes, sir, he'd agree.

5 MR. REDMOND: And the State would have no objection
6 to making that report available to the Court.

7 THE COURT: All right. Well, therefore, we're going
8 to meet again on the 13th of February here in Dillon
9 County General Sessions. On that day we're going to have
10 a meeting and update on the Palmer Case.

11 MR. REDMOND: Yes.

12 THE COURT: There is no court ---

13 MR. REDMOND: I'll get that date cleared.

14 THE COURT: There is no other General Sessions in the
15 entire circuit. Mr. Crow, the week before that is
16 Marlboro's, so you should have no problem?

17 MR. CROW: Not at all. As a matter of fact you can
18 ---

19 THE COURT: 13th of February, update on the Palmer
20 Case cooperating with the Marlboro County case.

21 MR. CROW: And you will be holding court in Marlboro.

22 MR. REDMOND: Well, Your Honor, my only request is
23 that because of nature of the information we may be
24 discussing, I'd ask that there'd be in camera, even if the
25 on record, in camera.

1 THE COURT: Well, I'm going to ask them man does he
2 want to be there. That's up to you.

3 MR. CROW: That's no problem for us.

4 THE COURT: I just -- I don't want to leave something
5 hanging.

6 MR. CROW: This is my paralegal.

7 THE COURT: All right. Mr. Redmond, let's proceed.

8 MR. REDMOND: Beg the Court's indulgence. Okay, Your
9 Honor. Well, actually, I've already called the case and
10 at this point I think I've stated the terms that -- of our
11 negotiation.

12 THE COURT: And I have it right here. All right.
13 Mr. Palmer..

14 MR. PALMER: Sir?

15 THE COURT: You have a right on these charges for
16 jury trial. Burden on the State to prove your guilt
17 beyond a reasonable doubt; that you did on or about the
18 29th of January 2005, while armed with a deadly weapon, to
19 wit, you had two guns you did take from the person or
20 presence of Laquinta Dunson by means force or intimidation
21 money from Roger's Convenience Store; that being \$1,237.

22 And while you committed that crime you were in the
23 possession of a weapon. Further, that you did, sir, on or
24 about the 15th of February 2005; that you did while armed
25 with a deadly weapon, to wit, two guns belonging to and

1 taken from the person or presence of Pamela Hodge by means
2 of force and intimidation, goods from Roger's Convenience
3 Store; that being \$749 in cash and while you did commit
4 this felony you were in fact armed with a deadly weapon.

5 That is record of your weapon. Further, that you did
6 on or about the 15th of February 2005, that you did commit
7 an assault and battery with intent to kill against one
8 Pamela Hodge by shooting her in the right lower leg with
9 intent to kill said Pamela Hodge.

10 That's the burden of the State to prove your guilt,
11 Mr. Palmer, not upon you to prove yourself innocent. In
12 fact, sir, you would not even have to testify. If you
13 chose not to testify I'd tell the jury not to hold it
14 against you, not even consider it in their deliberations.

15 I'd remind the jury the burden is on the State to
16 prove you guilty, not upon you to prove yourself innocent.
17 You could testify if you wish to and also present evidence
18 and witnesses on your own behalf and also confront or
19 challenge witnesses against you.

20 If you have problems getting witnesses to Court, the
21 Court will give you reasonable assistance and that is all.
22 Do you understand your rights to a jury trial, Mr. Palmer?

23 MR. PALMER: Yes, sir.

24 THE COURT: Do you want a jury trial, Mr. Palmer?

25 MR. PALMER: No, sir.

1 THE COURT: How do you want to plead to these
2 charges?

3 MR. PALMER: Guilty.

4 THE COURT: Are you guilty, sir?

5 MR. PALMER: Yes, sir.

6 THE COURT: Has anyone forced or threatened or made
7 you plead guilty?

8 MR. PALMER: No.

9 THE COURT: You're doing this of your own free will?

10 MR. PALMER: Yes.

11 THE COURT: You understand, sir, that you could get
12 30 years for armed robbery? The State's agreement to
13 plead gives you less than that but these are most serious
14 offenses, armed robbery as well as assault and battery
15 with intent to kill.

16 Most serious offenses meaning that if you get
17 convicted of another one of these -- of course, for
18 example, Mr. Redmond, if he pleads to the murder and later
19 on a voluntary manslaughter are you taking that as a
20 second most serious for purpose of life without parole?

21 MR. REDMOND: Not if it is being conforming with our
22 agreement. Again, if the agreement falls from lack of
23 cooperation then at that point I do not give away any
24 options and that is in fact an option if he does not
25 cooperate.

1 THE COURT: Then if he does cooperate?

2 MR. REDMOND: Then we're not going to do it.

3 THE COURT: You're going for the 25 years concurrent?

4 MR. REDMOND: That's correct. That's correct. Yes,
5 sir.

6 THE COURT: Is that right?

7 MR. REDMOND: That is correct, Judge.

8 THE COURT: Mr. Palmer, most serious means that if
9 you get another most serious conviction anytime during the
10 rest of your life you are subject to go to jail for a term
11 for the rest of your life without parole.

12 Now, they have a murder charge against you pending in
13 Marlboro County. So if you get convicted of that unless
14 you have some agreement you would be facing life without
15 parole. You understand that?

16 MR. PALMER: Yes, sir.

17 THE COURT: Now, further, sir, meaning whatever
18 sentence I give you that you might as well assume you're
19 going to serve all of it. And once you've served it all
20 we will give you community supervision for two years. The
21 thing is, meaning that you have be on community
22 supervision for two years without any problems.

23 If you do have problems you go back to jail for
24 another year, come out and have to go two more years
25 without problems. Have problems, go back to jail for

1 another year. You could continually never go two years
2 without problems you could end up serving twice the time.
3 You understand all that?

4 MR. PALMER: Yes, sir.

5 THE COURT: And you agree with it?

6 MR. PALMER: Yes.

7 THE COURT: All right. Now, is Mr. Crow your
8 attorney?

9 MR. PALMER: Yes.

10 THE COURT: You're happy with his services?

11 MR. PALMER: Yes, sir.

12 THE COURT: And, Mr. Crow, you have had enough time
13 to talk to Mr. Palmer?

14 MR. CROW: Yes, sir, I have, Your Honor. As a matter
15 of fact we've spent quite a while on this case. This case
16 was prepared for trial as you know based upon the motions
17 that you heard last week in Bennettsville. We've spent
18 all of the last several days getting this matter ready for
19 trial. Mr. Watson has agreed to assist me as you
20 appointed him last week.

21 We've gone over everything in detail and I might pass
22 up, Your Honor, a sheet that I normally use. Ms. Hattie
23 has a copy. Ask you to make it part of the Court Exhibit.

24 (WHEREUPON, Court's Exhibit No. 1 was marked for
25 identification and received into evidence.)

1 MR. CROW: And he fully understands the charges. He
2 fully understands the elements of the charges, and he
3 tells me that he's satisfied with my services.

4 THE COURT: Well, the problem, Mr. Crow, is your
5 saying -- your thing says, "25 years concurrent to all
6 indictments in Dillon and Marlboro," which is not the
7 State's agreement. That's only if he cooperates to their
8 satisfaction.

9 MR. CROW: He understands that. I think that part
10 only applies if he cooperates, and you will sentence him
11 to 25 years.

12 THE COURT: Well, see you mentioned the word
13 cooperation more than on the agreement. I'm going to talk
14 about it in a minute and make sure he understands that.
15 But my concern is -- the thing is all her records are
16 destroyed then all we're going to have is this. That's
17 why we've got to make sure we dispose of these other
18 charges in Marlboro within a reasonable period of time.

19 MR. REDMOND: Yes, sir. That's our understanding.
20 Yes, sir.

21 THE COURT: Now, Mr. Palmer?

22 MR. PALMER: Yes.

23 THE COURT: Are you today under the influence of any
24 alcohol, drugs or any type of medication?

25 MR. PALMER: No.

1 THE COURT: And you understand last week, sir, you
2 talked to me about some of your concerns coming here with
3 a Marlboro attorney, and I told you I would have the
4 public defender appointed to assist in selection of the
5 jury and those type of things. And Mr. Crow says that's
6 been done. You still have the right to a jury trial. You
7 understand that?

8 MR. PALMER: Yes, sir.

9 THE COURT: Now, sir, from my understanding of the
10 agreement with the State is that they agreed to let you
11 plead to armed robbery with a 25 year sentence on both of
12 the armed robberies, five years on the possession of a
13 weapon, 20 years on the assault and battery with intent to
14 kill, all to run concurrent with each other.

15 And the charges left over in Marlboro County, murder
16 and what else?

17 MR. REDMOND: Murder and possession of a weapon,
18 Judge.

19 THE COURT: Possession of a weapon; that if you
20 cooperate with them, and I'm not involved with that, if
21 you cooperate with them through their investigation about
22 several crimes or they think you seem to know about that
23 they're going to let you eventually within a year's time,
24 approximately a year, plead to that murder or reduce it to
25 voluntary manslaughter, let you plead to that and

1 possession of a weapon for a total of 25 years running
2 concurrent with these.

3 If you don't cooperate to their satisfaction then
4 they've got to proceed on with the charges of murder and
5 possession of a weapon against you in Marlboro County to
6 the fullest extent, meaning they may offer you to life
7 without parole. You understand that?

8 MR. PALMER: Yes, sir.

9 THE COURT: Now, knowing that do you still want to
10 plead to these charges?

11 MR. PALMER: Yes.

12 THE COURT: Are there any other agreements or
13 negotiations that you understand or existing other than
14 what I just mentioned?

15 MR. PALMER: No, sir.

16 THE COURT: Mr. Crow, is there anything else other
17 than -- also, of course, they're going to nullify
18 kidnapping charges. Anything else involving any
19 negotiation, Mr. Crow?

20 MR. CROW: No, sir. There is one petty larceny
21 charge in Marlboro but the judge has told me, the
22 Magistrate, he agreed to nolle pros.

23 THE COURT: All right. Anything you are aware of
24 Mr. Redmond?

25 MR. REDMOND: That's it, Your Honor.

1 THE COURT: All right, tell me about it Mr. Redmond.

2 MR. REDMOND: Thank you, Your Honor. May it please
3 the Court. And, of course, Lieutenant Campbell is close
4 by in case I misstate anything. First, we have armed
5 robbery. That occurred -- both of those occurred at
6 Roger's Convenience store here in Oakland Road out in
7 Hamer in Dillon County.

8 First one occurred on the 29th of January of this
9 year at which time Laquinta Dunson was the clerk at that
10 time. He entered in with a codefendant who we now know is
11 Michael Rasheed James, his nephew. His nephew has
12 cooperated and given us information that actually led to
13 the defendant.

14 At that time nobody was shot. There were a couple of
15 shots fired inside the store, but she was not hit and, of
16 course, what would happen is he had the guns. The
17 codefendant went around the register, got the money out of
18 the register and then they departed. The whole incident
19 may not have taken 30 seconds.

20 THE COURT: And that was for the first time?

21 MR. REDMOND: First incident he had both guns.

22 THE COURT: Well, where is the ---

23 MR. REDMOND: And it is on videotape, Judge. I
24 forgot to mention I was ---

25 THE COURT: Where is it located?

1 MR. CAMPBELL: Go down beside the golf club. Make a
2 left. First store on the left.

3 THE COURT: Go to the end of Dixiana Road at the --
4 at the stop sign make a left?

5 MR. CAMPBELL: Yes, sir.

6 THE COURT: Towards Moccasin Bluff?

7 MR. CAMPBELL: Yes, sir.

8 THE COURT: And it's the first store on there?

9 MR. CAMPBELL: Yes.

10 MR. REDMOND: Yes.

11 THE COURT: That's the one that used to be ---

12 MR. REDMOND: McKenzie's?

13 THE COURT: McKenzie's.

14 MR. REDMOND: And, again, it is -- both of them are
15 on videotape. And so you can vividly see what was
16 transpiring.

17 Then as to the second incident, this was on the 15th
18 of February of 2005. Second incident, defendant entered
19 the store. I think from that tape I could only see one
20 gun. The codefendant didn't have a gun. That's right.
21 There were two guns there, too, but the codefendant didn't
22 have a gun.

23 When they entered the store the defendant goes
24 approaches the register and fires a shot. The clerk sees
25 them coming in because they're masked. And I didn't

1 mention that. They're masked in both situations. So she
2 tries to run toward the back and that's when she's shot.

3 You can't see her getting shot on the back -- on the
4 tape rather, but you can see her. You can hear,
5 obviously, her screaming.

6 THE COURT: They shot her as she ran away?

7 MR. REDMOND: Yes, sir. And so she was shot in the
8 leg and he -- same M.O. The codefendant nephew goes
9 around, takes the money out the register, and they depart.
10 Again, neither incident took 30 seconds in it's entirety.
11 So, of course, that's what brings about these charges.
12 Lieutenant Campbell's investigation was extensive and also
13 involved ---

14 THE COURT: This all in two weeks?

15 MR. REDMOND: Yes, sir. Yes, sir, and as a matter of
16 fact Mr. Cox has explained to me that he -- I think Miss
17 Dunson, if I'm not mistaken, is now working there, but --
18 no, it's Miss Hodge. She has come back to work with him
19 but at first he had actually replace his staff because
20 naturally two robberies in that short amount of time
21 freaked his employees.

22 But, Your Honor, during the course of the
23 investigation Officer Campbell interviewed several people
24 including members of the defendant's family. And that's
25 why -- and there is a tie indirectly to the Marlboro

1 County matter. Because that's not before you at that this
2 time I won't get into too much detail unless the Court
3 inquires.

4 But I can say that his investigation then led to
5 cooperation with the Marlboro County Sheriff's Office that
6 actually led to both of these cases being resolved
7 simultaneously --- that led to both of these cases
8 actually being resolved at -- simultaneously.

9 And he was arrested on all charges including the
10 murder at the same time; that being the 10th of March of
11 this year.

12 THE COURT: All right. Mr. Palmer, did you along
13 with the codefendant rob this store on the 29th of January
14 with two guns in your hands used to rob the place? And
15 did you also rob the place again on the 15th of February
16 with a pistol?

17 And did you actually shoot Pamela Hodge as she ran?
18 Did you do these things as Mr. Redmond told me?

19 MR. PALMER: Yes.

20 THE COURT: And I find that you have freely and
21 voluntarily waived your right to a jury trial. You have
22 your right to counsel with whom you say you're satisfied
23 with. I find you guilty and making sure that I find you
24 guilty of two counts of armed robbery, two counts of
25 possession of weapon during the commission of violent

1 crime, and one count assault and battery with intent to
2 kill. Man. Okay, anything else from the State?

3 MR. REDMOND: Nothing further from the State, Your
4 Honor.

5 THE COURT: All right. Mr. Crow.

6 MR. CROW: Please, Your Honor, you heard the
7 defendant, and defendant is accepting his full
8 responsibility in this matter. He's sorry it happened.
9 He's brought some pain and anguish on these people. He
10 tells me he's sorry it happened. He's been in jail for
11 225 days, and he's realized that he's going to be in jail
12 for a long time. And he just hopes that he can get this
13 behind him as soon as possible.

14 THE COURT: 120 days?

15 MR. CROW: 225 is his total he's been in jail.

16 THE COURT: What kind of record has Mr. Palmer got?

17 MR. CROW: He has a record in the State of New York.
18 He has a burglary and I believe one other. What was it
19 ---

20 MR. REDMOND: He has burglary. There were a couple
21 of drug charges. Actually, as I was going through the
22 record I think I pulled the wrong one, but as he had --
23 like Mr. Crow said I think he did three to nine on the
24 burglary case if I remember correct and that was in New
25 York City.

1 MR. CROW: He was living in Clio at the time of this
2 in his mother's home, and he has friends in Dillon. And
3 that's what he was doing in Dillon.

4 THE COURT: Wish he didn't have any friends in
5 Dillon.

6 MR. REDMOND: Yes, sir. And just for the record, I
7 have complied with the Victims' Bill of Rights as it
8 relates to contact.

9 THE COURT: And that's going to end questioning?

10 MR. REDMOND: Yes, sir.

11 THE COURT: Even by the victims?

12 MR. REDMOND: I have talked with the victims
13 regarding these particular matters, Your Honor, at length.

14 THE COURT: What are their thoughts of it?

15 MR. REDMOND: Well, obviously as to Mr. Cox, they are
16 very concerned about -- he's concerned about the
17 situation, and his main concern to me -- and I know
18 Mr. Cox and have known him for a while. And, quite
19 frankly, got to meet him from him being a victim,
20 obviously, in some other crimes against his store.

21 But his main concern was that he wanted us to make
22 sure that we did fully prosecute this defendant and that's
23 why he stands here today pleading on these charges. As a
24 matter of fact Mr. Cox was up here Thursday. I think we
25 subpoenaed witnesses. As Mr. Crow said we were actually

1 prepared to go forward to trial in this case and he came
2 up here and I had the chance to talk to him regarding
3 these particular matters.

4 THE COURT: Mr. Palmer.

5 MR. PALMER: Sir?

6 THE COURT: When we met last week and I don't know --
7 you intended to go to trial this week. And you have
8 freely and voluntarily decided not to go to trial and
9 enter these negotiations, is that true?

10 MR. PALMER: Yes, sir.

11 THE COURT: Anything you want to tell me, sir, about
12 these matters? Anything at all? I'll be glad to listen
13 to you.

14 MR. PALMER: No. No, sir. That's it.

15 THE COURT: So, in essence, do you understand those
16 solid deals regarding the Marlboro County case unless they
17 feel you've cooperated with them. So, leave up to them.
18 You understand that?

19 MR. PALMER: Yes, sir.

20 THE COURT: Says here you were born in 1966. That
21 means in another few months you will be 40 years old. And
22 you're not from Dillon County or Marlboro County?

23 MR. PALMER: Well, I was living in Dillon -- in
24 Marlboro County.

25 THE COURT: But where are you from?

1 MR. PALMER: I was born in New York.

2 THE COURT: And you came down here all because you
3 had friends down here?

4 MR. PALMER: No, I came down here -- I was down here
5 since 2001. I lived down here.

6 THE COURT: This is not New York so you get serious
7 sentences for things here.

8 SENTENCE OF THE COURT

9 THE COURT: All right, sir. On the armed robbery
10 charges pursuant to the negotiation, 25 years term;

11 Assault and battery with intent to kill, 20 years
12 concurrent;

13 Possession of weapon during violent crime, five years
14 concurrent;

15 Two armed robberies, 25 and 25;

16 Assault and battery with intent to kill, 10 to 22;

17 Possession of firearm, possession of a violent crime,
18 five and five;

19 All run concurrent. Get credit for 225 days already
20 served. And these are only concurrent with the Dillon
21 County charges. It has nothing to do with the Marlboro
22 County charges. Those things will be decided later on.

23 MR. REDMOND: Thank you, Your Honor.

24 MR. CROW: Your Honor, the only thing is now in our
25 negotiations, if he cooperates it will be 25 years.

1 MR. REDMOND: Oh, yes, it is.

2 THE COURT: But that's open if he agrees, he did---

3 MR. CROW: That's what I understand.

4 END OF TRANSCRIPT OF RECORD

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1 CERTIFICATE OF REPORTER
2
34 STATE OF SOUTH CAROLINA)
5)
6 COUNTY OF DILLON)
7

8 I, HATTIE O. GORDON, Official Court Reporter for
9 the 4th Judicial Circuit of the State of South Carolina,
10 do hereby certify that the foregoing is a true, accurate
11 and complete Transcript of Record of the proceedings had
12 and evidence introduced in the trial of the captioned
13 case, relative to appeal, in the Court of General Sessions
14 for Dillon County, South Carolina, on the 17th day of
15 October, 2005.

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

18
19 
20 HATTIE O. GORDON, Court Reporter
21
22
23
24
25

WITNESSES

Cliff Arnette

Dcsd

ARREST WARRANT #:

H923325

Arrested on March 10, 2005

ACTION OF GRAND JURY

TRUE BILLForeman: Robert McInnis
Grand Jury

04/21/05

VERDICT

Foreman: Petit Jury

Date: _____

DOCKET #: 05GS17-0393

THE STATE OF SOUTH CAROLINA

County of Dillon

COURT OF GENERAL SESSIONS

Term: April, 2005

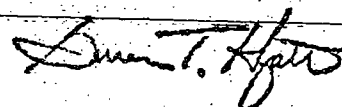
THE STATE

vs.

Dexter Jerome Palmer

INDICTMENT FOR

0549

POSSESSION OF WEAPON DURING THE
COMMISSION OF CERTAIN CRIMES 16-23-490A CERTIFIED
TRUE COPYCLERK OF COURT
DILLON COUNTY

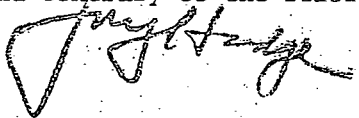
STATE OF SOUTH CAROLINA)
) INDICTMENT #05GS17-0393
County of Dillon)

At a Court of General Sessions, convened on April 25, 2005
the Grand Jurors of Dillon County present upon their oath:

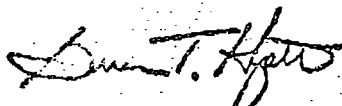
COUNT: POSSESSION OF WEAPON DURING THE
COMMISSION OF CERTAIN CRIMES 16-23-490

That Dexter Jerome Palmer in the County of Dillon on or about January 29,
2005, was in possession of and did visibly display a firearm during the
commission of a violent crime, to wit: (2) handguns, in violation of Section
16-23-490, Code of Laws of South Carolina (1976), as amended.

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

SOLICITOR: 

A CERTIFIED
TRUE COPY



CLERK OF COURT
DILLON COUNTY

STATE OF SOUTH CAROLINA

FILED
GWEN T. HYATT

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE*Dillon*

OCT 17 PM 4:38

INDICTMENT/CASE#:

05-17-0393

AKA: *Dexter Jerome Palmer*
 Race: _____ Sex: _____ Age: _____
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip _____
 DL# _____ SID# _____

AW#: *4923325*
 Date of Offense: *01/29/05*
 S.C. Code §: *16-23-490*
 CDR Code #: *0151419*
☐ CASE RESTORED
 SENTENCE
☐ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☐ PLEADSTO: *Poss Dangerous Weapon*in violation of § *16-23-490* of the S.C. Code of Laws, bearing CDR Code # *0151419*
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45
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:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of *5* days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
 which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: *all other FNDs in Dillon*☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections. *County*☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms: _____

☐ set by SCDPPPS _____

Recipient: _____

*Fine: _____

\$14-1-206 (Assessments 107.5%)	\$	
\$14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <i>100.00</i>
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$ <i>25.00</i>
\$56-5-2995 (DUI Assessment)	\$12	\$
\$35.13 (Public Def/Prob)	\$500	\$
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$
\$50-21-114(BUI Breath Test Fee)	\$50	\$
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ <i>3.75</i>
3% to County (if paid in installments)	\$	\$ <i>128.75</i>
TOTAL	\$	\$ <i>128.75</i>

SPECIAL CONDITIONS:

PTUP

_____ days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning _____

Substance Abuse Counseling _____

Random Drug/Alcohol Testing _____

Fine may be pd. in equal installments weekly/monthly

pmts. of \$ *TRUE COPY*

\$ _____ paid to Public Defender Fund

Other: *Dexter T. Hyatt*

CLERK OF COURT

☐ Appointed PD or appointed other counsel, \$35.13 TP
 Requires \$500 be paid to Clerk during probation.
Court Reporter: *Hattie L. Dorton*

Clerk of Court Deputy Clerk

PRESIDING JUDGE *James E. Kelly*Judge Code: *0151419*Sentence Date: *10/17/2008*

WITNESSES

Cliff Arnette

Dcsd

DOCKET #: 05GS17-0394

THE STATE OF SOUTH CAROLINA

County of Dillon

COURT OF GENERAL SESSIONS

Term: April, 2005

ARREST WARRANT #:

H923295

Arrested on March 10, 2005

THE STATE

vs.

Dexter Jerome Palmer

ACTION OF GRAND JURY

INDICTMENT FOR

0139

ARMED ROBBERY

16-11-330 (A)

Foreman: Lebrun McInnis
Grand Jury

04/24/05

VERDICT

A CERTIFIED
TRUE COPY

Dexter T. Hays

CLERK OF COURT
DILLON COUNTY

Foreman: Petit Jury

Date: _____

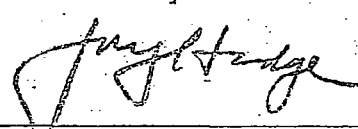
STATE OF SOUTH CAROLINA)
) INDICTMENT #05GS17-0394
County of Dillon)

At a Court of General Sessions, convened on April 25, 2005
the Grand Jurors of Dillon County present upon their oath:

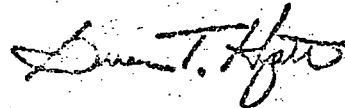
COUNT: ARMED ROBBERY
16-11-330 (A)

That Dexter Jerome Palmer in the County of Dillon on or about January 29,
2005, violate Section 16-11-330 of the Code of Laws of South Carolina (1976), as
amended, while armed with a deadly weapon, to wit: two guns, did feloniously
take from the person in the presence of Liequinta Dunson, by means of force or
intimidation goods or monies of the said Rogers Convenience Store, such goods or
monies being describes: \$1237 in cash.

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

SOLICITOR: 

A CERTIFIED
TRUE COPY



CLERK OF COURT
DILLON COUNTY

STATE OF SOUTH CAROLINA
COUNTY OF Dillon
STATE Dexter Jerome Palmer VS. 05 OCT 17 PM 4:38
AKA: CLERK OF COURT
Race: W Sex: M SS#: DILLON COUNTY
DOB: 1-1-1 Address:
City, State, Zip
DL# SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 05-GS-17-0394
A/W#: H 923295
Date of Offense: 01/29/05
S.C. Code §: 16-11-330 (a)
CDR Code #: 011319
☐ CASE RESTORED
SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
TO: Armed Robbery
in violation of § 16-11-330(a) of the S.C. Code of Laws, bearing CDR Code # 011319
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

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. 25 yrs
ATTEST: [Signature] Solicitor Dexter Palmer Defendant Walter H. Cow Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: all other Dillon County Inds.
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections. 225 Days

SPECIAL CONDITIONS:
☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered.
Total: \$ _____ plus 20% fee: \$ _____
Payment Terms: _____
☐ set by SCDPPPS _____
Recipients: _____
*Fine: \$ _____
§14-1-206 (Assessments 107.5%) \$ _____
§14-1-211(A)(1) (Conv. Surcharge) \$100 \$ _____
§14-1-211(A)(2) (DUI Surcharge) \$100 \$ 100.00
§56-5-2995 (DUI Assessment) \$12 \$ _____
§ 35.13 (Public Def/Prob) \$500 \$ _____
§73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
§33.7, 1B TP (Drug Court Surcharge) \$100 \$ _____
§50-21-114(BUI Breath Test Fee) \$50 \$ _____
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 3.75
3% to County (if paid in installments) \$ _____
TOTAL \$ 128.75
PTUP _____ days/hours Public Service Employment
Obtain GED _____
Attend Voc. Rehab. or Job Corp. _____
May serve W/E beginning _____
Substance Abuse Counseling CERTIFIED
Random Drug/Alcohol Testing TRUE COPY
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____
\$ _____ paid to Public Defender Fund
Other: [Signature]

[Signature] Clerk of Court/Deputy Clerk
Court Reporter [Signature]
PRESIDING JUDGE [Signature]
Judge Code: 1619 B 1
Sentence Date: 10/17/2005

WITNESSES

T.F.Finklea, Jr

Dcsd

ARREST WARRANT #:

H923327

Arrested on March 10, 2005

ACTION OF GRAND JURY

TRUE BILLForeman: Abraham McInnis
Grand Jury

04/21/05

VERDICT

Foreman: _____
Petit Jury

Date: _____

DOCKET #: 05GS17-0395

THE STATE OF SOUTH CAROLINA

County of Dillon

COURT OF GENERAL SESSIONS

Term: April, 2005

THE STATE

vs.

Dexter Jerome Palmer

INDICTMENT FOR

0014

ASSAULT AND BATTERY WITH INTENT TO KILL

(16-3-620)

A CERTIFIED
TRUE COPYSam T. HyattCLERK OF COURT
DILLON COUNTY

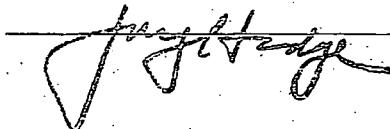
STATE OF SOUTH CAROLINA)
) INDICTMENT #05GS17-0395
County of Dillon)

At a Court of General Sessions, convened on April 25, 2005,
the Grand Jurors of Dillon County present upon their oath:

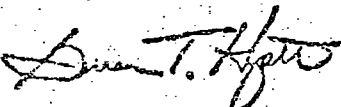
COUNT: ASSAULT AND BATTERY WITH INTENT TO KILL
(16-3-620)

That Dexter Jerome Palmer in the County of Dillon on or about February 15,
2005, violate Section 16-3-620 of the Code of Laws of South Carolina (1976), as
amended, in that he with malice aforethought, committed an assault and battery
upon one Pamela Hodge by shooting her in the right lower leg, with intent to
kill the said Pamela Hodge.

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

SOLICITOR: 

A CERTIFIED
TRUE COPY



CLERK OF COURT
DILLON COUNTY

STATE OF SOUTH CAROLINA

FILED
GWEN T. HYATT IN THE COURT OF GENERAL SESSIONSCOUNTY OF
STATE

VS.

05 OCT 17 PM 4:30

INDICTMENT/CASE#:

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip

DL#

SID#

Date of Offense:

S.C. Code §:

CDR Code #:

☐ CASE RESTORED

SENTENCE

☒ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: ABWIKin violation of § 16-3-620 of the S.C. Code of Laws, bearing CDR Code # 010114☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ 17-25-45The 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:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

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

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: all other Dillon County DNDs☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered

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

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

\$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)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

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

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$100

\$100

\$12

\$500

\$25

\$100

\$50

\$40/ea

\$

\$

\$

\$

\$

\$

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\$

\$

PUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$

\$

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Other:

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CLERK OF COURT
DILLON COUNTY

PRESIDING JUDGE

Judge Code:

Sentence Date:

Court Reporter:

Clerk of Court/ Deputy Clerk

WITNESSES

T.F.Finklea, Jr

Dcsd

ARREST WARRANT #:

H923329

Arrested on March 10, 2005

ACTION OF GRAND JURY

TRUE BILL

Foreman: Abraham McInnis
Grand Jury

04/21/05

VERDICT

Foreman: _____
Petit Jury

Date: _____

DOCKET #: 05GS17-0396

THE STATE OF SOUTH CAROLINA

County of Dillon

COURT OF GENERAL SESSIONS

Term: April, 2005

THE STATE

vs.

Dexter Jerome Palmer

I N D I C T M E N T F O R

0549

POSSESSION OF WEAPON DURING THE
COMMISSION OF CERTAIN CRIMES 16-23-490

A CERTIFIED
TRUE COPY

Dexter T. Hyatt

CLERK OF COURT
DILLON COUNTY

STATE OF SOUTH CAROLINA)
) INDICTMENT #05GS17-0396
County of Dillon)

At a Court of General Sessions, convened on April 25, 2005
the Grand Jurors of Dillon County present upon their oath:

COUNT: POSSESSION OF WEAPON DURING THE
COMMISSION OF CERTAIN CRIMES 16-23-490

That Dexter Jerome Palmer in the County of Dillon on or about February 15, 2005, was in possession of and did visibly display a firearm during the commission of a violent crime, to wit: Armed Robbery, in violation of Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

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

SOLICITOR:

**A CERTIFIED
TRUE COPY**

Sam. T. Hays

CLERK OF COURT
MILLON COUNTY

STATE OF SOUTH CAROLINA

FILED
GWEN T. HYATT

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

VS

05 OCT 17 PM 4:38 05

INDICTMENT/CASE#:

AKA: Dexter Jerome Palmer
Race: Black Sex: M Age: 36
DOB: 01/15/1979
Address: 116-23-490
City, State, Zip: 0151419
DL# SID#

AW#: 4923329
Date of Offense: 02/15/05
S.C. Code §: 16-23-490
CDR Code #: 0151419
☐ CASE RESTORED
☒ SENTENCE
☒ PLEA ☐ TRIAL

In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS

TO: Pass of Weapons During Commission of Crime
in violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0151419
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ 17-25-45

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: Dexter Palmer Defendant Wade H. Con Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 3 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: All Other Dillon County TND
☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered
Total: \$ plus 20% fee: \$
Payment Terms:
☐ set by SCDPPPS

PTUP days/hours Public Service Employment
Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

Recipient:
*Fine:
\$14-1-206 (Assessments 107.5%) \$
\$14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
\$14-1-211(A)(2) (DUI Surcharge) \$100 \$
\$56-5-2995 (DUI Assessment) \$12 \$
\$ 35.13 (Public Def/Prob) \$500 \$
\$73.3, 1B TP (Law Enforce. Funding) \$25 \$ 25.00
\$33.7, 1B TP (Drug Court Surcharge) \$100 \$
\$50-21-114(BUI Breath Test Fee) \$50 \$
\$56-5-2942(J) (Vehicle Assessment) \$40/ea \$ 3.75
3% to County (if paid in installments) \$
TOTAL \$ 128.75

CLERK OF COURT
DILLON COUNTY

☐ Appointed PD or appointed other counsel, \$35.13 TP
Requires \$500 be paid to Clerk during probation.

Clerk of Court Deputy Clerk:
Court Reporter: Hattie Darden
PRESIDING JUDGE:
Judge Code:
Sentence Date: 10/17/2008

WITNESSES

T.F.Finklea, Jr

Dcsd

ARREST WARRANT #:

H923298

Arrested on March 10, 2005

ACTION OF GRAND JURY

TRUE BILLForeman: A. Q. Smith
Grand Jury

04/21/05

VERDICT

Foreman: _____
Petit Jury

Date: _____

DOCKET #: 05GS17-0397

THE STATE OF SOUTH CAROLINA

County of Dillon

COURT OF GENERAL SESSIONS

Term: April, 2005

THE STATE

vs.

Dexter Jerome Palmer

I N D I C T M E N T F O R

0139

ARMED ROBBERY

16-11-330 (A)

A CERTIFIED
TRUE COPYSam T. HyattCLERK OF COURT
DILLON COUNTY

STATE OF SOUTH CAROLINA)
) INDICTMENT #05GS17-0397
County of Dillon)

At a Court of General Sessions, convened on April 25, 2005
the Grand Jurors of Dillon County present upon their oath:

COUNT: ARMED ROBBERY
16-11-330 (A)

That Dexter Jerome Palmer in the County of Dillon on or about February 15, 2005, violate Section 16-11-330 of the Code of Laws of South Carolina (1976), as amended, while armed with a deadly weapon, to wit: (2) guns, did feloniously take from the person in the presence of Pamela Hodge, by means of force or intimidation goods or monies of the said Roger's Convenience Store, such goods or monies being describes: \$749 in cash.

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

SOLICITOR:

Just Lodge

A CERTIFIED
TRUE COPY

L. T. Hyde

CLERK OF COURT
- HALL COUNTY

RECEIVED

MAR 26 2014

SC OFFICE OF
APPELLATE DEFENSE

STATE OF SOUTH CAROLINA

FILED
GWEN T. HYATT

IN THE COURT OF GENERAL SESSIONS

COUNTY OF
STATE

05 OCT 17 PM 4:38

INDICTMENT/CASE#:

AKA: Dexter Grome Palmer
 Race: W Sex: M Age: 25
 DOB: 01/13/19
 Address:
 City, State, Zip:
 DL#: SID#

AW#:

Date of Offense:

S.C. Code §:

CDR Code #:

17933298 0397

02/15/05

16-11-330 (B)

01/13/19

☐ CASE RESTORED

SENTENCE

☐ PLEA ☐ TRIALIn disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADSTO: Armed Robberyin violation of 16-11-330(B) of the S.C. Code of Laws, bearing CDR Code # 01/13/19☐ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ 17-25-45The 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:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 25 days/months/years or ☐ under the Youthful Offender Act not to exceed 25 yrs yearsand/or to pay a fine of \$; provided that upon the service of days/months/years 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.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on all other Dillon County P.D.s☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ Ordered.Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:

\$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)

\$35.13 (Public Def/Prob)

\$73.3, 1B TP (Law Enforce. Funding)

\$33.7, 1B TP (Drug Court Surcharge)

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

\$56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

\$ 100.00
 \$ 100.00
 \$ 12
 \$ 500
 \$ 25
 \$ 100
 \$ 50
 \$ 40/ea
 \$ 3.75
 \$ 128.75

SPECIAL CONDITIONS:

PTUP

days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$

\$ beginning

Other:

PRESIDING JUDGE

Judge Code:

Sentence Date:

Court Reporter:

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF MARLBORO)

DEXTER PALMER, #311922)

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

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

11-34-122

2011 JUN 10 394
WILLIAM B. FUNKERBURN
CLERK OF COURT
MARLBORO COUNTY, S.C.

FILED

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 LEE CORRECTIONAL INSTITUTION, 990 WISACKY HIGHWAY, BISHOPVILLE, SOUTH CAROLINA 29010
2. Name and location of Court which imposed sentence MARLBORO COUNTY COURT & JUDICIAL SESSIONS, BENNETTSVILLE
3. Name(s) of co-defendant(s) (if any) MICHAEL R. JAMES
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2005-9534-0643; MURDER
 - (b) _____
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) DECEMBER 6, 2010; THIRTY (30) YEARS
 - (b) _____

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty ☒ ✓
 (b) after a plea of not guilty _____
 (c) after a plea of nolo contendere _____

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

NO, I DID NOT.

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) FIRST COLLATERAL ATTACK

(b) _____

(c) _____

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

FILED
 2011 JUN 1 PM 10:39
 WILLIAM B. FUNDERBURK
 CLERK OF COURT
 MARLBORO COUNTY, S.C.

- (a) DENIAL of EFFECTIVE ASSISTANCE of COUNSEL
 (b) INVOLUNTARY GUILTY PLEA
 (c) BREACH of PLEA AGREEMENT/CONTRACT LAWS

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

(Look on
The Back)

in (10):

- (a) FAILURE TO CHALLENGE PROSECUTION'S BREACH of
 (b) RESULTING from INEFFECTIVENESS of COUNSEL
 (c) SENTENCE EXCEEDS AGREEMENT/CONTRACT

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

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

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. _____

FILED
 2011 JUN 1 9M 10 39
 WILLIAM B. FUNDERBURK
 CLERK OF COURT
 MARLBORO COUNTY, S.C.

~~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?

N/A

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) FIRST COLLATERAL ATTACK

(b) FIRST COLLATERAL ATTACK

(c) FIRST COLLATERAL ATTACK

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

FILED
 2011 JUN 1 AM 10 39
 WILLIAM D. FUNDERBURK
 CLERK OF COURT
 MARLBORO COUNTY, S.C.

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

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

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

i. EMILY CRAYTON, POST OFFICE BOX 27, DILLON, S.C.
29536
 ii. _____
 iii. _____

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

i. PLEA and SENTENCING
 ii. _____
 iii. _____

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

BASED ON THE ALLEGATIONS, CONVICTION/PLEA and SENTENCE BE
VACATED ALTOGETHER, IN THE INTEREST OF JUSTICE.

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

N/A, I AM NOT SEE DILLON COUNTY.

FILED
 2011 JUN 1 PM 3:39
 WILLIAM B. FURCHESBURG
 CLERK OF COURT
 MARLBORO COUNTY, S.C.

STATE OF SOUTH CAROLINA)

VERIFICATION

County of)

MARLBORO)
DEXTER PALMER, # 311922)

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

SWORN to and subscribed before me this 31
day of May, 2011

Bracey Ann
Notary Public

(L.S.)

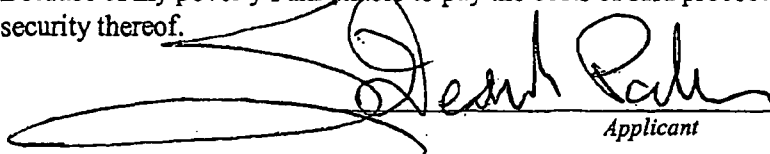
My Commission Expires: 5-16-12

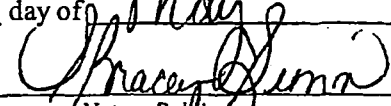
FILED
2011 JUN 1 AM 10 39
WILLIAM B. FUNDERBURK
CLERK OF COURT
MARLBORO COUNTY, S.C.

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

DEXTER PALMER, #311922
I, DEXTER PALMER, #311922, 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
31 day of May, 2011

Notary Public

My Commission Expires: 5-16-14

FILED
2011 JUN 1 AM 10 39
WILLIAM B. FUNDERBURK
CLERK OF COURT
MARLBORO COUNTY, S.C.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTH JUDICIAL CIRCUIT
COUNTY OF MARLBORO	)	
Dexter Palmer, #311922,	)	C/A No.: 2011-CP-34-0122
	)	
Applicant,	)	
	)	
vs.	)	
	)	
State of South Carolina,	)	
	)	
Defendant.	)	

APPLICANT'S TRIAL BRIEF

The Applicant hereby submits this *Trial Brief* for the Court's consideration in this matter.

I. Procedural History of the Case.

A. This case was filed on July 1, 2011, by the Applicant, acting *pro se*. Undersigned counsel was appointed to represent the Applicant by the Honorable William B. Funderburk, Clerk of Court, on November 12, 2012.

B. Applicant's PCR application states that he is seeking relief from the sentence of thirty (30) years imprisonment imposed by Judge J. Michael Baxley on December 6, 2010, for the crime of Murder (Indictment No.: 2005-GS-34-653), following his guilty plea to said charge.

C. The Applicant was represented by Emily M. Crayton, Esquire, Assistant Public Defender.

D. The Applicant did not appeal his plea and conviction. The application for post-conviction relief alleged ineffective assistance of counsel in the following particular(s): failure to challenge prosecution's breach of plea agreement.

E. Applicant's PCR application was timely filed in accordance with *Peloquin v. State*, 321 S.C. 468, 469 S.E. 2d 606 (1996).

II. Legal Issue

Plea counsel was ineffective in representing Applicant, a violation of Applicant's Sixth Amendment right to counsel.

III. Statement of Facts

Petitioner was arrested in Dillon County on or about March 6, 2005, and charged with the following Dillon County crimes:

- a. Possession of a Dangerous Weapon (Indictment No. 05-GS-17-0393);
- b. Armed Robbery (05-0394);
- c. Assault and Battery with Intent to Kill (05-0395);
- d. Possession of Weapon during Commission of Crime(05-0396); and,
- e. Armed Robbery (05-0397).

During the investigation of these crimes, the Dillon County Sheriff's Department investigator, Lt. James Campbell, discovered a tie between the Dillon cases and the homicide in Marlboro County which is the subject of this PCR (*Dillon Plea Transcript*, pg. 25 ln. 22 through pg. 26 ln. 1). This led to what the State's attorney, Kemard Redmond, Esquire, said was "both of these cases actually being resolved at – simultaneously" (*Dillon Plea Transcript*, pg. 26 ln. 4-8).

On October 17, 2005, Petitioner pled guilty before Judge James E. Lockemy to the five (5) Dillon County charges. In the plea hearing, Judge Lockemy was informed that the Marlboro murder case was a "companion case" (*Dillon Plea Transcript*, pg. 4 ln. 11-13). The State's attorney, also stated, with reference to the Petitioner, that "[w]e have indicated that if the cooperation and information he's given us is credible that we would then plead him to voluntary manslaughter in Marlboro County and allow that to run concurrent since he is pleading to a 25 year, no parole sentence" (*Dillon Plea Transcript*, pg. 6 ln. 2-7). The State's attorney told Judge Lockemy that the Petitioner would have to provide "substantial assistance" (*Dillon Plea Transcript*, pg. 6 ln. 11) and there were two "caveats" to the agreement: 1) that Petitioner "...would have to continue to cooperate with

the investigation in crimes in Dillon County, Marlboro Country, and in Florence County (*Dillon Plea Transcript*, pg. 6 ln. 12-14); and, 2) that "...if it comes out during the course of that information that Mr. palmer was involved in either anyone being shot or seriously injured during the commission of a crime or obviously murdered, then this agreement does not cover instances such as that" (*Dillon Plea Transcript*, pg. 6 ln. 16-20).

Judge Lockemy was clearly concerned that the Marlboro agreement was unclear, conducting a colloquy with the State's attorney:

The Court: "But if I'm taking a plea then that means that those [Marlboro] charges are over as far as the Court's concerned."

Mr. Redmond: "Yes, sir, but I'm just —"

The Court: "You talking about as far as the Marlboro County —"

Mr. Redmond: "Exactly, as far as disposing of the Marlboro County case."

The Court: "Well, he's got one charge of murder. Obviously, the minimum sentence there is 30 years."

Mr. Redmond: "Exactly. And so, your honor, that's why we're saying that the negotiation is that as long as he cooperates with those two caveats, as long as he cooperates truthfully, testifies, continues to give us corroborative information because, again, these things are going to have to be investigated."

The Court: "What would happen if he didn't [cooperate]?"

Mr. Redmond: "Then that's where I'd indicated that we would do 25 years manslaughter, run it concurrent with what he's serving here on the Dillon County charges."

The Court: "And the concern I have is — is the deal as far as what is he does, who makes the determination about whether he cooperates or not?"

Mr. Redmond: "Well, and that's — that's why we put in there —"

and that's why I'm putting on the record, I explained to him fully on the record —". (*Dillon Plea Transcript*, pg. 6 ln. 21 through pg. 7 ln. 21).

Judge Lockemy then inquired about the timing of the Marlboro case:

The Court: "When do you plan to dispose of out of Marlboro County?" (*Dillon Plea Transcript*, pg. 12 ln. 5-6).

....
Mr. Redmond: "I would say within a year I should know..." (*Dillon Plea Transcript*, pg. 13 ln. 8-9).

Judge Lockemy then scheduled a status conference for February 13, 2006, on the case in Marlboro County (*Dillon Plea Transcript*, pg. 14 ln. 7-10); however, this conference was never held. In February 2007, Petitioner's counsel in the Dillon plea, Wade R. Crow, Esquire, was relieved by Order of Judge Paul M. Burch (copy attached). Judge Burch ordered that Petitioner be represented by Dan Blake, Esquire.

Petitioner cooperated with law enforcement and provided all the assistance they requested for the Dillon, Marlboro and Florence cases. Despite this assistance, and contrary to the plea agreement stated on the record in Dillon before Judge Lockemy, on September 23, 2010, Petitioner was served with the State's Notice of Intent to Seek Life without Parole (LWOP) on the Marlboro murder charge, using the Dillon convictions as predicate acts. On December 6, 2010, over five (5) years after the Dillon pleas, Petitioner was transported from SCDC to the Marlboro courthouse. Petitioner was not represented by Dan Blake, but rather met an Assistant Public Defender, Emily Crayton, Esquire, for the first time. Ms. Crayton told Petitioner that the state intended to begin his trial one (1) week later, on December 13, 2010, and would seek a sentence of LWOP if he was convicted. Ms. Crayton then informed Petitioner that if he would plead guilty to Murder, he would get the minimum sentence of thirty (30) years, to be served day-for-day, but that LWOP would be off the table. Ms. Crayton did not know anything else about the Petitioner's defenses, the sufficiency of the State's evidence, etc. The Petitioner asked what happened to the 25-year Voluntary Manslaughter agreement and was informed that

the State had withdrawn that offer. Petitioner was devastated and agreed to plead guilty rather than face a jury with an attorney who didn't know anything about his case. The Petitioner now seeks post-conviction relief.

IV. Legal Authority

For Applicant to be granted relief as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective assistance. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); *Brown v. State*, 340 S.C. 590, 533 S.E.2d 308 (2000).

The South Carolina Supreme Court has held that a defendant has the right to effective assistance of counsel during the plea bargaining process. *Judge v. State*, 321 S.C. 554, 471 S.E.2d 146 (1996), overruled on other grounds by *Jackson v. State*, 342 S.C. 95, 535 S.E.2d 926 (2000). "There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case." *Ard v. Catoe*, 372 S.C. 318, 331, 642 S.E.2d 590, 596, *cert. denied*, 128 S. Ct. 370 (2007).

In a PCR proceeding, the applicant bears the burden of establishing that he is entitled to relief. *Caprood v. State*, 338 S.C. 103, 109, 525 S.E.2d 514, 517 (2000). "In the context of a guilty plea, the court must determine whether 1) counsel's advice was within the range of competence demanded of attorneys in criminal cases, *i.e.*, was counsel's performance deficient, and 2) if there is a reasonable probability that, but for counsel's errors, the defendant would not have pled guilty." *Smith v. State*, 369 S.C. 135, 138, 631 S.E.2d 260, 261 (2006) (citing *Hill v. Lockhart*, 474 U.S. 52, 56-58 (1985)). "The defendant's undisputed testimony that he would not have pled guilty to the charges but for trial counsel's advice is sufficient to prove that defendant would not have pled guilty." *Id.* at 138, 631 S.E.2d at 261. "In determining guilty plea issues, it is proper to consider the guilty plea transcript as well as evidence at the PCR hearing." *Suber v. State*, 371 S.C. 554, 558, 640 S.E.2d 884, 886 (2007).

Although our appellate courts have not directly addressed the question of

whether counsel's failure to communicate a plea offer to his or her client constitutes deficient performance, other cases of deficient performance in the context of plea bargaining would appear to support Petitioner's position. See, e.g., *Sprouse v. State*, 355 S.C. 335, 340, 585 S.E.2d 278, 281 (2003) (finding defendant was entitled to post-conviction relief where the State failed to honor the plea agreement it made with defendant and trial counsel failed to ensure that the State adhered to the original plea agreement); *Thompson v. State*, 340 S.C. 112, 116-17, 531 S.E.2d 294, 296-97 (2000) (concluding defendant established a claim for ineffective assistance of counsel where trial counsel failed to object when the solicitor recommended the maximum sentence in violation of the plea agreement); *Jordan v. State*, 297 S.C. 52, 53-54, 374 S.E.2d 683, 684-85 (1988) (holding trial counsel rendered ineffective assistance of counsel in failing to withdraw guilty plea after State reneged on plea, and reasoning that counsel's conduct in not protecting defendant's right to enforce the plea agreement with the solicitor's office fell below "prevailing professional norms").

It has long been established that state prosecutors "are obligated to fulfill the promises they make to defendants when those promises serve as inducements to defendants to plead guilty." *Sprouse v. State*, 355 S.C. 335, 338, 585 S.E.2d 278, 279 (2003) (citing *Santobello v. New York*, 404 U.S. 257 (1971)). Where a solicitor breaches a plea agreement, the United States Supreme Court has indicated two remedies: specific performance of the plea agreement; or allowing the defendant to withdraw his guilty plea. *Santobello*, 404 U.S. at 262-63. Although South Carolina has not ruled on whether a defendant may elect the remedies when a solicitor breaches a plea agreement, some jurisdictions have held that it is the defendant's right to choose between the remedies in such a situation. See *State v. Munoz*, 23 P.3d 922, 928 (Mont. 2001) (relying upon contract law principles to find a "non-breaching defendant must be afforded the initial right to choose from available remedies where the State breaches a plea agreement"); *State v. Miller*, 756 P.2d 122, 126-27 (Wash. '1988) (noting that the prosecutor failed to carry his burden of demonstrating the defendant's choice of remedy was unjust). While plea agreements are a matter of criminal

jurisprudence, most courts have held they are subject to contract principles. See, e.g., *Reed v. Becka*, 333 S.C. 676, 686, 511 S.E.2d 396, 401 (Ct. App. 1999); *United States v. Ringling*, 988 F.2d 504, 505 (4th Cir. 1993); *United States v. Harvey*, 791 F.2d 294, 300 (4th Cir. 1986) (“[I]n the process of determining whether disputed plea agreements have been formed or performed, courts have necessarily drawn on the most relevant body of developed rules and principles of private law, those pertaining to the formation and interpretation of commercial contracts.”). Unless intended by both parties, terms or conditions should not be read into a plea agreement. *State v. Compton*, 366 S.C. 671, 678, 623 S.E.2d 661, 665 (Ct. App. 2005). Until performance occurs, parties are free to withdraw their offers. *Reed*, 333 S.C. at 687, 511 S.E.2d at 402. A plea agreement is only an “offer” until the defendant enters a court-approved guilty plea. *Id.* at 688, 511 S.E.2d at 403. A defendant accepts the “offer” by pleading guilty. *Id.* Until formal acceptance has occurred, the plea is not binding on the defendant, the State, or the court. *Id.* This general rule is subject to a detrimental reliance exception. *Custodio v. State*, 373 S.C. 4, 11, 644 S.E.2d 36, 39 (2007); *Reed*, 333 S.C. at 688, 511 S.E.2d at 403. The fact that an agreement was oral does not prevent possible enforcement. *Id.* Absent a plea of guilt, a defendant may enforce an oral plea agreement upon a showing of detrimental reliance. *Id.* Even if the agreement has not been finalized by the court, a defendant’s detrimental reliance on a promise in plea-bargaining may make a plea binding. *Id.* A defendant who provides beneficial information to law enforcement can be said to have relied to his detriment. *Id.* See also *State v. Thrift*, 312 S.C. 282, 292, 440 S.E.2d 341, 347 (1994); *State v. Mathis*, 287 S.C. 589, 592, 340 S.E.2d 538, 540 (1986) (“The public interest of encouraging settlement of criminal cases without necessity of trial favors permitting an accused to plead guilty to the offense charged without prejudicing his position if it is later withdrawn.”) (quoting *State v. Wright*, 436 P.2d 601, 604-05 (1968)).

V. Facts Supporting Petitioner’s Position

A. The State’s attorney apologized to the victim’s family for the “almost six years [they had waited] in order to finally find justice” (*Marlboro Plea Transcript*, pg. 15, ln.

8-9).

B. The State's attorney admitted that that there were "complications" in trying the murder case, stating "I would be lying to the Court if I said that everybody that I needed was in place, because it has been so long" (*Marlboro Plea Transcript*, pg. 15, ln. 12-15). The prosecution represented to the Court that it had the "key witnesses involved, especially Mr. McKale James" [sic] (*Marlboro Plea Transcript*, pg. 15, ln. 15-17). Mikal R. James is the Petitioner's nephew and co-defendant, who wrote a letter recanting the information he gave to law enforcement (copy attached).

C. The State's attorney admitted that the negotiation changed from Manslaughter to Murder (*Marlboro Plea Transcript*, pg. 17, ln. 15 through pg. 18 ln). He even admitted that a change had occurred, stating "And, I'm sure Mr. Palmer was somewhat shocked when it all of a sudden changed" (*Marlboro Plea Transcript*, pg. 18, ln. 6-7). The State's attorney admitted that the prosecutorial decision changed because of his meeting with Mr. Eric Willie Perry, the victim's father who had come from New York to talk to the prosecutor (*Marlboro Plea Transcript*, pg. 17, ln. 19-24; pg. 18, ln. 7-15). Mr. Perry's visit was a "little wake up call" for the State's attorney (*Marlboro Plea Transcript*, pg. 18, ln. 23-25). Mr. Perry addressed the Court at the plea hearing, saying "thirty years is certainly not enough for what happened to my son" (*Marlboro Plea Transcript*, pg. 20, ln. 20-21).

D. Plea counsel knew so little about the applicant's case that, when asked to speak on his behalf, her statement to the Court lasted all of nine (9) lines in the transcript (*Marlboro Plea Transcript*, pg. 19, ln. 10-18), and did not call the Court's attention to the plea agreement placed on the record in the Dillon plea.

E. Plea counsel failed to prepare for Petitioner's trial, leaving him no choice but to plead guilty to avoid facing LWOP. Counsel was not aware that the co-defendant, Mikal R. James, Petitioner's nephew, had written a letter (copy attached) while in jail recanting the statements given to law enforcement. Petitioner was clearly prejudiced by the deficient representation. *Strickland v. Washington*, 466 U.S. at 687. Petitioner's attorney did not demonstrate "reasonableness under professional norms" that satisfies

the requirements of the Sixth Amendment. *Cherry v. State*, 300 S.C. 115, 386 S.E. 2d 624 (1989).

PRAYER FOR RELIEF

Based on the foregoing, Applicant prays that the Court vacate his sentence as violative of the Sixth Amendment and remand this case to the Marlboro County Court of General Sessions.



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ATTORNEY FOR APPLICANT

July 16, 2013

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF MARLBORO	)	
	)	
Dexter Palmer, 311922	)	2011-CP-34-0122
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

Respondent, making its Return to the application for post-conviction relief (PCR) filed June 1, 2011, would respectfully show this Court:

I.

Respondent received the Application from the Clerk's office on October 26, 2012. Respondent now timely files this return to the Application. The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Marlboro County Clerk of Court. Applicant was indicted at the July 2005 term of the Darlington County Grand Jury for murder (2005-GS-34-0643). Emily Crayton, Esquire represented Applicant. On December 6, 2010, Applicant pled guilty before the Honorable J. Michael Baxley, who sentenced Applicant to thirty years imprisonment. Upon information and belief, Applicant did not appeal the conviction or sentence.

Attached herewith and incorporated herein are the records of the Marlboro County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, and the plea transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. "Denial of effective assistance of counsel"
2. "Involuntary guilty plea"
3. "breach of plea agreement/contract laws"

III.

The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

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

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

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

IV.

The State therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations,

the State moves for summary dismissal pursuant to S.C. Code Ann. §17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

V.

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

VI.

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

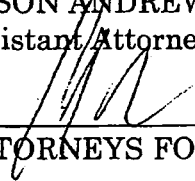
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

TYSON ANDREW JOHNSON, SR.
Assistant Attorney General

By: 
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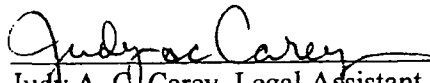
January 17, 2013

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF MARLBORO	)	
	)	
	)	2011-CP-34-0122
	)	
DEXTER PALMER, 311922	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

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

David E. Belding, Esquire
Post Office Box 11964
Columbia SC 29211

DATED this 17th day of January, 2013.


 Judy A. C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA)
COUNTY OF MARLBORO }

COURT OF COMMON PLEAS

DEXTER PALMER)
311922)
PETITIONER,)

TRANSCRIPT OF RECORD
11-CP-34-0122

v.)

STATE OF SOUTH CAROLINA,)
RESPONDENT.)

July 16, 2013
Darlington, South Carolina

BEFORE :

THE HONORABLE R. FERRELL COTHRAN, JR., JUDGE

APPEARANCES:

DAVID E. BELDING, ESQ.
Attorney for the Petitioner

KAREN C. RATIGAN, ESQ.
Attorney for Respondent

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

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EXHIBITS**PETITIONER'S:**

No.	Description	I.D./EVD.
1	Rights sheet	9/9
2	Transcript of 10-17-05	11/11
3	Notice of motion	24/24
4	Letter	36/36

1 MR. BELDING: Your Honor, may I hand up
2 the Petitioner's trial brief and a copy of the plea
3 transcript?

4 THE COURT: Okay. I have a copy of the
5 transcript.

6 MR. BELDING: You have the one in front of
7 Judge Baxley?

8 THE COURT: Uh-huh. Was there a
9 transcript from some other judge?

10 MR. BELDING: Judge Lockemy.

11 MS. RATIGAN: We'll get to that.

12 MR. BELDING: We'll get to that. If you
13 don't mind, I'll just hand these up, and we'll go
14 through their admissibility when it's time just so
15 you'll have them.

16 MS. RATIGAN: And may it please the Court,
17 Your Honor.

18 THE COURT: Yes.

19 MS. RATIGAN: This is the last case today.
20 This is Dexter Palmer versus the State of South
21 Carolina. The docket number is 2011-CP-34-122.
22 Mr. Palmer was indicted for murder. He was
23 represented on that charge by Ms. Crayton. He pled
24 guilty to the charge before Judge Baxley
25 December 6th of 2010. He received a 30 year

PW - D. PALMER - DIRECT

1 sentence. He did not file an appeal. And the State
2 is ready to proceed.

3 THE COURT: Okay. Yes, sir.

4 MR. BELDING: Thank you, Your Honor. My
5 name is David Belding. I'm the court appointed
6 attorney. I'm from Columbia, but I was court
7 appointed by the Clerk of Court Mr. Funderburk to
8 represent Mr. Palmer in this matter and we're ready
9 to proceed.

10 THE COURT: You may call your first
11 witness.

12 MR. BELDING: I'd like to call to the
13 stand Mr. Dexter Jerome Palmer.

14 THE COURT: All right, Mr. Palmer. If you
15 will come around please, sir.

16 THE CLERK OF COURT: Place your left hand
17 on the Bible, raise your right hand.

18 WHEREUPON,

19 **DEXTER JEROME PALMER,**
20 having been duly sworn by the Clerk of Court,
21 testified as follows:

22 THE CLERK OF COURT: Have a seat up there
23 please, sir.

24 MR. BELDING: May it please the Court,
25 Your Honor.

FW - D. PALMER - DIRECT

1 THE COURT: Yes, sir.

2 DIRECT EXAMINATION

3 BY MR. BELDING:

4 Q Please state your full name for the record?

5 A Dexter Jerome Palmer.

6 Q Mr. Palmer, where are you incarcerated at this
7 time?

8 A Lee Correctional Facility.

9 Q And what is your — let me ask you, do you know
10 what your dominant sentence is? Do you know what I
11 mean by that?

12 A The longest one?

13 Q Yes.

14 A Thirty year sentence.

15 Q For —

16 A For murder.

17 Q Okay. And when was that sentence imposed?

18 A December 6th, 2010.

19 Q Okay. And where — what county was that?

20 A They had it right here in Darlington County but
21 it was —

22 Q Is that —

23 A It was for Marlboro County, but I was sentenced
24 in this building here.

25 Q All right. Now Mr. Palmer, briefly can you

PW - D. PALMER - DIRECT

1 explain to the Court how this case evolved and how
2 it started with some cases in Dillon County?

3 A In 2005 I had some Dillon cases and Marlboro
4 County cases. My attorney negotiated with the
5 Solicitor at that time Kernard Redmond —

6 Q And who was that attorney?

7 A Wade Crow. Negotiated a deal for 25 years for
8 all cases together; but I had to give them some
9 information on some other crimes that I did so I did
10 that, and to my understanding that I was going to
11 get 25 years for all crimes together.

12 Q All right. Let me ask you, at some point then
13 did you appear in front of Judge James Lockemy?

14 A Yes, sir.

15 Q And that was here in this courtroom?

16 A No. That was in 2005?

17 Q Yes.

18 A That was in Dillon County court.

19 Q In Dillon, okay.

20 A Yes, sir.

21 Q I stand corrected, thank you. Now did Mr. Crow
22 prior to your pleading guilty in Dillon explain to
23 you what you were going to be pleading guilty to and
24 what the agreement was?

25 A Yes, sir.

PW - D. PALMER - DIRECT

1 Q Now I want to make sure I understand. Would you
2 explain to us what your understanding of the
3 agreement was?

4 A If I were to plead guilty to all Dillon counts
5 and provide sufficient information that they would
6 run the Marlboro County murder case, they would drop
7 it down to lesser crime and give me 25 years and run
8 them all concurrent.

9 Q Okay. And when you say drop down to a lesser
10 crime do you recall what that lesser crime was?

11 A Manslaughter.

12 Q Involuntary or voluntary?

13 A I'm not sure.

14 Q Okay. For pleading guilty to manslaughter for
15 the Marlboro case you were to receive what sentence?

16 A 25 years, run it concurrent with the Dillon
17 County charges.

18 Q Let me ask you, Mr. Palmer — approach the
19 witness, Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. BELDING:

22 Q Let me ask you if you recognize this document. I
23 know it's been a while.

24 A Yeah. Yes, I do.

25 Q Can you tell us what that is?

FW - D. PALMER - DIRECT

1 A Well, it was like a plea agreement, like if I was
2 — didn't plea I would get this amount of time. If
3 I were to plead I'd get amount of time.

4 Q Okay. Did you sign it on the second page?

5 A Yes, I did.

6 Q Was it notarized by Mr. Crow?

7 A Yes, sir.

8 Q Do you recall what day you signed that?

9 A It says right here October 17th, 2004. I believe
10 the thing is wrong.

11 Q Now I believe there's a typo or actually it's
12 handwritten, a scriveners error. Do you believe you
13 signed that the same day that you entered the plea?

14 A Yeah, 2005.

15 Q Okay. October 17th, 2005 was when you pled
16 guilty in Dillon, correct?

17 A Yes, sir.

18 Q And is that the plea sheet that you signed prior
19 to that plea hearing?

20 A Yes, sir.

21 Q Okay.

22 MR. BELDING: Your Honor, it's been
23 authenticated by the witness. This is a copy being
24 provided to the attorney general. I would like to
25 introduce Petitioner's Exhibit 1.

PW - D. PALMER - DIRECT

1 THE PLAINTIFF: I have no objection, Your
2 Honor.

3 THE COURT: Okay. It's in without
4 objection.

5 (WHEREUPON, Petitioner Exhibit No. 1 was
6 marked for identification and received
7 into evidence.)

8 BY MR. BELDING:

9 Q Do you, Mr. Palmer, remember the plea that you
10 gave to Judge Lockemy in Dillon?

11 A Yes.

12 Q I'm gonna hand you what I would represent is a
13 copy of the transcript of your plea hearing in front
14 of Judge Lockemy. Does that appear to be a copy of
15 that?

16 A Yes, sir.

17 Q Okay. Can you tell the Court how I got a copy of
18 that?

19 A I gave it to you.

20 Q How did you get a copy of your transcript?

21 A I got it from Wade Crow.

22 Q Okay. Does this — and if you can, does that
23 appear to be a copy, an accurate copy of what you
24 gave me?

25 A Yep, yes, sir.

PW - D. PALMER - DIRECT

1 Q Okay. Mr. Palmer, if you don't mind would you
2 turn to the fourth page.

3 A I got it.

4 Q All right. Page number 4. There's some
5 underlining. Do you know who did that underlining?

6 A I did.

7 Q Okay. Aside from the underlining on that page
8 did you make any other markings on this transcript?

9 A No, not that I recall.

10 Q Did you make any additions, changes, corrections?
11 Did you do any other, make any changes to this
12 document in any way aside from that?

13 A No, sir.

14 Q Okay. Is — and you've had a chance to look this
15 document over, correct?

16 A I had it for a long time.

17 Q Okay. Is this to your recollection an accurate
18 transcript of the plea hearing in Dillon on
19 October 17th, 2005?

20 A Yes, sir.

21 MR. BEELDING: Your Honor, I'd like to make
22 this, introduce this as Petitioner's Exhibit Number
23 2.

24 MS. RATIGAN: I have no objection, Your
25 Honor.

PW - D. PALMER - DIRECT

1 THE COURT: Okay, it's in without
2 objection.

3 MR. BELDING: And you do have a copy, Your
4 Honor?

5 THE COURT: I do.

6 (WHEREUPON, Petitioner's Exhibit No. 2 was
7 marked for identification and received
8 into evidence.)

9 BY MR. BELDING:

10 Q All right, Mr. Palmer, like most transcripts this
11 has a lot of back and forth; but first of all, was
12 your recollection that you were pleading guilty to
13 all of the Dillon County indictments on that day?

14 A Yes, sir.

15 Q Okay. Was one of the charges nol prossed or
16 dropped that day?

17 A Yes, the kidnapping was supposed to have been
18 dropped.

19 Q Okay, I understand. Was there reference in this
20 transcript to the charges pending in Marlboro?

21 A Yes, sir.

22 Q Okay. And what was the charge?

23 A Murder.

24 Q Had you already been served an arrest warrant for
25 that charge?

PW - D. PALMER - DIRECT

1 A Yes.

2 Q Do you know whether or not that charge had
3 already been indicted in Marlboro?

4 A It has.

5 Q Okay. Now I believe you said this a minute ago
6 but I wanted you to refer back to plaintiff's —
7 excuse me, Petitioner's Exhibit Number 1. I want
8 you to look under typed number three on Petitioner's
9 Number 1, and there's some handwriting on that
10 document. Do you know who wrote those words in?

11 A My attorney Wade Crow.

12 Q And what did he write under number three as the
13 agreement?

14 A Twenty-five years concurrent on all indictments
15 in Dillon, Marlboro.

16 Q Okay. Was that your understanding of the plea at
17 the time?

18 A Yes, sir.

19 Q Now in the transcript of the Dillon hearing do
20 you recall there being some conditions, criteria, or
21 stipulations placed upon your being able to plead to
22 voluntary manslaughter for 25 years in Marlboro?

23 A Yes.

24 Q What do you recall those stipulations being?

25 A That I had to provide sufficient information to

PW - D. PALMER - DIRECT

1 other crimes that I was involved in.

2 Q Okay. And in fact, you recall the State's
3 attorney Kernard Redmond, if I'm pronouncing that
4 correct.

5 A Kernard.

6 Q Kernard Redmond stating that both of these cases
7 actually will resolve simultaneously?

8 A Yes.

9 Q Okay. Now you were required to provide,
10 according to this transcript. I'd like you to look
11 at page 6 on the Dillon transcript.

12 A Got it.

13 Q You see on line 11 -- this is again Mr. Redmond
14 addressing Judge Lockemy. Does it state there that
15 the petitioner, being you, would have to provide
16 substantial assistance?

17 A Yes.

18 Q Okay. Going back to page 4, if you don't mind
19 Mr. Palmer.

20 A I got it.

21 Q Got it?

22 A Yeah.

23 Q You see on line, starting on line 11 that
24 Mr. Redmond informed the Court that the Marlboro
25 murder case was a companion case?

PW - D. PALMER - DIRECT

1 A Yes.

2 Q Okay. And what did the State's Attorney say with
3 reference to you that he had indicated was the —
4 their conditions for this agreement in those lines?

5 A Repeat that again.

6 Q Let me ask you this, do you see where it says in
7 there that they dedicated that if the cooperation
8 and information he's given us is credible that we
9 would run — then plead him to voluntary
10 manslaughter in Marlboro County and allow that to
11 run concurrent since he is pleading to a 25 year no
12 parole sentence. I'm sorry, that's on page 6, no
13 wonder you couldn't find it.

14 A Yeah.

15 Q If you wouldn't mind turn to page 6. It's on
16 lines 2 through 7. Do you see those words that I
17 just read out?

18 A Yes, sir.

19 Q Is that — do you recall those being said in
20 court?

21 A Yes.

22 Q Is that an accurate reflection of what your
23 agreement was with the State?

24 A That's what it is.

25 Q Now you were required to cooperate with law

PW - D. PALMER - DIRECT

1 enforcement, correct?

2 A Yes.

3 Q How many counties were you asked to cooperate
4 with?

5 A Three counties, Florence County, Dillon County,
6 and Marlboro County.

7 Q Did you meet with law enforcement people
8 representing all of those three counties?

9 A No, I met with one law enforcement officer, James
10 Campbell, came to Dillon, and he debriefed me on all
11 the cases that I had told him about.

12 Q Was that the only law enforcement officer you
13 were asked to talk to?

14 A Yes.

15 Q Did you provide all the information that
16 Lieutenant Campbell asked you to provide?

17 A Yes, and he came back again and I told him what
18 else I know.

19 Q How many times did you meet with Lieutenant
20 Campbell?

21 A Two times.

22 Q Okay. And you recall approximately when this
23 was?

24 A Well, the first time was -- right after I pled
25 guilty in Dillon County he came to see me. And then

PW - D. PALMER - DIRECT

1 a couple of days after that, I'm not sure what the
2 day was, but a couple of days he came back.

3 Q Was this after your plea in Dillon?

4 A Yes, sir.

5 Q Okay. Did you ever hear from Mr. Campbell that
6 you were not providing assistance or not
7 cooperating?

8 A Never.

9 Q Did he ever come back and ask you for more
10 information?

11 A Never.

12 Q By the way, where were you during that period of
13 time?

14 A In the Dillon County Detention Center.

15 Q Okay. When did you — you pled guilty to a
16 number of crimes, primarily two armed robbery
17 counts, correct?

18 A Yes, sir.

19 Q And what sentence did you receive for those armed
20 robberies?

21 A 25 years.

22 Q Were you transported to the Department of
23 Corrections?

24 A Later.

25 Q Do you recall approximately when you got

PW - D. PALMER - DIRECT

1 transported?

2 A No. A couple of days, I'm not sure.

3 Q Oh, it wasn't like a year or anything like that?

4 A Oh, no, sir.

5 Q Where were you originally taken?

6 A To Kirkland.

7 Q So this would have been are you talking about in
8 late 2005 you ended up at the Department of
9 Corrections?

10 A Yes.

11 Q Okay. Did Lieutenant Campbell, the investigator,
12 did he come see you while you were at the SCDC or
13 before you went?

14 A Before I went.

15 Q Okay. Did he ever try to come see you while you
16 were in prison?

17 A No, sir.

18 Q Where were, what were your prison assignments?
19 Where were you ---

20 A Working?

21 Q No, where were you housed? What institutions
22 have you been in?

23 A Just Lee Corrections.

24 Q And where is that?

25 A Bishopville, South Carolina.

PW - D. PALMER - DIRECT

1 Q Okay. How far is that from Dillon?

2 A Forty-five minutes.

3 Q Okay. And so to your knowledge as we sit here
4 today have you complied with your plea agreement
5 reached in Dillon in 2005?

6 A Yes, sir.

7 Q Okay. Now do you recall Judge Lockemy having a
8 long conversation about his concerns about this plea
9 agreement?

10 A Yes, sir.

11 Q Okay. From your recollection what was Judge
12 Lockemy's concern?

13 A That they wasn't gonna abide by the plea
14 agreement later on. If something went wrong and
15 they didn't like what I said or something like that,
16 he didn't think it was right. He wanted to plead me
17 right then.

18 Q Okay. Are you still on page 6 of the Dillon
19 transcript?

20 A Yes, sir.

21 Q Okay. Do you see beginning on line 21 the judge
22 saying, "but if I'm taking a plea then that means
23 that those" — and he's referring to the Marlboro
24 charges — "are over as far as the Court's
25 concerned." You see those words?

PW - D. PALMER - DIRECT

- 1 A Yes, sir.
- 2 Q Do you remember those being stated in court?
- 3 A Yes, sir.
- 4 Q All right. And there's a colloquy, in other
5 words, a dialogue between Judge Lockemy and
6 Mr. Redmond, the prosecutor, that goes on and
7 through page 7 line 21 where they're discussing
8 exactly what the plea agreement was.
- 9 A Yes.
- 10 Q Do you recall all that?
- 11 A Yes, sir.
- 12 Q Did you think you understood what your
13 responsibilities were in that plea agreement?
- 14 A Yes, sir.
- 15 Q All right. Do you recall Judge Lockemy inquiring
16 about when the Marlboro County case might be
17 disposed of?
- 18 A Yes, sir.
- 19 Q If you wouldn't mind turning to page 12 of that
20 transcript.
- 21 A I got it.
- 22 Q All right. Looking — do you see on lines 5 and
23 6, you see what the Court asks Mr. Redmond?
- 24 A Yes.
- 25 Q What does the Court ask?

PW - D. PALMER - DIRECT

1 A When do you plan to dispose of the Marlboro
2 County charges.

3 Q Okay. Now there was some talk back and forth.
4 Ultimately, if you'll turn to page 13, the next
5 page.

6 A Got it.

7 Q On lines 8 and 9, what does Mr. Redmond tell the
8 Court?

9 A I will say within a year I should know; and the
10 reason I say within a year, Judge, we're talking
11 about testimony if possible.

12 Q Okay. Now do you recall Judge Lockemy scheduling
13 a status conference in your case?

14 A Yes.

15 Q Okay? Do you remember when it was supposed to be
16 held?

17 A Year something later, something like that. I
18 don't know the exact day.

19 Q If you don't mind turn to page 14.

20 A Got it.

21 Q Looking on line 7.

22 A Okay.

23 Q What does Judge Lockemy order the parties to do?

24 A He say, "All right. Well therefore, we're going
25 to meet again on the 13th of February here in Dillon

PW - D. PALMER - DIRECT

1 County general sessions."

2 Q Okay. Would that have been February 13th, 2006,
3 the next year?

4 A Yeah.

5 Q Okay. Do you recall whether such a meeting ever
6 took place?

7 A I don't believe it ever did.

8 Q Did you ever come to court in February of 2006?

9 A No, sir.

10 Q Did you ever get called back to Dillon County or
11 to Marlboro County from prison to talk about the
12 status of your case?

13 A No, sir.

14 Q Okay. Now when was the next time that you recall
15 something happening in the Marlboro case?

16 A That's when I fired my lawyer. Me and my lawyer
17 had a little, something wasn't going right, and I
18 had to get another lawyer.

19 Q Okay. Do you recall whether or not Mr. Crow,
20 your attorney, moved to be relieved as your counsel?

21 A Yes.

22 Q Okay. Do you have any recollection of when that
23 might have been?

24 A No, I don't know the date.

25 Q Okay. Let me just show you, have you ever seen

PW - D. PALMER - DIRECT

1 this document before?

2 A Nope.

3 Q Never seen it, okay.

4 A No, sir.

5 Q I'm gonna represent to you that this is a notice
6 of motion, a motion to be relieved as counsel for
7 the defendant. Are you listed as defendant on this
8 document?

9 A Yes, sir.

10 Q All right. And just for purposes, on the second
11 page do you see the date?

12 A February 5th, 2007.

13 Q Okay.

14 MR. BELDING: Your Honor, I have attached
15 a copy of Judge Burch's order relieving Mr. Crow and
16 I think we have a stipulation that that would be
17 admissible. Mr. Crow has been excused and he's
18 going back to Bennettsville, but this is — all it
19 says is his getting out of the case in February of
20 2007.

21 THE COURT: Okay. Do you agree with that?

22 MS. RATIGAN: I do, Your Honor.

23 THE COURT: Okay.

24 BY MR. BELDING:

25 Q All right. So a year after Judge Lockemy said

PW - D. PALMER - DIRECT

1 that he initially wanted to have a, for lack of a
2 better word a status conference, he wanted to have
3 one in February 2006?

4 A Uh-huh.

5 Q A year later Mr. Crow is relieved as your
6 attorney, right?

7 A Yes, sir.

8 Q Did Mr. Crow ever ask you to do anything with law
9 enforcement during that year?

10 A No, sir.

11 Q Did he communicate with you in any way?

12 A No, sir.

13 Q Okay. Do you know why Mr. Crow — who wanted him
14 to get out of the case, him or you or both, or?

15 A Both 'cause he has a hearing problem so me and
16 him communicating wasn't really good and —

17 Q Had a hearing problem?

18 A Yeah, a hearing problem, yeah.

19 Q Okay. Do you recall whether or not Judge Burch
20 appointed a lawyer to represent you in Marlboro
21 County?

22 A Well, he did, but I never seen him, never heard
23 from him or anything.

24 Q And again, I understand that this came from
25 Mr. Crow's file but —

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1 A Yeah.

2 Q —this is the order part of what — you see
3 who's ordered to be appointed to represent you?

4 A Yep.

5 Q Who is it?

6 A Dan Blake.

7 MR. BELDING: Your Honor, I forgot, I'd
8 like to move that this be admitted as Petitioner's
9 3, the order relieving.

10 MS. RATIGAN: That's fine.

11 THE COURT: No objection.

12 (WHEREUPON, Petitioner Exhibit No. 3 was
13 marked for identification and received
14 into evidence.)

15 BY MR. BELDING:

16 Q Now my understanding is Judge Burch appointed Dan
17 Blake to represent you, correct?

18 A Right.

19 Q Did you know who Dan Blake was?

20 A I know who he is.

21 Q Who is he, or was?

22 A He's public defender.

23 Q For what county?

24 A Marlboro County.

25 Q Okay. Did Mr. Blake ever come see you about

PW - D. PALMER - DIRECT

1 these charges?

2 A No, sir.

3 Q Okay. Now were you ever called to court about
4 the charges in Marlboro County?

5 A After that?

6 Q Yeah, did anything — when was the next time you
7 heard anything about the Marlboro County charges?

8 A I have no idea, long time.

9 Q Okay. Let me ask you this, do you recall being
10 served a notice of the State's intention to seek a
11 sentence of life without parole?

12 A Yes, sir. September 23rd, 2010.

13 Q Okay. Where did you receive that notice?

14 A In this court.

15 Q They brought you here for that?

16 A Yes, sir.

17 Q Here in Darlington?

18 A Here in Darlington.

19 Q Okay. And did you have the same prosecutor, the
20 same assistant solicitor, Mr. Redmond?

21 A Yes, sir.

22 Q Okay. Now who was representing you at that time?

23 A I've got his card on the desk.

24 Q Was it another public defender?

25 A Another public defender, yes, sir.

PW - D. PALMER - DIRECT

1 Q Okay. When was the first time you got a chance
2 to talk to him about your case?

3 A That day I came to court.

4 Q Okay. Was it a male?

5 A Yes, sir.

6 Q Okay. Did you tell your public defender about
7 the plea agreement to the 25 years?

8 A Yes, I did.

9 Q Did your public defender advise the Court that
10 there was a plea agreement in the case?

11 A I don't know if he advised the Court but he spoke
12 to Mr. Redmond.

13 Q Okay. Now that was September 23rd, correct?

14 A Yes.

15 Q In 2010?

16 A Yes, sir.

17 Q Were you brought from the Department of
18 Corrections to the courthouse on December the 6th of
19 2010?

20 A Yes.

21 Q By the way, I put in here the Marlboro
22 courthouse. Where were you brought? Was it here
23 again?

24 A Darlington. I was brought here again then also.

25 Q When was that approximately?

PW - D. PALMER - DIRECT

- 1 A About two weeks after the first. The 23rd, about
2 two or three weeks later.
- 3 Q Okay. What was that for?
- 4 A I was supposed to plead to the 25 years.
5 Mr. Stevens was my attorney then.
- 6 Q Who is Mr. Stevens?
- 7 A The head solicitor of the Fourth Circuit I think.
- 8 Q The solicitor was your lawyer?
- 9 A No, not Solicitor, public defender.
- 10 Q Okay, I got you. So he's — now at this point
11 had Mr. Stevens replaced Mr. Blake as the public
12 defender?
- 13 A No, he replaced the other guy.
- 14 Q Oh, okay. All right. So was that the first time
15 you met Mr. Stevens?
- 16 A Yes, sir.
- 17 Q And you were supposed to plead to the 25?
- 18 A Yes, sir.
- 19 Q After the State had already said they're seeking
20 life without parole?
- 21 A Yes, sir.
- 22 Q Okay, did — was there a plea hearing that day?
- 23 A No, sir. He came back and told me that Kernard
24 Redmond said he's not going to go with the plea
25 because the victim family does not want me to plead

PW - D. PALMER - DIRECT

1 to anything but murder.

2 Q Okay. Now was the next time you were brought
3 back December 6th, 2010?

4 A Yes, sir.

5 Q Okay. Who was your lawyer at that time?

6 A Emily Crayton.

7 Q Was that the first time you met her?

8 A I met — yeah. No, I met her at the county jail.

9 Q Okay. How long before December 6th do you recall
10 meeting Ms. Crayton?

11 A A week.

12 Q Okay. What did you all talk about?

13 A Well, she was talking about me going to trial
14 next week. I'm like, we can't go to trial next
15 week, you don't know anything about the case. And
16 she tells me that we can't get a continuance or
17 anything like that, and I asked her about the plea
18 and she supposedly got on the phone and called
19 Mr. Redmond and he says no plea because the victim
20 family and him got into it. They don't want me to
21 plead to anything but murder.

22 Q Okay, let me make sure I understand this then
23 'cause I might have been a little confused myself.
24 On December 6th, 2010, was that supposed to be the
25 day your trial was supposed to start?

PW - D. PALMER - DIRECT

1 A That's -- no. Yep. What day was that? No, it
2 was supposed to start on Monday and we came to court
3 before the Monday.

4 Q Okay. The week before?

5 A Yeah, we had came on the 6th.

6 Q Okay. So the trial would have started maybe the
7 next week?

8 A Yeah, the next week we was going to start.

9 Q Okay. So then I was correct that your
10 understanding was the State would begin the trial on
11 December 13th a week later?

12 A The Monday, yeah.

13 Q Got you, okay. And that they were seeking a
14 sentence of LWOP if they got a conviction, correct?

15 A Yes, sir.

16 Q What did -- did Ms. Crayton know anything about
17 your, what defenses you might have had?

18 A No, she didn't know anything.

19 Q Did she talk to you about what defenses you might
20 have had if you went to trial?

21 A Yeah, we was going -- she was asking me
22 everything, she didn't know anything.

23 Q Okay. Did she at some point give you some
24 advice?

25 A Yeah.

PW - D. PALMER - DIRECT

1 Q What was that advice?

2 A Take the 30 years.

3 Q So do you recall appearing in front of Judge
4 Baxley again on December the 6th of 2010?

5 A Yes, sir.

6 Q What courtroom was that in?

7 A This one right here.

8 Q This one right here, we're in Darlington, okay.
9 Do you recall pleading guilty to murder that day?

10 A Yes, sir.

11 Q Did you tell Ms. Crayton that you had a plea
12 agreement that you had fulfilled your part of?

13 A Yes, sir.

14 Q Did you tell her what the agreement was?

15 A Yes, sir.

16 Q Did she advise you to take the murder?

17 A Yeah, she told me they could do that.

18 Q That they could renege on the plea?

19 A I asked her how can they do that. She said they
20 can do that.

21 Q Okay. How did you feel about going to trial and
22 facing life without parole?

23 A If I went with her I would have had life without
24 parole right now.

25 Q Did you agree to plead guilty to murder that day?

PW - D. PALMER - DIRECT

1 A Yes.

2 Q Did you know that the judge was going to give you
3 30 years?

4 A Yes.

5 Q Okay. Have you read this transcript of the
6 Marlboro, I mean the Marlboro plea that took place
7 here in Darlington?

8 A No.

9 Q You never read this?

10 A Never read it.

11 Q Okay. Do you recall answering a lot of questions
12 from the court, Judge Baxley?

13 A Yes.

14 Q Okay. Do you recall him asking you if you were
15 making this plea freely and voluntarily?

16 A Yes.

17 Q What did you answer it?

18 A Yes.

19 Q Do you recall him explaining to you a number of
20 constitutional rights that you have that you might
21 be waiving by pleading guilty?

22 A Yes.

23 Q Did you respond that you understood those rights?

24 A Yes.

25 Q Did you -- were you asked whether or not you had

PW - D. PALMER - DIRECT

1 any complaints about Ms. Crayton?

2 A Yes.

3 Q Do you recall what you answered?

4 A No.

5 Q That you did not have any complaints?

6 A Yes.

7 Q Did you recall telling Judge Baxley that you were
8 pleading guilty because you were guilty?

9 A Yes.

10 Q Okay. And understanding that all this is in the
11 transcript, the transcript speaks for itself, you
12 don't have any dispute with what's written down here
13 in this plea transcript —

14 A No, sir.

15 Q —as far as what you said?

16 A No, sir.

17 Q Why did you plead guilty to murder?

18 A Because if I wouldn't have I would have went to
19 trial with Emily Crayton and I would have lost.

20 Q Did she — did you testify that she said you
21 couldn't get a continuance?

22 A Yes, she said that. No, I didn't testify to that
23 but that's what she told me.

24 Q Okay, all right. And you told her about the plea
25 agreement?

FW - D. PALMER - DIRECT

- 1 A Yes, I did.
- 2 Q Did she present your plea agreement, try to
3 present that in court as something that you were
4 entitled to?
- 5 A No, sir.
- 6 Q Okay. Let me ask you this 'cause, I'm sorry, you
7 haven't read the transcript, I understand that. Do
8 you know who Mr. Eric Willie Perry is?
- 9 A No, I wouldn't say I do.
- 10 Q Okay. Do you recall his name coming up in the
11 plea hearing before Judge Baxley?
- 12 A No.
- 13 Q You don't recall?
- 14 A I don't remember that name.
- 15 Q Let me ask you this, do you recall anybody from
16 the victim's family being in the courtroom at your
17 plea before Judge Baxley?
- 18 A Yes.
- 19 Q Okay. Do you recall any of them speaking to
20 Judge Baxley, addressing the Court?
- 21 A Yes.
- 22 Q Okay. Did you know who they were?
- 23 A I, I didn't know who they were. I was told who
24 they were.
- 25 Q Okay. Do you recall whether or not Mr. Redmond,

PW - D. PALMER - DIRECT

1 the prosecutor, stated that the plea agreement was
2 not gonna be adhered to because the victim objected,
3 victim's family?

4 A Family, yes.

5 Q Okay. Do you recall Mr. Redmond stating that
6 that probably was gonna be a surprise to you?

7 A Yes.

8 Q Despite — and was it a surprise to you?

9 A Oh, yeah.

10 Q Did you feel like you deserved to have the deal
11 that he reached with the state upheld?

12 A Yes.

13 Q But you did plead guilty to avoid going to trial
14 and facing life without parole?

15 A Yes.

16 Q All right. Are you asking the Court to reinstate
17 the plea agreement that was reached between you and
18 the State?

19 A No.

20 Q What are you asking for now?

21 A Vacate them.

22 Q Vacate them?

23 A I want to take my plea back.

24 Q Which pleas?

25 A Both of them.

PW - D. PALMER - DIRECT

1 Q The one from Marlboro and the Dillon?

2 A Yes.

3 Q Do you have defenses to all of those charges?

4 A Yes.

5 Q Okay. Let me ask you, I have included one other
6 thing that you gave me a copy of. Did you get a
7 letter, handwritten letter, from your nephew while
8 you were in jail?

9 A Yes.

10 Q Who is your nephew?

11 A Mikel R. James.

12 Q Is that a copy of the letter you received?

13 A Yes.

14 Q Where was he when he wrote the letter?

15 A He was home.

16 Q Are you Unc?

17 A Yes.

18 Q All right.

19 MR. BELDING: Your Honor, I'd ask that
20 having been authenticated by the witness that this
21 be introduced as Petitioner's Exhibit 4.

22 MS. RATIGAN: Can I take a look at it real
23 quick?

24 THE COURT: Sure.

25 MR. BELDING: I gave it to you.

PW - D. PALMER - DIRECT

1 MS. RATIGAN: Oh, is it in here? Okay.

2 Never mind, that's fine, Your Honor.

3 THE COURT: No objection.

4 (WHEREUPON, Petitioner Exhibit No. 4 was
5 marked for identification and received
6 into evidence.)

7 BY MR. BELDING:

8 Q And do you recall what's in that letter from your
9 nephew?

10 A Yep.

11 Q How do you pronounce his name? Is it Mikale,
12 Mikel?

13 A Mikel.

14 Q Mikel James?

15 A Yes.

16 Q Was he a co-defendant?

17 A Yes.

18 Q Okay. Was he ever prosecuted for any of these
19 crimes?

20 A Not to my knowledge, no..

21 Q Okay. Was it your understanding that he
22 basically turned State's evidence?

23 A Yes.

24 Q Did you discuss this with Ms. Crayton before
25 your plea to the murder charge in Marlboro?

FW - D. PALMER - CROSS

1 A That, no.

2 Q Okay. That letter, when was that letter written
3 to the best of your recollection?

4 A 2005.

5 Q Okay. In that letter does your nephew Mr. James
6 take some responsibility for what happened?

7 A Yes.

8 Q Okay. To your understanding was he supposed to
9 have been the State's key witness?

10 A Yes.

11 Q Okay. And could that letter have been used to
12 impeach his credibility?

13 A Yes.

14 MR. BELDING: Your Honor, no further
15 questions.

16 THE COURT: Okay.

17 MR. BELDING: Thank you, Mr. Palmer.

18 **CROSS-EXAMINATION**

19 BY MS. RATIGAN:

20 Q Just a few quick questions. So you told
21 Ms. Crayton about this deal you said you had for the
22 25 years?

23 A Yes, I did.

24 Q And then she called the State and the State said
25 there's no more deal?

PW - D. PALMER - CROSS

1 A She called Mr. Redmond, yes.

2 Q Okay. Did you tell Ms. Crayton to call Mr. Crow?

3 A No.

4 Q Why not?

5 A I didn't see no reason to call Mr. Crow.

6 Q You didn't think he could back you up and maybe
7 argue with the State for that 25 year deal?

8 A No.

9 Q Okay. Did you ask Mr. Crow to call Ms. Crayton?

10 A No, I had no contact with Mr. Crow.

11 Q Okay. Do you remember during the plea hearing
12 before Judge Baxley Mr. Redmond saying he had made
13 no representations. There are no representations
14 made in the Dillon case about the Marlboro charge?
15 Do you remember him saying that?

16 A No, I didn't.

17 Q Why didn't you bring up with the judge that you
18 thought that you were promised this 25 years?

19 A 'Cause if anything would have went wrong I had to
20 go to trial with Ms. Emily Crayton.

21 Q And you stated you only had one meeting with her
22 before the plea hearing?

23 A No, I met her two times, three times at the
24 county jail she came to see me.

25 Q And you told the judge that day you were

PW - D. PALMER - CROSS

1 satisfied with Ms. Crayton?

2 A That day, yes.

3 Q And were you telling the truth?

4 A Nope.

5 Q Why did you lie to the judge?

6 A Because if I told him anything other than what
7 they wanted to hear I would have had to go to trial
8 with Ms. Emily Crayton.

9 Q Did you try -- did you ever think about moving to
10 have her relieved as your attorney?

11 A No.

12 Q Why not?

13 A 'Cause I just had three attorneys in the course
14 of two-and-a-half months.

15 Q But why -- I mean, just because you had three
16 attorneys, clearly you filed motions to relieve, you
17 filed a motion to relieve Mr. Crow. Why didn't
18 you -- if you didn't like Ms. Crayton and you
19 weren't getting along why didn't you move to relieve
20 her as well?

21 A Well, the judge told me one time I can't keep
22 changing lawyers, or I have to defend myself.

23 Q So you went into the court that day and you lied?

24 A Yes, I did.

25 Q But you're being truthful today?

PW - D. PALMER - CROSS

1 A Yes, I am.

2 Q And you got this handwritten letter from your
3 nephew back in 2005?

4 A Yep.

5 Q Did you give that to Ms. Crayton?

6 A No.

7 Q Why not?

8 A She didn't need that.

9 Q Excuse me?

10 A She didn't need that.

11 Q Why?

12 A 'Cause she didn't know what was going on. She
13 didn't know ---

14 Q You didn't think that would help her understand
15 what's going on?

16 A Her primary focus was me taking 30 years.

17 Q She didn't need it because she was focused on the
18 guilty plea, is that what you're saying?

19 A Yes, that's what she was focused on.

20 Q Your testimony today is that this letter would
21 have been helpful because your nephew took some of
22 the blame?

23 A Yes.

24 Q So I don't understand if that would have helped
25 you why you didn't want to tell your lawyer about

PW - E. CRAYTON - DIRECT

1 it?

2 A Because she wasn't doing nothing but talking
3 about taking 30 years.

4 Q Okay. Did you ask your nephew to contact Ms.
5 Crayton?

6 A No, I didn't.

7 MS. RATIGAN: That's all I have, Your
8 Honor.

9 THE COURT: Okay.

10 MR. BELDING: No redirect, Your Honor.

11 THE COURT: You can step down.

12 MR. BELDING: Your Honor, if it please the
13 Court I'd like to call Ms. Emily Crayton to the
14 stand.

15 THE COURT: Okay.

16 WHEREUPON,

17 **EMILY CRAYTON,**

18 having been duly sworn by the Clerk of Court,
19 testified as follows:

20 MR. BELDING: May it please the Court,
21 Your Honor.

22 THE COURT: Yes, sir.

23 MR. BELDING: And Your Honor, the
24 transcript of the Marlboro plea was in the package
25 that was provided. Is that in evidence in this

PW - E. CRAYTON - DIRECT

1 case?

2 THE COURT: I have it in my packet.

3 MR. BELDING: Okay.

4 THE COURT: It was presented to me.

5 MR. BELDING: Okay.

6 BY MR. BELDING:

7 Q Ms. Crayton, where are you working now?

8 A I work for the 12th Circuit Solicitor's Office.

9 Q Okay, in Florence?

10 A Yes.

11 Q Okay. In 2010 where were you working?

12 A I worked for the 4th Circuit Public Defender's
13 Office.

14 Q Where was your office?

15 A I — originally my office was in Dillon County.
16 I spent about a year there and then moved to
17 Darlington County; but I had cases in all four
18 counties, Dillon, Darlington, Marlboro, and
19 Chesterfield.

20 Q I understand. Do you recall the case involving
21 Dexter Jerome Palmer?

22 A Yes.

23 Q Do you recall when you were appointed or assigned
24 to represent him in the case in Marlboro County?

25 A Our office was assigned to represent him. He was

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1 added into our system on October 13th of 2009. I
2 was not personally assigned at that time. I was
3 assigned November 10th of 2010.

4 Q November of 2010, November 10th?

5 A Yes.

6 Q Okay. Briefly, do you — did you ever work with
7 Dan Blake?

8 A He was never a public defender when I was a
9 public defender.

10 Q Okay.

11 A He is a private attorney and I have worked with
12 him, but I was never a public defender when he was.

13 Q Was he ever the public defender in Marlboro
14 County to your knowledge?

15 A He was a public defender in Marlboro, yes.

16 Q Okay.

17 A For a brief, well, for a long period of time when
18 the circuits were separated, when the counties were
19 separated and they each had a Public Defender's
20 Office, and then we went to the circuit system and I
21 think shortly after that he no longer works with the
22 Public Defender's office.

23 Q Okay. In 2007 who was the chief public defender?
24 Was there such a position in Marlboro County, a
25 chief public defender?

FW - E. CRAYTON - DIRECT

1 A I have no idea, I was still in law school.

2 Q Okay. And when did you get admitted to the bar?

3 A In 2009.

4 Q Okay. Was this your first real job after law
5 school?

6 A I had a brief job in Charleston working with an
7 attorney in criminal law and then I came to work for
8 the Public Defender's Office.

9 Q Okay. And when did you start working the Public
10 Defender's Office?

11 A It was December of 2009.

12 Q Okay. Now 11 months later in November of 2010
13 you were assigned the Dexter Jerome Palmer case?

14 A That would be right.

15 Q Okay. And the testimony that we've heard so far
16 is that you met with him two to three times in the
17 county jail. Is that square with your notes?

18 A I can tell you exactly if you'd like. He was
19 brought to the detention center around the 30th of
20 November, 2010. And at that time the warden of the
21 jail called me and said that he was requesting to go
22 back to prison and that he didn't want to speak to
23 anyone. On that same day once receiving that phone
24 call, I rushed to the jail to speak to him and
25 didn't want him getting anymore upset. At that

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1 point I had already reviewed the file. Once a case
2 is assigned to me in the office I would immediately
3 review the file. And although we cannot always go
4 to the prison to talk to those clients, he was
5 brought back and I spoke with him. At that point he
6 did say that he would like a continuance, and he
7 also said that he'd like a copy of his Rule 5
8 because his copy was in his cell and at SCDC.

9 At that point I told him that the State
10 was proceeding with a trial. I told him when that
11 trial would be, and he asked me to inform his
12 mother. That's on November 30th. I came back and
13 met with him, it looks like December 1st which was a
14 Wednesday. I brought — I brought back Will Grove
15 who was also public defender who was going to be
16 second chair on that case. At this point the —
17 there wasn't an offer from the State. There was a
18 25 year offer at one point. Mr. Palmer rejected
19 that offer and the case was set for trial so —

20 Q Let me ask you about that before I forget.

21 A Okay.

22 Q Did you know about the Dillon plea when you were
23 representing him prior to December 10th of 2006?

24 A I knew there was, there were — I knew Mr. Palmer
25 was serving time for an armed robbery that he

PW - E. CRAYTON - DIRECT

1 received 25 year sentence.

2 Q Okay.

3 A I knew that there was a plea offer for a 25 years
4 concurrent that Mr. Palmer refused to take. That
5 was my knowledge of that situation. I was not
6 involved in 2005 obviously.

7 Q And I said the date wrong. The date of the plea
8 was December 6th, 2010, not December 10, 2006; but
9 in December 6th of 2010 when you appeared in front
10 of Judge Baxley, you didn't have the case just under
11 a month, correct?

12 A About, yeah.

13 Q Did Mr. Palmer discuss with you his, quote, deal
14 unquote, with the State?

15 A He — it's my understanding he rejected the plea
16 offer that was given. The 25 years, he rejected it,
17 so at that point the State sought life without
18 parole and we moved forward planning for his trial.

19 Q Who — did Mr. Palmer tell you that he had
20 rejected it?

21 A Yes, he rejected it.

22 Q Okay. Those words came from his mouth?

23 A I mean, he didn't say the word rejected; I don't
24 believe he would use that term. But he said he
25 wasn't taking a deal. So at that point we were

PW - E. CRAYTON - DIRECT

1 moving forward with trial.

2 Q And —

3 A Um—

4 Q Go ahead.

5 A So I met with him —

6 Q Go ahead.

7 THE COURT: Can I ask a question? Who
8 told him about the deal? Did you tell him about the
9 25 years?

10 THE WITNESS: I believe Mr. Stevens
11 originally told him about the 25 year offer which he
12 rejected; but when I came on to the case he didn't
13 want a deal, period. He wanted — we were moving
14 forward with trial.

15 THE COURT: And how did you find out it
16 was Mr. Stevens who told him about the 25 years?

17 THE WITNESS: As I explained earlier in
18 the week, Judge, all of our notes are in defender
19 data. That's a system where everyone accesses in
20 our office. So if I have a — if I file a note on
21 the case I, as the next attorney, can see what the
22 previous attorney did so if we ever have to shift to
23 another person —

24 THE COURT: Okay. So his prior attorney,
25 he had discussion about the 25 year deal and he

PW - E. CRAYTON - DIRECT

1 rejected it?

2 THE WITNESS: And he rejected it.

3 THE COURT: Okay.

4 BY MR. BELDING:

5 Q And that testimony following up, Judge, if I
6 might, that is coming from the notes in your office,
7 correct?

8 A Uh-huh.

9 Q All right.

10 A Yes.

11 Q So you wanted to finish your recitation of the
12 times you met with him. Go ahead.

13 A I met with him Wednesday, December 1st, with
14 Mr. Grove who was going to be my second chair on the
15 trial. I spoke to the defendant about -- I did at
16 that point already reviewed his evidence. I brought
17 him his copy of his Rule 5 that he requested. We
18 went over all the Rule 5, all the evidence. We
19 spoke about -- I even put in here the weaknesses and
20 the strengths of his case. We reviewed the current
21 plea offer, and I spoke to the client. He wanted to
22 counteroffer. I believe the offer at that time was
23 the 30 years, and I spoke to Mr. Palmer about that.
24 He rejected that offer and we made a counteroffer to
25 the Solicitor's office to Mr. Redmond. Later that

PW - E. CRAYTON - DIRECT

1 day Mr. Redmond rejected that counteroffer.

2 Q Do you recall what the counteroffer was?

3 A I don't remember. I think it was much lower. It
4 seems like it was 20 years, but I don't remember.

5 Q So it wouldn't have been a counteroffer of a plea
6 to murder to get 20 years 'cause you can't do that,
7 correct?

8 A No, it was a counter -- he wanted a counter to
9 something lower.

10 Q So would it had to have been to a manslaughter?

11 A Yes, sir.

12 Q Okay.

13 A Anything below 30 years.

14 Q Got you.

15 A And then I met again on Thursday, the next day, I
16 met December 2nd. I brought Mr. Grove again. I
17 explained that the Solicitor had rejected his
18 counteroffer, and at that point Mr. Palmer stated he
19 would like to take the Solicitor's offer of the 30
20 years, and but that he wanted it -- he wanted the
21 plea done the next day which was Friday. And he
22 said that was what he wanted do. At that point I
23 got on the telephone. I was trying to find
24 somewhere where court was still going on.

25 Mr. Redmond and I were speaking, we were trying to

FW - E. CRAYTON - DIRECT

1 find out if anybody had ended court in the circuit,
2 if we could take Mr. Palmer somewhere to plead him
3 the next day. I believe that one of the judges was
4 in one of the counties, but that he had already
5 signed off for the week so we couldn't bring him
6 there. I spoke with — we then traveled on Friday.
7 We couldn't find a judge. We spoke to Mr. Palmer
8 again and also Mr. Grove. We talked about an
9 alternative resolution. Mr. Palmer really disliked
10 the Marlboro County jail. They have — they're in
11 their prison cell a lot longer than what they are at
12 SCDC so he really disliked that so he requested —
13 what we had arranged was for him to be transported
14 back to Lee County Correctional or Lee Correctional
15 Institution for the weekend and to be brought back
16 for his plea on Monday, and that was sort of part of
17 his plea negotiations. That was how he wanted to
18 plea. So we did that on Friday. I spoke with him.
19 He signed his sentencing sheet and indicated he did
20 want to plead guilty. I explained his rights and
21 his right to a jury trial. I asked him if he had
22 any questions. We went over all of his rights.
23 That's actually in my notes as well. And I also
24 got — spoke to him about his mitigating factors
25 that he'd like for me to talk to the judge about; we

PW - E. CRAYTON - DIRECT

1 went through all of that as well. And then he was
2 shipped back to SCDC. He returned the following
3 Monday and he pled guilty.

4 Q And that would have been December 6th?

5 A Yes. That would have been the following Monday.

6 Q And that took place where?

7 A In Marlboro, not Darlington.

8 Q We were in Marlboro County Courthouse?

9 A We were in the Marlboro County Courthouse, yes.

10 Q All right. Now you were present at that hearing,
11 correct?

12 A Yes.

13 Q Okay. Have you seen a transcript of that
14 hearing?

15 A I was provided a transcript.

16 Q Okay. If you wouldn't mind turning to page 15 of
17 the transcript of the Marlboro -- from here on we're
18 in the Marlboro plea.

19 A Yes.

20 Q Mr. Redmond is addressing the Court. You will
21 see that in lines 7 through 9 that Mr. Redmond
22 apologizes to the family for waiting almost six
23 years to finally find justice.

24 A Yes, I do see that.

25 Q Do you recall him saying that?

PW - E. CRAYTON - DIRECT

1 A I remember him saying something like that. I
2 mean, I don't remember the exact words; but yes, I
3 remember him saying something like that.

4 Q Do you recall the State's attorney Mr. Redmond
5 admitting that there were complications in trying
6 the murder case?

7 A Yes.

8 Q Okay. Looking again on page 15, lines 12 through
9 15, doesn't Mr. Redmond state that there were gonna
10 be complications?

11 A Yes.

12 Q Okay. What do you recall the complications
13 being?

14 A It's, I mean, there are numerous complications
15 with trying a murder case after six years. People
16 have moved on. Witnesses are harder to locate and
17 investigators have moved on to a different Sheriff's
18 Department or wherever. Dexter Palmer and I went
19 all, over all this when we did — when he this the
20 decision to plea. As I said in my notes we talked
21 about the weaknesses, we talked about the strengths.

22 Q So what your testimony is, if I understand it, is
23 that he rejected a voluntary manslaughter plea to
24 25?

25 A Yes, he did.

PW - E. CRAYTON - DIRECT

1 Q To turn around within a month and plead guilty to
2 murder for 30 day for day.

3 A I don't know that it was in a month. I'll have
4 to look back at — in August he rejected that plea.
5 He rejected it August 30th, 2010. That's when he
6 rejected the 25 year plea.

7 Q So it was the next month that he got the LWOP
8 notice, correct, September?

9 A Yes. And then almost exactly a month later —
10 well, I don't know that, but it was added to our
11 file about a month later. I would have to look at
12 the document to tell you exactly; but, yes, he was
13 given the notice for to be LWOP'd at that time.
14 After that plea offer was rejected our office began
15 preparing for trial. After he rejected that plea
16 offer and there was LWOP we assumed that we would be
17 going forward with a trial.

18 Q But all this time you really had no idea of what
19 happened in Dillon, correct?

20 A I knew, as I stated, that he received a 25 year
21 sentence on an armed robbery and that he was
22 rejecting a concurrent offer; I knew that.

23 Q Okay. Do you recall — have you had a chance to
24 look over this transcript of the plea hearing?

25 A I have briefly, yes.

FW - E. CRAYTON - DIRECT

1 Q Okay. Do you recall anywhere during that plea
2 the assistant solicitor, Mr. Redmond, telling the
3 Court that the defendant, Mr. Palmer, had rejected a
4 plea offer?

5 A I don't remember; I know it was set for trial.

6 Q Okay. In addition to — in fact, I can't find
7 one either I'll just represent to you; I didn't see
8 that. What I do see is a, he's admitted there were
9 complications as you've agreed, correct? That — I
10 want you to turn to page 17 of the transcript in
11 Marlboro.

12 A Yes, okay.

13 Q And ask if you recall this, go to line 15.

14 A Okay.

15 Q You recall Mr. Redmond stating in line 17, this
16 was a case that I was negotiating from the
17 standpoint of a manslaughter based upon some of the
18 issues that I have addressed with the Court. And
19 Mr. Perry made a trip from New York a couple of
20 months ago and met with me in Dillon. Do you know
21 who Mr. Perry was?

22 A I believe he was one of the family members of the
23 victim.

24 Q Do you know whether or not he was the father?

25 A Sounds right, but I couldn't tell you for

PW - E. CRAYTON - DIRECT

- 1 certain.
- 2 Q Okay.
- 3 A I think it says somewhere in the transcript.
- 4 Q Okay. He is ultimately, I believe, identified
- 5 later in the transcript on page 20.
- 6 A Yes, he is.
- 7 Q As Eric Willie Perry?
- 8 A Yes.
- 9 Q Same person?
- 10 A I would assume so, yes.
- 11 Q And on line 21 on that page he refers to the
- 12 deceased as his son, okay?
- 13 A Correct.
- 14 Q Do you recall Mr. Redmond telling the Court
- 15 that — and I'm referring to page 18 now, Ms.
- 16 Crayton, on line 6 and 7. Do you recall Mr. Redmond
- 17 stating to the Court, "And I'm sure Mr. Palmer was
- 18 somewhat shocked when all of a sudden it, when it
- 19 all of a sudden changed." Do you know what
- 20 Mr. Redmond was referring to there?
- 21 A I'm sure he was referring to the plea offer.
- 22 Q Why would Mr. Palmer have been shocked if he had
- 23 rejected the offer?
- 24 A I'm not sure. That's a normal procedure. If you
- 25 reject an offer and the State prepares for trial; at

PW - E. CRAYTON - DIRECT

1 that point that offer is no longer available and it
2 is often the case that those offers go up. That's
3 normal procedure.

4 Q And I'm just — actually, I don't expect you to
5 be in the head of Mr. Redmond or to make any kind of
6 assumptions, but I'm trying to square what we're
7 hearing here today with what's written down in this
8 transcript. On page 18 and line 4 Mr. Redmond tells
9 the Court, "I really do that as much for their
10 benefit," meaning the Public Defender's Office,
11 "because we had been discussing that particular type
12 of sentence." And he's going back to the 25
13 manslaughter. "And I'm sure Mr. Palmer was
14 somewhat shocked when it all of a sudden changed."

15 A Well, it did go from one extreme. It went from a
16 25 year to a life so that was probably a sudden
17 change for Mr. Palmer; but once you reject a plea
18 offer it's no longer available and the Solicitor's
19 Office has a right to do whatever they like. If
20 they wanted to go forward with a trial that would
21 have been their right given the fact that he did
22 reject the plea offer.

23 Q And yet, though, Ms. Crayton, doesn't Mr. Redmond
24 right after that tell the Court that that wasn't
25 what changed. Look at line 9. Didn't Mr. Redmond

FW - E. CRAYTON - DIRECT

1 tell the Court, "But quite frankly, if Mr. Perry was
2 where my mind was changed, and we talked about this,
3 and we agreed that I would make this offer 'cause at
4 least, one, he is pleading to murder; and two, he's
5 gonna have to do day for day for murder. That was
6 his discussion with Mr. Perry, the father?

7 A Yes, I think — I think — and I'd have to ask
8 Mr. Redmond who is here to testify but, and I don't
9 know what he was exactly referring to; but I think
10 Mr. Perry wanted a life sentence. I know that it
11 appears in the plea that the mother, the mother of
12 the victim, was very moving during this plea and I
13 was actually very worried that Judge Baxley would
14 not go along with the recommendation because she was
15 very moving. I know she wanted more time than what
16 was offered as victim's families often do.

17 MR. BELDING: Your Honor, I was, I was not
18 aware Mr. Redmond was in the courtroom. I just want
19 to ask Ms. Crayton a couple of more questions, then
20 I'd like to call Mr. Redmond.

21 THE COURT: Okay.

22 MR. BELDING: Instead of asking her to
23 assume what Mr. Redmond since he's here.

24 THE COURT: All right.

25 BY MR. BELDING:

FW - E. CRAYTON - DIRECT

1 Q Ms. Crayton, you stated a few minutes ago that
2 you talked about the mitigating factors —

3 A Yes.

4 Q —in this case for Mr. Palmer?

5 A We did discuss them, yes.

6 Q I want you to turn to page 19 please.

7 A Okay.

8 Q Beginning on line 10.

9 A Okay.

10 Q You've got 9 lines in the transcript where you
11 speak up for Mr. Palmer. Were these the mitigating
12 factors you were referring to?

13 A Yes, these are some things that he wanted me to
14 mention on his behalf, yes.

15 Q Okay. So there weren't any — when you were
16 talking about mitigation you weren't talking about
17 things that would decrease his culpability or
18 anything like that. You're talking about the fact
19 that he's 42 years old and only has an eleventh
20 grade education?

21 A I don't, I don't believe there were anything, any
22 mitigating factors as terms that you're talking
23 about.

24 Q Okay. Mitigating was that he was 42 and grew up
25 in New York and things like that?

FW - E. CRAYTON - DIRECT

1 A Things about him that might help the judge go
2 along with the recommendation which he did.

3 Q Okay.

4 A I was fearful he wouldn't given the emotion that
5 the mother brought and the fact that she was there.
6 Oftentimes when there are victims that are extremely
7 moving and such as in this case the judges tend to
8 sometimes go above recommendations or those type of
9 things.

10 Q If — did you think you had a negotiated plea
11 agreement with the State in this case?

12 A No, I did not.

13 Q So there was no deal about the 30 years for the
14 plea to murder?

15 A There was a recommendation.

16 Q Okay. So the judge was free to do whatever?

17 A Yes, Judge Baxley doesn't accept negotiated
18 pleas.

19 Q Okay.

20 MR. BELDING: Thank your, Your Honor, no
21 further questions.

22 THE COURT: Okay.

23 **CROSS-EXAMINATION**

24 MS. RATIGAN: So your testimony is that
25 you would have reviewed the evidence with Mr. Palmer

PW - E. CRAYTON - CROSS

1 several times?

2 A We re— if I can refer to my notes. Initially I
3 reviewed the evidence without him present when I
4 first received the file, and then we went over —
5 the first day I did not speak to him about his Rule
6 5, the evidence. It was a situation where I got in
7 my car quickly and went over there because he was
8 very upset. But December 1st would have been when I
9 went over, I brought back his Rule 5 like he had
10 asked, went over it with him, and we did that on
11 that day and then it looks like we went back on the
12 Thursday and went over it as well.

13 Q And would you also review with him the elements
14 of the charge?

15 A Yes, of course.

16 Q And the sentencing range?

17 A Yes, of course.

18 Q And his version of what had happened that day?

19 A Yes.

20 Q And did you review with Mr. Palmer the fact that
21 both he and his co-defendant had given a statement?

22 A Yes.

23 Q Would you have reviewed with him the impact that
24 the statements would have on your ability to defend
25 him?

FW - E. CRAYTON - CROSS

1 A Yes, that would have been -- we went over that in
2 terms of the strengths and the weaknesses of his
3 case.

4 Q Did Mr. Palmer ever ask you to contact his
5 co-defendant, otherwise known as his nephew?

6 A No, he did not, and at that point I believe his
7 nephew had already signed an agreement to testify
8 against him at trial, and I believe that was part of
9 the Rule 5.

10 Q Did Mr. Palmer ever tell you to contact Mr. Crow?

11 A No, and I was unaware that Mr. Crow was his
12 attorney until today.

13 Q And Mr. Palmer testified this case was noticed
14 for trial in December. Is that accurate? Maybe a
15 week after he pled?

16 A Can you say that again, I'm sorry.

17 Q I believe he said the case was noticed for trial
18 the week after he pled guilty. Does that sound
19 about right?

20 A Oh, I'm sorry, I misunderstood. We were, we were
21 noticed of trial. We were given notice prior to
22 that.

23 Q Right.

24 A But I think it was gonna be a week or a few
25 weeks. I don't remember exactly when it was gonna

PW - E. CRAYTON - CROSS

1 be tried; but yes, we were given notice of time
2 before that but I think it was gonna be a week or
3 two after.

4 Q Okay.

5 A After when he pled.

6 Q And obviously hindsight is 20/20 but were you
7 prepared for the plea hearing that day, were you
8 ready to go?

9 A Yes, absolutely. We spoke on Friday; we had
10 already signed the plea. We'd gone over all his
11 rights, anything that he wanted me to say to the
12 judge, what the victim's family might say, so we
13 were absolutely prepared going forward Monday
14 morning.

15 Q Okay. And just to make sure the record is clear,
16 that 25 year offer, he had rejected that prior to
17 you ever getting on the case?

18 A Yes, he did.

19 MS. RATIGAN: That's all I have, Your
20 Honor.

21 THE COURT: Okay.

22 MR. BELDING: No redirect, Your Honor.

23 THE COURT: Thank you.

24 MS. RATIGAN: We ask Ms. Crayton be
25 excused.

PW - K. REDMOND - DIRECT

1 MR. BELDING: Without objection, Your
2 Honor.

3 THE COURT: You're excused, thank you.

4 MR. BELDING: Your Honor, at this time I'd
5 like to call Mr. Kernard Redmond to the stand.

6 THE COURT: All right, Mr. Redmond, come
7 around please, sir. Place your hand on that Gideon
8 Bible.

9 WHEREUPON,

10 KERNARD E. REDMOND,
11 having been duly sworn by the Clerk of Court,
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. BELDING:

15 Q Please state your full name for the record.

16 A Kernard Edward Redmond.

17 Q Kernard Redmond. All right, I've already
18 mispronounced it a couple of times. I'm gonna refer
19 to you as Mr. Redmond, all right?

20 A That's fine.

21 Q And your position right now is?

22 A Now I'm deputy solicitor for the 4th Circuit.

23 Q Okay. And where do you have your office?

24 A My main office is Chesterfield, but I'm also
25 technically responsible for Dillon even though I

PW - K. REDMOND - DIRECT

1 spend most of my time in Chesterfield. I also work
2 in Marlboro County, do a little bit in Darlington
3 from time to time.

4 Q Okay. Do you recall the case of Dexter Jerome
5 Palmer?

6 A Absolutely, I do.

7 Q And didn't you handle it for the 4th Circuit
8 Solicitor's Office in both Dillon and Marlboro?

9 A That is correct, I did.

10 Q And was the plea in Marlboro, did it take place
11 in Marlboro County courthouse?

12 A Best of my recollection when you say Marlboro
13 plea on the murder charge —

14 Q Right.

15 A —best of my recollection it did.

16 Q Okay. All right, do you — have you been here
17 the whole day?

18 A I have actually. I was here since the initiation
19 of these proceedings.

20 Q Okay. Do you recall stating to — I'm going back
21 to Dillon now.

22 A Yes.

23 Q You recall telling Judge Lockemy that y'all had a
24 deal for him to plead to voluntary manslaughter in
25 Marlboro based upon his substantial cooperation with

PW - K. REDMOND - DIRECT

1 law enforcement?

2 A Yes, I recall that vividly. If I can explain how
3 that came about I'm sure Mr. Palmer would remember
4 this -- whether he'd admit it or not I'm not sure --
5 but Mr. Crow, the reason that was done and I think
6 that's important to put it in context, was because
7 at the time Mr. Palmer did not want to plea to that
8 charge. And really I did that to help Mr. Crow out
9 because I was hoping -- basically what we're saying
10 is, you got these two armed robberies in Dillon that
11 he pled to, and I think in that one a clerk was one
12 of the ones that got shot. He pled to those. We
13 were saying we'll run the voluntary manslaughter
14 concurrent with what he's already pled to, wouldn't
15 have served another day. He would not do it. As a
16 matter of fact, I remember vividly meeting with
17 him -- I can't remember whether it was right before
18 the plea in Dillon or afterwards -- but we met at
19 the Marlboro County Detention Center to discuss,
20 Mr. Crow and I with the defendant, trying to get him
21 to plead to all of the charges, get them all wrapped
22 up. He would not plead to the murder, i.e.,
23 manslaughter charge. So we, in essence, when we did
24 that when we're talking about cooperating and things
25 like that, we were hoping that he would get it and

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1 just agree to run it concurrent. And at that time
2 we talked about Mr. Perry. I had not talked with
3 Mr. Perry because he was in New York. I had talked
4 with the local family, would have been fine. He
5 didn't want to do it. I can get into his, the
6 questions preceding, that was not the only time we
7 had the discussion with the defendant trying to get
8 him to plead guilty and I think that's important
9 from a context standpoint. Like I said, I remember
10 this vividly because I remember Mr. Palmer. I
11 remember meeting with him initially out at the jail
12 in Bennettsville.

13 Q Okay. So I think I un-- I'm trying to follow
14 what you were saying.

15 A Uh-huh. I guess --

16 Q You're saying that he agreed to plead to the
17 Dillon charges with the kidnapping being nol
18 prossed, plead to all those, get 25 years, leaving
19 the voluntary manslaughter pending in Marlboro so he
20 could help law enforcement and then plead to get 25
21 but he wouldn't do it that day all together?

22 A He wouldn't do it that day. He didn't do it when
23 he was brought back before. I believe that was
24 during the time that Mr. Crow got relieved. He
25 wouldn't do it. And again, I can get into this in

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1 accordance with your question, but the theme is
2 going to be consistent. He would not plead to the
3 manslaughter. I had even left the manslaughter open
4 after I served him with the notice of intent to seek
5 life without -- the LWOP request, life without
6 parole. We brought him back the month before to try
7 to get him to talk to him and plead. As a matter of
8 fact, I remember Mr. Stevens talking with him and
9 even the day we brought him back for the LWOP. One
10 of the things -- I had the forms prepared, and you
11 know, we were hoping he'd go ahead and plead at that
12 time to the 25 years concurrent. He would not do
13 it. So then I served him with the LWOP, and that is
14 a tactic I've used before. If they don't plead, set
15 it for trial, serve them with the LWOP, but I had
16 given him that opportunity again so that's at least
17 the third time that I can specifically recall having
18 a discussion trying to get him to go ahead and plead
19 to the 25 years on manslaughter. And the reason
20 that I said it would be a surprise to him because
21 even up to that time I talked with Ms. Crayton and
22 everybody that I talked with with the Public
23 Defender's office, at that time my goal was to get
24 him to plead to the charge; it was six years old. I
25 knew that there were some issues. There were a

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1 couple of witnesses I could not find. I did have
2 the nephew. As a matter of fact, I went to
3 Charlotte twice, once with our office investigator,
4 and met with him at the Idle while on Independence,
5 McDonalds, which has now since been torn down. Met
6 with the witness there, with the nephew, met with
7 him twice and discussed it so I knew he would be
8 available for time. He was served with this
9 subpoena; he was available for trial.

10 There were a couple of witnesses that I
11 think that's at the Star Motel that we would have
12 had available; but then there were a couple of
13 witnesses that were not, we could not locate, that
14 wouldn't have been available. So that's why, you
15 know, from my standpoint I think we would have
16 gotten a conviction. I think we could have gotten a
17 conviction, but the case was not as strong as it
18 would have been previously obviously. So with all
19 that said, we — I had left it open even after I
20 served the LWOP. Well, subsequently Mr. Perry calls
21 me and ends up coming down from New York. I think
22 he's a retired city or state employee from New York,
23 and I think he worked with Corrections up there.
24 And he and I had a heart to heart. And let's say he
25 wasn't too thrilled with me and the folks locally

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1 who were willing to go along with this. And so in
2 talking with him and since we had given them all of
3 these chances I informed the Public Defender's
4 Office that, you know, I'd have to — it would be
5 murder, you know, 30 years on murder. I don't think
6 he was even thrilled with that; but given the
7 circumstances, I was at least willing to do that and
8 —

9 Q He being Mr. Perry?

10 A Mr. Perry, I don't think he'd be thrilled. And
11 the reason I say it would be a surprise to
12 Mr. Palmer because for six years I had pretty
13 much — and anybody who knows me knows that I don't
14 usually do that, but I had pretty much kept going
15 back to what I had originally offered even though,
16 you know, he had rejected it specifically three to
17 four times that I can specifically recall, but I did
18 it to try to get the case moved. And you know, it
19 finally got to that point where we were a week from
20 trial, after talking to Mr. Perry the decision was
21 made that we would just stick with murder and so
22 that's how it came about.

23 Q Let me — I think I understand, but let me just
24 ask a couple of questions.

25 A Oh, sure, absolutely.

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1 Q First of all, so it was clear in your mind after
2 Dillon that you had some kind of a deal for 25
3 voluntary manslaughter in Marlboro?

4 A And I guess that's the irony. We're calling it a
5 deal which in my mind, yeah, even though we couldn't
6 get him to take it. It was one of those things
7 where we were leaving it out there for him and he
8 would not take it.

9 Q Well, except that the Dillon — have you seen the
10 Dillon transcript?

11 A I did; I saw it.

12 Q And the Dillon transcript pretty clearly talks
13 about, here's the deal Judge?

14 A Exactly.

15 Q Judge Lockemy seemed to have a lot of trouble
16 with it because it wasn't written down, he hadn't
17 given you a statement.

18 A And that's one of the reasons why I got to the
19 details that we did as it relates to the deal,
20 again, trying to be fair to Mr. Crow and the
21 defendant letting them know this is what I'm willing
22 to do.

23 Q Contractually though, Mr. Redmond, if you want to
24 look at it like that—

25 A Uh-huh.

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1 Q —here's the deal, you plead guilty to all this
2 Dillon stuff —

3 A Uh-huh.

4 Q —and you cooperate with law enforcement, we're
5 gonna give you 25 years on the voluntary
6 manslaughter?

7 A But here's the key part in this that you're
8 missing, it's basic contract law. I can't make him
9 accept the deal. He never accepted it. If you're
10 going to accept the deal how many chances was he
11 brought back that he could have just pled to the 25
12 years, and now he's here saying I want the 25 years.
13 He had several opportunities — and he knows this.
14 And he had several opportunities. He was brought
15 back between here, Dillon, Marlboro County, had the
16 opportunity. If that's the case just from a
17 deductive reasoning standpoint, why didn't he just
18 go ahead and plead all those times we brought him
19 back. And the answer is simple, Your Honor, with
20 God as my witness, he wouldn't do it and it's that
21 simple.

22 Q Can you tell us then very succinctly —

23 A Yes.

24 Q —why that never came up in the plea in front of
25 Judge Baxley in Marlboro?

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1 A Well, in all honesty, at that point my main
2 concern with the victim's family there because
3 again, we had gone — and here's the thing, at that
4 time, and this is the irony of it now, Mr. Palmer
5 actually and you remember, I shook his hand. He
6 actually shook my hand afterwards and thanked me.
7 And we actually, for a defendant and a prosecutor,
8 you know, left on what I thought would be amicable
9 terms in that regard. But to answer your question
10 directly, when he was — when we were going through
11 that part of the transcript, and I'm just being
12 honest, I wasn't necessarily even trying to bury him
13 then. We were recommending 30. I wasn't
14 necessarily trying to do anything to get the judge
15 not to go along with the recommendation in all
16 candor so I didn't get into all the aspects of what
17 had transpired because we had — I had said I'd do
18 30, I was recommending 30; and quite frankly, yes, I
19 wanted the judge to go along with the 30 because we
20 were only a week out from trial. I'd already
21 subpoenaed these witnesses, had made two trips to
22 Charlotte, was not looking to making another trip,
23 and hopefully we all felt that, you know, this would
24 be a fair resolution so that's why I did not get
25 into a lot of things in that particular, at that

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1 particular time.

2 Q You'd agree then if all you had was the Dillon
3 and the Marlboro plea transcripts there's nothing
4 mentioned in here about him rejecting the plea?

5 A I absolutely agree with that; that's right.

6 Q That it sounds like you changed your mind because
7 you met with the victim's family, particularly Mr.
8 Perry?

9 A And I actually understand that.

10 Q And I mean, 'cause that's what it says; isn't it?

11 A And I understand that completely and that's why,
12 you know, unfortunately, can we look back and say,
13 yes, some things should have been said in there,
14 absolutely. But when you look at the context of
15 what happened and especially the times we brought
16 him back, I think it would come clear that, no, it
17 wasn't just like, oh well, he wants 25 years, we
18 wouldn't give it to him, 'cause we kept bringing him
19 back and back and back to try to get the case
20 resolved.

21 Q So you kept bringing him back and back and back
22 to try to get a voluntary manslaughter plea to 25 to
23 run concurrent with the other?

24 A Absolutely, he wouldn't take it.

25 Q And ultimately he decides to take a murder 30 day

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1 for day and shook your hand and said thank you?

2 A Well, in essence that's exactly what happened

3 because, again, that week beforehand when we were

4 leading up to it, talking about the week before the

5 plea when we were getting prepared for trial or

6 whatnot, that's when I had the meeting. And at that

7 point, since he'd already, keep in mind,

8 specifically rejected the 25 years at least three

9 times that I can count, at that point I informed

10 them that I could not do 25 years on manslaughter.

11 And I do recall the discussion and it was, in fact,

12 20. They made a counteroffer to try to get me to

13 20, couldn't do that; and again, in the interim

14 talking with Mr. Perry who was from New York, the

15 victim's father. And yes, that was true based on my

16 discussion with him my decision was he either pleads

17 to 30 years or murder or I take my chance at trial.

18 And he decided, which is his right, to take the 30

19 years on murder. So I cannot get in his head and

20 explain why he finally got it a little bit too late,

21 but we had been bringing him back trying to get this

22 case resolved. And in all honesty, had that been

23 done before the father got involved, we wouldn't

24 even be here having this discussion.

25 Q I understand.

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1 MR. BELDING: Your Honor, can I beg the
2 Court's indulgence just for a moment.

3 THE COURT: Page 17 line 24 of the
4 transcript in front of Judge Baxley. "If he had
5 gone along with the previous negotiation for
6 manslaughter even though those were done all in the
7 same context where we were negotiating the case in
8 Dillon." He kind of implies that, that he didn't —
9 your client didn't go along with that.

10 MR. BELDING: Yeah, it's a little oblique.

11 THE COURT: I understand — he's made it a
12 whole lot clearer here than it is in these two.

13 MR. BELDING: If all you have is the
14 transcript it looks pretty clear that the victim
15 changed his mind and he reneged on a deal.

16 THE COURT: I understand.

17 MR. BELDING: Beg the Court's indulgence
18 one moment.

19 THE COURT: Certainly.

20 MR. BELDING: Briefly, Your Honor.

21 BY MR. BELDING:

22 Q Mr. Redmond, do you recall Mr. Palmer coming back
23 to court somewhere in this circuit in October of
24 2010 after you served him with the LWOP notice?

25 A After October or in October?

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1 Q Let's say in October. Do you recall him coming
2 back to court after the LWOP notice where you tried
3 to get him to take the 25 voluntary manslaughter?

4 A I mean, I don't specif-- I remember bringing him
5 back. I remember the LWOP notice after him being
6 brought back once, bringing him back for the LWOP.
7 And then the only other time I remember bringing him
8 back so that the defense could have an opportunity
9 to get with him in SCDC so I can't specifically, on
10 that date I can't specifically say.

11 Q Okay. Did Mr. Palmer ever consent after your
12 LWOP notice to plead to voluntary manslaughter in
13 exchange for 25?

14 A Not to me he didn't. I can tell you that for
15 sure not to me because I would not have spent the
16 time. I mean, I'm just being honest with you. I
17 would have loved to have had this case resolved with
18 the 25 years. I would not have gone to Charlotte
19 twice and gone to Dillon talking with some witnesses
20 over there and preparing the case for trial. So no,
21 I can tell you he never indicated to me that he
22 would take the 25 years.

23 Q What took five years?

24 A Well, because it's kind of come out today. There
25 were several lawyers. I remember it starting with:

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1 Mr. Crow. And then Ms. Crayton is right, after
2 Mr. Crow, Ronnie -- Dan Blake became the Chief
3 Public Defender for Marlboro County before the
4 circuit public defender system came into place. And
5 then after that, after Mr. Blake is when the circuit
6 public defender system came into place. And so and
7 then even with that there were several attorneys
8 that were involved on the defense side, and as a
9 prosecutor that can somewhat cause a delay in cases
10 and so that was really the primary reason because,
11 again, during those times we were trying to go get
12 him to plead.

13 Q Okay. So even the two years after the Dillon
14 plea up to 2007, before Mr. Crow was relieved by
15 Judge Burch, it's your testimony that the problem
16 was is that Mr. Palmer wouldn't take a voluntary
17 manslaughter plea?

18 A Absolutely. As a matter of fact, and as sure as
19 I'm sitting here I recall going to the jail in
20 Marlboro. And again, I can't swear to whether it
21 was before, right before or right after the plea in
22 Dillon, but from the very beginning we could not get
23 him to go along with the concurrent plea. I can't
24 get into his head and say why he wouldn't do it, but
25 he would not go along with the 25 years concurrent

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1 to the 25 years he was already doing for armed
2 robbery. Basically wouldn't have served an extra
3 day because they would have been concurrent so, no,
4 I cannot explain that but I can tell you that he
5 would have in essence been — he would have, we had
6 made an offer from the very beginning; and yes, he
7 rejected it from the very beginning. I can —
8 absolutely.

9 Q And came out worse; didn't he?

10 A You know, that's the decision he made. I cannot
11 get in his head and explain why he didn't do it but
12 I can sit here and my conscience be clear, we gave
13 him every opportunity to take the 25 years.

14 Q And then he thanked you for it?

15 A That was the irony. But sure enough, when we
16 left he shook my hand. Now he didn't say, thank you
17 for giving me 30 years, but he shook my hand. And
18 you know, I wished him, you know, like I do most
19 defendants, if they offer I wish them well, hope
20 that everything would, you know, work out for them
21 in the future with SCDC.

22 Q Okay.

23 MR. BELDING: Thank you, Your Honor. No
24 further questions.

25 THE COURT: Thank you.

1 MS. RATIGAN: I have no cross-examination,
2 Your Honor.

3 THE COURT: Okay, you can step down.

4 THE WITNESS: Thank you, Your Honor. May
5 I be excused?

6 MS. RATIGAN: Please.

7 MR. BELDING: No objection, no problem
8 with that. Your Honor, I just want to put something
9 on the record real quick.

10 THE COURT: Okay.

11 MR. BELDING: And I don't think this is
12 going to be a problem. But up until last night even
13 after the Department of Corrections, they've got
14 Mr. Palmer's sentence start date -- again, the
15 murder now is his dominant sentence, okay, the 30
16 years. They've got his sentence start date is April
17 the 25th of 2010, which I finally figured out where
18 that came from. It just so happens that I worked at
19 the Department of Corrections when I was a young man
20 30 years ago. It was different. It was CCI. But
21 the guy that heads up records out there I knew even
22 then, and he has agreed to change this
23 administratively but I wanted this on the record in
24 case for any reason I might need a court order to
25 help them do it. Do you have with you the plea

1 sheets from Dillon 'cause I was given them as part
2 of this file so I thought maybe you might have them.

3 THE COURT: I have some — and I usually
4 get them, let me check.

5 MS. RATIGAN: They're attached to the SCDC
6 records that are in the judge's packet.

7 THE COURT: Okay.

8 MS. RATIGAN: The sentencing sheets part
9 of it.

10 THE COURT: And so it's your contention
11 that it should start —

12 MR. BELDING: I'm gonna tell you in just
13 — I didn't mean to interrupt, Your Honor, but I
14 can tell you what happened here, okay. The — Judge
15 Lockemy signed five sentence sheets on October 17th
16 of 2005.

17 THE COURT: Right.

18 MR. BELDING: The armed robberies are the
19 only ones that matter, the 25 years. On every one
20 of those sentence sheets signed by the solicitor,
21 the defendant, and the attorney Wade Crow, Ronnie
22 Crow, it talks about 225 days jail time, okay. That
23 would take his sentence start date in all these back
24 to March the 6th of 2005. Then somewhere in your
25 packet, it should be either the first page before

1 that is the plea that Judge Baxley signed. I'm
2 sorry, the sentence sheet.

3 THE COURT: Right, I got it.

4 MR. BELDING: Okay. And Judge Baxley, I
5 think being nice, specifically wrote in there time
6 from initial commitment on Dillon on armed robbery
7 charges.

8 THE COURT: Right.

9 MR. BELDING: Okay? Apparently, the
10 Department of Corrections took the 225 days that's
11 written on those other ones and deducted that from
12 the date of December the 6th, 2010 to put his
13 sentence start date as April of 2010. Clearly, what
14 Judge Baxley and everybody's talked about is, they
15 wanted this 30 years to start back when his armed
16 robbery charges started.

17 THE COURT: Right.

18 MR. BELDING: Mr. Stovey (ph) started
19 laughing on the phone yesterday and said, you know
20 what, we make mistakes, I understand what you're
21 talking about, I'm going to take care of that. And
22 I asked him, do you want a court order clarifying
23 the sentencing and he says, I don't think I needed
24 in be clarified I think that the documents we've got
25 they gave to us gave to me show that you're right.

1 So they're going to back date his murder sentence to
2 March 6th of 2005, but I just wanted that on the
3 report this case I need to present an order to you
4 for any reason.

5 THE COURT: Okay. Does the attorney
6 general have any issue with that?

7 MS. RATIGAN: Oh, no, Your Honor.

8 THE COURT: Okay. If you can't get it
9 cleared up if you will submit me an order, I will.
10 And I will —

11 MR. BELDING: That is by the way
12 Petitioner's case.

13 THE COURT: And does the State have a
14 case?

15 MS. RATIGAN: No, Your Honor. The only
16 thing I would point out to you, I didn't want to
17 beat a dead horse with Mr. Redmond, but part of the
18 SCDC records Your Honor has is, it lists the history
19 of movements that Mr. Palmer would have taken and it
20 basically just corroborates Mr. Redmond in terms of
21 him being transported up here numerous times within
22 the course of two or three years to Marlboro,
23 Darlington, Dillon. So we just ask Your Honor to
24 take notice of those SCDC records.

25 THE COURT: Okay, I will read the records

1 in their entirety and let y'all know something in
2 the next few days.

3

4 * * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

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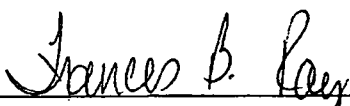
C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES BAKIS-RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Twelfth Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 27th day of December, 2013.



FRANCES BAKIS-RAY, RPR

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF MARLBORO	)	
	)	2011-CP-34-0122
Dexter Palmer,	)	
S.C.D.C. No. 311922,	)	
	)	
Applicant,	)	
	)	ORDER OF DISMISSAL
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed June 1, 2011. The Respondent made its return on January 17, 2013. An evidentiary hearing into the matter was convened on July 16, 2013 at the Darlington County Courthouse. The Applicant was present at the hearing and represented by David E. Belding, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying were Deputy Solicitor Kernard E. Redmond, Esquire and the Applicant's plea counsel, Emily M. Crayton, Esquire. The Court had before it the transcript of the guilty plea hearing, the Marlboro County Clerk of Court records, the Applicant's South Carolina Department of Corrections records, the PCR application and subsequent trial brief, the return, and Applicant's Exhibits 1-4.

PROCEDURAL HISTORY

The Applicant is confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Marlboro County Clerk of Court. The Applicant was indicted at the July 2005 term of the Marlboro County Grand Jury for murder (2005-GS-34-0643). He was

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 MARLBORO COUNTY, S.C.

represented by Emily M. Crayton, Esquire.

On December 6, 2010, the Applicant pled guilty. He was sentenced by the Honorable J. Michael Baxley to thirty years imprisonment. The Applicant did not appeal.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reasons:¹

1. Ineffective assistance of counsel.
2. Involuntary guilty plea.
3. Breach of plea agreement

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Ineffective Assistance of Counsel/Involuntary Guilty Plea

The Applicant alleges his guilty plea was involuntary and that he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389 S.E.2d 172, 174 (2002).

For an applicant to be granted PCR as a result of ineffective assistance of counsel, he must show both: (1) that his counsel failed to render reasonably effective assistance under

¹ On the day of the PCR hearing, counsel for the Applicant's submitted a trial brief in which he specified the facts and arguments supporting his allegations.

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prevailing professional norms, and (2) that he was prejudiced by his counsel's ineffective performance. See Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984); Porter v. State, 368 S.C. 378, 383, 629 S.E.2d 353, 356 (2006). When there has been a guilty plea, the applicant must prove that counsel's representation was below the standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 58-59, 106 S. Ct. 366, 370 (1985); Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001).

To be knowing and voluntary, a plea must be entered with a full understanding of the charges and the consequences of the plea. Boykin v. Alabama, 395 U.S. 238, 243-44, 89 S. Ct. 1709, 1712 (1969); Dover v. State, 304 S.C. 433, 434, 405 S.E.2d 391, 392 (1991). When determining issues relating to guilty pleas, the court will consider the entire record, including the transcript of the guilty plea, and the evidence presented at the post-conviction relief hearing. Anderson v. State, 342 S.C. 54, 57, 535 S.E.2d 649, 657 (2000) (citing Harres v. Leeke, 282 S.C. 131, 318 S.E.2d 360 (1984)).

The Applicant stated that, in 2005, he had pending charges in both Dillon and Marlboro Counties and there was a deal with the State for him to plead guilty to all charges in exchange for a twenty-five year sentence. The Applicant stated the Marlboro murder charge would be reduced to voluntary manslaughter and he would receive a twenty-five year sentence if he provided information about the crime. The Applicant stated he attempted to cooperate with officials in three counties. The Applicant stated he pled guilty to the Dillon charges in 2005 and the Marlboro charge was supposed to have been resolved within one year. The Applicant stated he was brought to court in 2010 to plead guilty to the twenty-five year offer but the State said he could not go along with that plea. The Applicant stated he met plea counsel two or three times

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before the plea hearing and she said the State would not agree to a twenty-five year sentence, so he had to take the thirty-year offer. The Applicant admitted he never asked plea counsel to contact his attorney on his Dillon charges and never asked his Dillon attorney to contact plea counsel. The Applicant stated he lied to the plea judge when he said he was satisfied with plea counsel's performance. The Applicant stated he did not argue for the twenty-five year sentence at the plea hearing because he was afraid he would end up going to trial. The Applicant stated plea counsel should have argued the plea agreement had been breached.

Plea counsel testified she reviewed the discovery materials herself and later reviewed them with the Applicant twice. Plea counsel testified she reviewed the elements of the charge and the sentencing range. Plea counsel testified they discussed the Applicant's version of events and the impact that the statements (his and his co-defendant's) would have upon the case. Plea counsel testified there was a twenty-five year offer before she was appointed on the case but that the Applicant told her that he had rejected it (and there were notes in the file from a prior attorney confirming this). Plea counsel testified the Applicant never asked her to contact either his co-defendant or his counsel from the Dillon charges. Plea counsel testified the case was placed on the December 2010 trial docket. Plea counsel testified she reviewed the strengths and weaknesses of the case with the Applicant on December 1, 2010 and told him the State made a thirty-year offer. Plea counsel testified the Applicant rejected this offer and asked her to make a counteroffer of a lesser sentence. Plea counsel testified she met with the Applicant on December 2, 2010 to tell him the State rejected the counteroffer and that the Applicant agreed to the thirty-year offer. Plea counsel testified the Applicant pled guilty to this offer four days later.

Deputy Solicitor Kernard E. Redmond testified he handled both the Dillon and Marlboro charges. Redmond testified there was a deal in 2005 for the Applicant to plead guilty to

voluntary manslaughter in exchange for a twenty-five year sentence recommendation. Redmond testified he would have asked for this sentence to run concurrently with the Dillon charges. Redmond testified he and the Applicant's counsel for his Dillon charges had a detailed discussion with him about this recommendation in 2005 and the Applicant would not agree to plead guilty. Redmond testified he left the offer open. Redmond testified he rejected the twenty-five year offer three times and the State eventually served him with notice of intent to seek life without parole. Redmond testified that after spoke to the Applicant's co-defendant and the victim's family, he told plea counsel the new offer would be for a thirty-year sentence for murder. Redmond testified he said this would have been a surprise to the Applicant because the twenty-five year offer had been made to him repeatedly over the course of six years.

Regarding the Applicant's claims of ineffective assistance of counsel, this Court finds the Applicant has failed to meet his burden of proof. This Court finds the Applicant's testimony is not credible, while also finding plea counsel's testimony is credible. This Court further finds plea counsel adequately conferred with the Applicant, reviewed the discovery materials, charge, and sentencing range, conducted a proper investigation, and was thoroughly competent in her representation.

The Applicant admitted to the plea judge both that he was guilty and that the facts recited by the solicitor were true. (Plea transcript, p.6; p.16). The Applicant also told the plea judge that he understood the trial rights he was waiving in pleading guilty, was satisfied with counsel, and had not been coerced in any way. (Plea transcript, pp.6-11). This Court finds there is no evidence in the guilty plea transcript to support the Applicant's assertion that he was pressured into entering a guilty plea; therefore the transcript has refuted this allegation. See Stalk v. State, 375 S.C. 289, 300, 652 S.E.2d 402, 407 (Ct. App. 2007); see also Rayford v. State, 314 S.C. 46,

48-49, 443 S.E.2d 805, 806 (1994) (where transcript of guilty plea proceeding refuted applicant's claim that he did not understand the terms of a plea bargain, grant of PCR was inappropriate notwithstanding applicant's claim lawyer misadvised him). This Court finds the Applicant entered a knowing and voluntary guilty plea. See Boykin v. Alabama, 395 U.S. at 243-44, 89 S. Ct. at 1712.

This Court finds the Applicant failed to meet his burden of proving plea counsel should have argued the State breached a plea agreement. Plea counsel testified the Applicant admitted he had rejected the twenty-five year offer and that file notes confirmed this. Plea counsel testified the State eventually made a plea offer for a thirty-year sentence and the Applicant accepted this offer when the case was on the trial docket. This Court finds plea counsel's testimony is credible. Deputy Solicitor Redmond testified the twenty-five offer was made to the Applicant in 2005 and that he rejected it three times. Redmond testified the State eventually served notice of intent to seek life imprisonment without parole and made a new offer of a thirty-year sentence in exchange for a plea to murder. This Court finds Redmond's testimony is credible. This Court finds there was an agreement in 2005 for the Applicant to plead guilty to this Marlboro County murder charge and that it would be reduced to voluntary manslaughter and the State would recommend a twenty-five year sentence. The plea offer was properly conveyed to the Applicant by the attorney on his Dillon County charges. Cf. Davie v. State, 675 S.E.2d 416 (2009) (holding counsel's failure to convey the State's plea offer to defendant constituted deficient performance). It is clear that, although this offer was held open from 2005 to 2010, the Applicant chose to reject this offer three times. This Court notes the Applicant's SCDC records corroborate Solicitor Redmond's testimony that the Applicant was transported to court several times (between 2007-2010) and would not plead guilty. This Court finds that, by

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 CLERK OF COURT
 MARLBORO COUNTY, SC

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the time plea counsel was appointed in this case, the Applicant was aware the twenty-five year offer had expired. This Court finds plea counsel was nevertheless able to obtain a favorable plea agreement of a thirty-year sentence after the State had served notice of its intent to seek a sentence of life imprisonment without parole. This Court notes the Applicant's allegations are refuted by the plea transcript, as he states does not object when the thirty-year recommendation is announced and the history of plea negotiations for the twenty-five year voluntary manslaughter plea are placed on the record. (Plea transcript, p.2; p.7; pp.17-18). See Stalk v. State, 375 S.C. at 300, 652 S.E.2d at 407; Rayford v. State, 314 S.C. at 48-49, 443 S.E.2d at 806. The Applicant has failed to meet his burden of proving either that a plea agreement had been breached or that plea counsel was deficient in failing to argue such to the plea judge. See Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (finding in a post-conviction relief proceeding, the applicant bears the burden of proving the allegations in their application).

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that plea counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that plea counsel committed either errors or omissions in her representation of the Applicant. This Court also finds the Applicant has failed to prove the second prong of Strickland – that he was prejudiced by plea counsel's performance.

This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. This Court also concludes the Applicant has failed to meet his burden of proving his guilty plea was not knowing and voluntary. See Fraser v. State, 351 S.C. at 389, 570 S.E.2d at 174.

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MARLBORO COUNTY, S.C.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his guilty plea and sentencing proceedings. Counsel was not deficient in any manner and the Applicant was not prejudiced by counsel's representation. Furthermore, the Applicant's guilty plea was entered knowingly and voluntarily within the mandates of Boykin. Therefore, this PCR application must be denied and dismissed with prejudice.

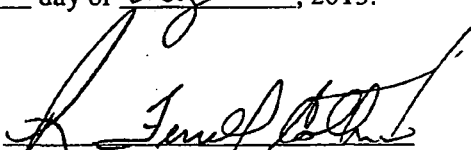
This Court advises the Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order if he wants to secure appropriate appellate review. His attention is also directed to Rules 203, 206, and 243 of the South Carolina Appellate Court Rules for the appropriate procedures to follow after notice of intent to appeal has been timely filed.

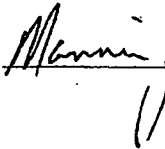
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CLERK OF COURT
MARLBORO COUNTY, S.C.

IT IS THEREFORE ORDERED:

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

AND IT IS SO ORDERED this 21 day of Aug, 2013.


R. Ferrell Cothran, Jr.
Presiding Judge


Mannin, South Carolina.

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WILLIAM B. FUNDERBURK
CLERK OF COURT
MARLBORO COUNTY, S.C.

STATE VS. Dexter J. Palmer COURT OF GENERAL SESSIONS (Dillon)
 INDICTMENT(S) # 056517-0393; DEFENSE ATTORNEY Walter R. Brown
0394; 0395; 0396; 0397 SOLICITOR C. Retford

The Defendant desires to plead guilty to Pos Weapon (2d) ARMED Robbery (1st) ABWIK
 and swears to the court that the answers to the following are true:

1. The Penalty(ies) for my charge(s) is/are: 90 years if judge
ORDER - if convicted

2. The maximum sentence I could get is: 90 yrs
 and that I may be required to serve every day of the sentence imposed. I understand that the South
 Carolina Department of Corrections will determine when I am to be release. My attorney has not
 made a promise as to my release date and can't. DP (initial)

3. Has the State agreed to recommend a sentence to the Judge? YES ☒ NO ☐
 If so, what is the recommendation? Twenty five (25) yrs
CONCURRENT ON ALL FELS IN Dillon & Marlboro

4. Has anyone promised you anything else, threatened you or put pressure on you to get you to plead
 guilty? YES ☐ NO ☒
 If so, who and what?

5. Have you taken any medicine, drugs or alcohol within the last 24 hours? YES ☐ NO ☒
 If yes, explain

6. Are you aware of any emotional, physical or nervous problems that might impact on your
 understanding of this plea? YES ☐ NO ☒
 If yes, explain

7. Do you understand that if you plead NOT GUILTY you have that right to have the help of a
 lawyer at all stages of the proceedings, even if you cannot afford to employ one?
 YES ☒ NO ☐

8. Do you understand that when you plead guilty you give up the right to a jury trial?
 YES ☒ NO ☐

9. Do you understand that in a trial you would be presumed innocent until the State proved you to
 be guilty beyond a reasonable doubt and all jurors unanimously agreed on your guilt?

YES ☒ NO ☐

10. Do you understand that in a trial you have the right to see and hear all witnesses called to testify
 against you and to confront, cross examine and question them?

YES ☒ NO ☐

11. Do you understand that in a trial you have the right to take the witness stand and to testify or not
 take the witness stand as you choose, and that you cannot be required to take the witness stand?

YES ☒ NO ☐



12. Do you understand that if you plead NOT GUILTY and that if you do not take the witness stand, they the jury cannot take that as evidence against you?

YES ☒ NO ☐

13. Do you understand that if you plead NOT GUILTY you have the right to use the subpoena power of the Court to get the attendance of any witnesses on your behalf at a trial whether they want to come or not? YES ☒ NO ☐

14. Do you know that if you plead GUILTY you will be found guilty without a trial and you will have given up all the rights mentioned in questions (9) to (14) along with your right to present any defense? YES ☒ NO ☐

15. Have you made any statements in which you admitted all or any part of the crime(s) to which you want to plead guilty? YES ☐ NO ☒

If yes, would you plead guilty if you knew the statements could not be used against you?

YES ☒ NO ☐

16. If you are on Parole or Probation, do you know this plea could result in a revocation?

YES ☒ NO ☐

17. Has your lawyer gone over your rights and all circumstances of the charge(s) with you?

YES ☒ NO ☐

18. Are you satisfied with your lawyer? YES ☒ NO ☐

19. Do you understand what you are doing and all the rights you are giving up?

YES ☒ NO ☐

20. Are you pleading freely and voluntarily? YES ☒ NO ☐

21. Do you understand that you have a right to appeal from your sentence based on your plea but you must do so within 10 days of the date of the sentence?

YES ☒ NO ☐

Dexter Pahn
Defendant's Signature

SWORN to before me this 17
day of Oct, 2004
at Bennettsville, S. C.

William R. Shaw (LS)
Notary Public for South Carolina
My Commission Expires: 12-29-09

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STATE OF SOUTH CAROLINA
COUNTY OF MARLBORO

COURT OF GENERAL SESSIONS
FOURTH JUDICIAL CIRCUIT
Indictment Nos: 05GS34-0641; 0642; 0643

STATE OF SOUTH CAROLINA,

-VS-

DEXTER PALMER,

Defendant

NOTICE OF MOTION AND MOTION TO
BE RELIEVED AS COUNSEL FOR THE
DEFENDANT

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CLERK OF COURT
MARLBORO COUNTY, S.C.

TO: HONORABLE PAUL M. BURCH, CHIEF ADMINISTRATIVE JUDGE,
JUDGE, DEXTER PALMER, DEFENDANT and DAN BLAKE ESQUIRE,
PUBLIC DEFENDER for MARLBORO COUNTY.

PLEASE TAKE NOTICE that the Petitioner will move before the Honorable Paul Burch, Presiding Judge, on February 6, 2007 at 10:00 a.m., or as soon thereafter as practical, at the Marlboro County Courthouse, Bennettsville, South Carolina for an Order Relieving him as Counsel in the above matters for the following reasons:

1. The Defendant is incarcerated with the SC Department of Corrections pursuant to the Dillon County Clerk of Court's Order of Commitment. The Petitioner represented the Defendant in Dillon County several months ago when the Defendant pled guilty to several counts of armed robbery and assault and battery with intent to kill and is presently serving a twenty-five year sentence. At the time the Defendant entered his plea in Dillon County, he was also being represented by Petitioner in the three above indictments, murder, kidnapping and carrying a pistol, in Marlboro County, South Carolina. The charges in Marlboro County are still pending and that is the subject matter of this petition.
2. Petitioner was appointed to represent the Defendant on the Marlboro County charges by the Clerk of Court for Marlboro County, pursuant to Rule 608, SCACR, in early April of 2005. Petitioner obtained an EX PARTE order for expenses, for the right to hire an investigator to assist in the defense of this case and to pay for transcripts, etc. not to exceed the sum of \$2,500.00, without further order of this court. Petitioner has not exceeded this amount. Petitioner has conducted many hearings (bond, discovery, pleas, etc.) in both Marlboro and Dillon Counties in this case and has conducted a

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lengthy preliminary hearing in the Marlboro cases, obtaining a transcript of the same at his expense; has conducted a plea in the court in Dillon, obtaining a transcript of such plea as the same applied to the Marlboro County charges; and has paid for this transcript. Petitioner has investigated, reviewed, interviewed and discussed this case with the Defendant and law enforcement on many occasions and has interviewed several witnesses in his preparation for Defendant's trial or possible plea to the Marlboro County charges.

3. Petitioner is now experiencing considerable loss of hearing, even with the aid of hearing devices in both ears. Based upon the fact that is difficult to hear in the Marlboro County Courtroom, Petitioner feels it would be in the best interest of the Defendant that the Marlboro County Public Defender be appointed to take over the defense of this matter for the Defendant and Petitioner will turn over his entire file to the Public Defender. Petitioner discussed his hearing difficulty with the Defendant several weeks ago at the Dillon County Court House and Defendant advised Petitioner that he consents and concurs in the substitution of Counsel.

WHEREFORE, Petitioner respectfully requests this court to relieve him as counsel in this matter and that the Clerk of Court for Marlboro County, South Carolina, appoint Dan Blake, Public Defender for Marlboro County, who has experience in both trial and appellate criminal procedure, and that this court order INDIGENT DEFENSE to pay Petitioner for the time he has devoted to this matter according to the attached Indigent Voucher and Timesheet including a reasonable amount for reimbursement of telephone expense, postage, mileage, meals, investigative costs and payment for transcripts.

Date: 2/5/07

Wade R. Crow
Wade R. Crow
Attorney for the Defendant
SC Bar No. 1479
P. O. Box 1054
Bennettsville, S. C. 29512
Telephone/ Fax: 843-479-7071

~~I CONSENT FOR APPOINTMENT~~

~~Dan Blake, Public Defender~~

~~I REQUEST THE SAME~~

~~Dexter Palmer, Defendant~~

ORDER

Upon Motion to be Relieved as Counsel being duly filed by Wade R. Crow, and hearing the same, and with the consent of the Public Defender and the Defendant,

IT IS SO ORDERED that Wade R. Crow is hereby relieved as counsel and that the Clerk of Court for Marlboro County shall appoint Dan Blake, Esquire, to represent said defendant and that INDIGENT DEFENSE shall pay Petitioner for the time he has devoted to this matter according to the attached Indigent Voucher and Timesheet, including a reasonable amount for reimbursement of telephone expense, postage, mileage, meals, investigation and the costs incurred for the payment of obtaining transcripts referred to above.

February 6th 2007
Bennettsville, SC


Judge Paul Burch
Fourth Judicial Circuit
Chief Administrative Judge

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CLERK OF COURT
MARLBORO COUNTY, S.C.

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CLERK OF COURT
MARLBORO COUNTY, S.C.

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Dear one

what I had did your ^{probably} ~~probably~~ sitings there
mad at me, but can I explain myself well let me tell I
you what is going threw my mind when I was in
Dillion locked up I feel like I was all right,
I knew what I had did and I was ready to
take that well I think I was ready to take that
but there I had people all around me someone
to talk to about other things that took my mind off
of what was really going on when they came and
moved me they first took me to Marlboro county
sheriff to try to talk to me about what I ~~did~~
didn't know but then they told me I was about
to be charged with murder at that time when they
said that in my mind I like all shut I'm about
to do life, but I didn't show them that I stayed
strong told I don't know what your talking about, but
I was scared I wanted to call my mother to let
her know what was going on but they said I
couldn't use the phone there they said what to
you go to the jail house so I told them take me

②

to the jail house but they wanted to ask me more question and read me bible verse I didn't say nothing while they was doing that they had his picture there ~~in~~ right in front of me. when they finally took to the jail house the ~~the~~ C/O's said I couldn't use the phone because the warden wasn't there they say wait till morning so they took me down to a place with 8 doors lock down. I sat in that room with nothing. I sat there for about 2-3 hours about to go crazy there wasn't know body down there quiet I had know one to talk to I knew they was going to keep me down there to tell you the truth I wrote my death note until some one yelled down from the vent I talked to them for a little while got down made myself go to sleep the next day I couldn't use the ~~the~~ phone I got the guts in the vent to call my mom to tell her what's going on. I had to sit there know ~~the~~ why to talk to any one I wrote letters couldn't get know letters back couldn't get know visit even when I was finally able to get a visit I couldn't really talk to them the why I needed to because you know how visits

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is down there I already had to much own my
 mind then the lawyer gives my pole 5 with
 statements that said you killed the man and
 I helped you disposed the body I was like damn
 how they know that how could they make that up
 who you say that or was they lie's then I am out
 say yeah that Dexter because those the glasses
 he got from prison How could they say that if
 he ~~was~~ didn't say that then Travis yeah that's
 them they had the blue hoodie on then ~~some~~
~~the~~ Shonda Peggy says that then didn't
 media say all of them went to see the
 video but Travis said they didn't sight. ~~was~~ I
 broke I was scared that was to much own
 my mind I couldn't sleep I sorry I ~~at~~ know
 me saying sorry can't change what I did
 but I don't know now after that I really
 is confessed. sight ~~to~~ now I feel like
 shit I feel like I just sucked up the
 life of the man I love more ~~that~~ than
 my father. I can't ~~to~~ do nothing but cry

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(4)

I never wanted to hurt you but my mind
is fucked up and I'm lost Please find
it in your heart to forgive me. I will always
love you know matter what. Please forgive me.

Love

Michael

MICHAEL
1/1/14

MICHAEL