

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Spartanburg County

R. Lawton McIntosh, Circuit Court Judge

RECEIVED

JUN 27 2014

S.C. Supreme Court

YESENIA RAMIREZ,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000025

APPENDIX

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 VS.) RECORD
7 YESENIA CORTEZ RAMIREZ,) 2010-GS-42-3161(A)(B)
8 DEFENDANT.)
9

10 September 16th, 2011
11 Spartanburg, South Carolina
12

13 B E F O R E:

14 THE HONORABLE J. MARK HAYES, II, Judge.

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

16 BARRY BARNETTE
17 SOLICITOR
18 Attorney for the State

19 DOUG BRANNON and CHRIS KENNEDY
20 ESQ.
21 Attorneys for the Defendant

22
23
24 PAMELA E. GREEN
25 Circuit Court Reporter
Seventh Judicial Circuit

1	<u>E X H I B I T S</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
3	<u>State's Exhibits</u>			
4				
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1 P R O C E E D I N G S

2

3 (WHEREUPON, State's Exhibit Nos. 1 through 15 were
4 marked for identification purposes only at this time.)

5 THE COURT: Madam Interpreter.

6 INTERPRETER: Yes.

7 THE COURT: Please raise, please raise your right-hand
8 and let the clerk swear you in.

9 (WHEREUPON, the interpreter was placed under oath at
10 this time.)

11 SOLICITOR BARNETTE: May it please the Court, Your
12 Honor.

13 This is the case of the State versus Yesenia Cortez
14 Ramirez. She's pleading to the following indictment,
15 10-GS-42-3161, and there's A and B. It's a three count
16 indictment. She is pleading to accessory after the fact of
17 murder, Count One. She's indicated by her signature and her
18 initials she's waiving presentment to the Grand Jury on that
19 charge.

20 Count Two is accessory after the fact of murder. She's
21 indicated, indicated by her signature and initials she's
22 waiving her right to the Grand Jury on that, and then she's
23 pleading to accessory before the fact to burglary first,
24 Count Three, Your Honor, which is as indicted. That one's
25 been true billed by the Grand Jury.

1 Your Honor, this is a straight up plea. I do have 16
2 exhibits to introduce to the Court at the appropriate time,
3 Your Honor.

4 MR. BRANNON: I've seen all the exhibits, Your Honor.

5 THE COURT: And that's without objection?

6 MR. BRANNON: Yes.

7 THE COURT: You are Ms. Ramirez?

8 DEFENDANT: Yes, sir.

9 THE COURT: Please raise your right-hand and allow the
10 clerk of court the chance to swear you in.

11 (WHEREUPON, the defendant was placed under oath at this
12 time.)

13 THE COURT: Is it your intent to enter a plea today to
14 the charges that were announced by the solicitor?

15 DEFENDANT: Yes, sir.

16 THE COURT: If, ever during this process, you wish to
17 speak to your lawyer, just let me know and I will allow you
18 the opportunity to speak to your lawyer in private.

19 DEFENDANT: Yes, sir.

20 THE COURT: How old are you?

21 DEFENDANT: Forty.

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

23 DEFENDANT: I never went to school.

24 THE COURT: You married or single?

25 DEFENDANT: Married.

1 THE COURT: Do you have children?

2 DEFENDANT: Nine.

3 THE COURT: How old is the oldest and how young is the
4 youngest?

5 DEFENDANT: Twenty-eight and seven.

6 THE COURT: Prior to being arrested did you have a job
7 outside of the home?

8 DEFENDANT: Yes.

9 THE COURT: What type of work were you doing to earn a
10 living?

11 DEFENDANT: She was a cashier and artist promoter.

12 THE COURT: Ever served in the military?

13 DEFENDANT: Never.

14 THE COURT: And how long have you been in jail on these
15 charges?

16 DEFENDANT: Two years and seven months.

17 THE COURT: Within the last 24-hours have you consumed
18 any type of substance that is negatively affecting your
19 ability to understand what you're doing?

20 DEFENDANT: No, sir.

21 THE COURT: Have you ever received any type of
22 treatment for a drug or alcohol problem?

23 DEFENDANT: No, sir.

24 THE COURT: Are you satisfied with the work that your
25 lawyer has done for you?

1 DEFENDANT: Yes, sir.

2 THE COURT: Do you feel like you've had enough time to
3 talk to your lawyer about the legal elements of the charges
4 that are against you?

5 DEFENDANT: Yes.

6 THE COURT: And also enough time to talk about the
7 facts that are behind these cases?

8 DEFENDANT: Yes.

9 THE COURT: And also talk to your lawyers about any
10 possible defenses you might have to these charges?

11 DEFENDANT: Yes.

12 THE COURT: Have you been threatened in anyway or have
13 you been made any promises in order to get you to make the
14 decision to enter these pleas?

15 DEFENDANT: No, sir.

16 THE COURT: The decision to enter these pleas is a free
17 and voluntary decision by you?

18 DEFENDANT: Yes, sir.

19 THE COURT: I need for you to understand that you are
20 presumed innocent of these charges and you do have a right
21 to have a jury trial. At any jury trial that would take
22 place the State would have the burden of proof and they
23 would have to convince all 12 members of a jury that you
24 are, in fact, guilty beyond a reasonable doubt in these
25 charges. In order to enter the plea today you have to give

1 up your right to that jury trial.

2 Do you wish to have a jury trial on these charges?

3 DEFENDANT: Is that a jury, a trial?

4 (Pause.)

5 DEFENDANT: No.

6 THE COURT: So, you do wish to waive your right to that
7 trial?

8 DEFENDANT: Yes, sir.

9 THE COURT: I need for you to understand that there are
10 other important Constitutional rights that you are entitled
11 to, but that you have to give up in order to enter these
12 pleas. You have to give up your right to confront and
13 cross-examine the State's witnesses. You also have to give
14 up your right to present evidence which might establish a
15 defense to these charges, and you have to give up your right
16 of subpoena, and you have to give up your right to remain
17 silent.

18 Do you understand all of those rights?

19 DEFENDANT: Yes, sir.

20 THE COURT: And do you wish to give up those rights and
21 go forward with entering the plea?

22 DEFENDANT: I declare myself guilty.

23 THE COURT: Do you wish to give up those rights?

24 DEFENDANT: Yes.

25 THE COURT: Please listen to the solicitor. He's going

1 to tell me the facts, and after he's finished I'll have some
2 more questions for you.

3 SOLICITOR BARNETTE: Thank you, Your Honor.

4 This occurred on January 25th of 2009 in the early
5 morning hours at the, at [REDACTED] in Greer,
6 South Carolina in Spartanburg County. Hugo Del Carmen
7 Lugo-Hernandez and Teresa De Jesus Avilla-Martinez lived at
8 that residence. They were suppose to go to Greenville to
9 meet some folks. When they did not show up family members
10 went to look for them.

11 When they got there the front door had been kicked in.
12 Went in and found -- went inside and saw that the house had
13 been ransacked. Found Hugo and Teresa dead in the bathroom.

14 Through the Sheriff's Department investigation they
15 found that Hugo had done business with Juan Carlos Estrada
16 Vazquez. I'll call him Carlos for the purposes of the
17 facts, and he had been very upset, Carlos had, with Hugo
18 saying, through a business dealing involving drugs, that
19 Hugo had ripped off Carlos.

20 Once Sheriff's Department found this information they
21 went to Carlos' residence in Boiling Springs, and also found
22 Jose Reyes Arevalos, I'll call him Jose for the purposes of
23 this factual pattern, a business associate. They did a
24 search warrant for items. They found several items
25 including drugs, a large amount of cocaine, and he was

1 arrested, him and Jose both were.

2 Carlos and Jose gave multiple statements to the
3 Sheriff's Department, and through those statements they
4 found that Carlos had contact with the defendant, Yesenia
5 Cortez Ramirez known as La Tia, and that she had contacted
6 several people out of Atlanta, Georgia where she was from,
7 and that included -- and she had came up the day before, and
8 she had brought Edgar Pineda, Miquel Lopez, Rudis Ventura,
9 Jose Del-Angel Gomez and another individual with them.

10 They met at Exit 60 at Highway 101 and I-85. They met
11 at a Sonoco Station. At the Sonoco Station -- Carlos drove
12 a Dodge charger. The defendant, as well as all the men that
13 she had brought with her, came in a red Jeep Cherokee. On
14 the video you can see that she met with Carlos in the car
15 there.

16 After discussion there they went to Jose's house, which
17 is nearby there, and she had also went with him -- there was
18 gonna be -- she was supposedly doing house cleaning for him,
19 and it was determined what kind of payment should be made,
20 and she had looked at some cars that he had had, and decided
21 that she was gonna take a new Avalanche.

22 Later on guns were supplied to the three of the men
23 that she brought with him. Her, Jose, Rudis Ventura, Oscar
24 Gomez, and another individuals got into the car, the
25 Avalanche. They drove to near [REDACTED] where Hugo

1 and Teresa lived. The three men was let out there. She and
2 Jose left, maintained contact with him through the two-way,
3 and also related information to Carlos.

4 The three individuals suppose to find the drugs and
5 money that Hugo had taken from Carlos. They went in and
6 they tortured, after ransacking, they could not find the
7 items, tortured Hugo and Teresa. It was found there was
8 bolt cutters in the, in the bathroom that was used on their
9 fingers and extremities. There was also a bath -- the
10 toilet, the back of the toilet was used to knock over the
11 head of them. Both victims were shot multiple times in the
12 extremities working up until both of them was shot and
13 killed after being shot multiple times during that tortured
14 manner.

15 The three men was later contacted, the defendant, as
16 well as Jose. They picked them up afterwards. It appears
17 that some drugs and maybe some other items were taken from
18 the house. They went back to Jose's house. Later on they
19 met Carlos at Exit 44 at a Wal-Mart Huddle House there off
20 White Horse Road in Greenville County, and then the, the
21 Avalanche was exchanged there and given to the defendant for
22 payment for the house cleaning. It's all been labeled to
23 that.

24 Your Honor, I have several exhibits I've shown to the
25 defense. I have Defendant's, State's No. 1 which is

1 actually the incident report, supplemental report on this
2 case.

3 State Exhibit No. 2 is actually Investigator Jason
4 Bryant's investigative notes on this case.

5 States Exhibit 3 is the notes of Nick Hullinger,
6 investigator. He was also the translator for them and the
7 witnesses. He has copious notes on this.

8 State Exhibit No. 4 is also the notes of Investigator
9 Garcia from the Sheriff's Department. Also working as an
10 interpreter/investigator.

11 State Exhibit No. 5, Your Honor, is the statements that
12 were given by the defendant in this case.

13 State Exhibit 6 is the statements of Jose Arevalos
14 Reyes. He was the lieutenant or basically the working of
15 Carlos. This is multiple statements that he gave.

16 State Exhibit No. 7 is Juan Carlos, which is Carlos'
17 statement he gave to the Sheriff's Department, his
18 statements.

19 State Exhibit No. 8, Your Honor, is evidence Edward
20 Pena. He was one of the individuals who came up. He was
21 actually the boyfriend. He did not go to the house or did
22 not go with him. He stayed back of the house and was there
23 when they got back and went back with them to Georgia. He
24 gave a statement. He has pled to accessory after the fact
25 to these offenses, Your Honor. Been awaiting sentencing.

1 It says Page 1, but this is actually three pages of two
2 different interviews. So, I'm just making sure that's clear
3 for the record. That was done by Rick Gregory.

4 State Exhibit 9, Your Honor, is Rudy Ventura's
5 rendition of this case, Your Honor, what her involvement was
6 in that, with that. He is also pled on his charges, Your
7 Honor. He's awaiting sentence as well as Carlos and Jose,
8 and Viodel Lopez, which is the nephew I think of the
9 defendant. He is also awaiting sentencing. He's also pled
10 guilty.

11 State Exhibit 10, Your Honor, is Hugo's autopsy that
12 was done by Doctor Wren. It also have the chart in there
13 about where the wounds were here, Your Honor.

14 State Exhibit No. 11 is Teresa's autopsy results. Same
15 thing. They were outside of the chart with the wounds on
16 her, Your Honor.

17 State Exhibit 12, Your Honor, is a picture of how they
18 were found in the bathroom by the Sheriff's Department.
19 I'll pass that on to the Court so you can see how they were
20 found.

21 State Exhibit 13, Your Honor, is the DVD from the
22 Bloom's Convenience Store when they went and bought the
23 plastic rubber gloves. I'm not asking the Court to review
24 these. Just to tell, make it part of the record.

25 State Exhibit 14, Your Honor, is the Sonoco where it

1 shows where they met Carlos and Jose where Carlos came in
2 the charger, and she came in the Jeep Cherokee when they
3 came up from Atlanta, Georgia.

4 State Exhibit 15 and 16, Your Honor, is the Huddle
5 House where they met off Greenville at Exit 44 on White
6 Horse Road where they exchanged the Avalanche for the house
7 plan that was done.

8 And I'd like to make that all part of the record, Your
9 Honor, to supplement the facts with these exhibits, Your
10 Honor.

11 (WHEREUPON, State's Exhibit Nos. 1 through 16 were
12 received into evidence at this time.)

13 SOLICITOR BARNETTE: May I pass them up, Your Honor?

14 THE COURT: Ms. Ramirez, were you able to hear the
15 solicitor when he told me the facts?

16 DEFENDANT: Yes, sir.

17 THE COURT: Do you believe that, as he stated the
18 facts, that he did so substantially correct?

19 DEFENDANT: Yes, sir, but my lawyer is going to
20 explain.

21 THE COURT: All right. Lawyers approach a moment.

22 SOLICITOR BARNETTE: Yes, sir.

23 (WHEREUPON, a bench conference was held at this time.)

24 THE COURT: Ms. Ramirez?

25 MR. BRANNON: Your Honor, can I have one, one moment to

1 explain?

2 (Pause.)

3 MR. BRANNON: Thank you, Your Honor.

4 THE COURT: Ms. Ramirez, do you understand that the
5 charge of accessory before the fact of burglary first
6 carries a potential sentence of somewhere between zero to
7 fifteen?

8 SOLICITOR BARNETT: Accessory before or accessory
9 after, Your Honor?

10 THE COURT: Accessory before a burglary.

11 MR. BRANNON: Your Honor, that's fifteen to life.

12 THE COURT: Thank you.

13 You understand that the accessory before the fact to a
14 felony burglary in the first degree carries a potential
15 sentence of between fifteen years and life in prison?

16 DEFENDANT: Yes, sir.

17 THE COURT: And do you also understand that that charge
18 is classified as both a violent offense and also a most
19 serious offense under the law?

20 DEFENDANT: Yes, sir.

21 THE COURT: And you have been able to talk to your
22 lawyers as to the consequences and ramifications of this
23 offense being classified as both a violent and most serious
24 offense?

25 DEFENDANT: Yes.

1 THE COURT: Understanding the possible sentence that I
2 could impose, as well as both of the classifications of
3 violent and most serious, do you still wish to enter a plea
4 to this charge of accessory before the fact of felony
5 burglary in the first degree?

6 DEFENDANT: Yes, sir.

7 THE COURT: Ma'am, are you, in fact, guilty of this
8 charge of accessory before the fact of a felony of burglary
9 in the first degree?

10 DEFENDANT: Yes, sir.

11 THE COURT: And, ma'am, do you also understand that the
12 two charges of accessory after the fact of felony murder
13 carries between zero to fifteen years in prison?

14 DEFENDANT: Yes, sir.

15 THE COURT: With that understanding of the possible
16 sentence, you still wish to enter both of these pleas to
17 those two charges?

18 Do I need to---

19 MR. BRANNON: I think---

20 THE COURT: Let---

21 INTERPRETER: Your Honor, could you please repeat the
22 questions?

23 THE COURT: Yeah, that was not a good question on my
24 part.

25 DEFENDANT: Oh.

1 THE COURT: Understanding the sentence that I could
2 impose on these two charges, accessory after the fact of
3 murder, do you want to go ahead and enter these pleas?

4 DEFENDANT: I answer yes.

5 THE COURT: Ma'am, are you, in fact, guilty of both of
6 these charges of accessory after the fact of felony murder?

7 DEFENDANT: Yes, sir.

8 THE COURT: Have you been able to hear all of my
9 questions so far?

10 DEFENDANT: Yes, sir.

11 THE COURT: Have all of your answers been truthful and
12 honest?

13 DEFENDANT: Yes.

14 THE COURT: Discovery's been shared with the defense?

15 SOLICITOR BARNETTE: Yes, Your Honor.

16 MR. BRANNON: Yes, Your Honor.

17 THE COURT: Prior record.

18 SOLICITOR BARNETTE: No prior record, Your Honor.

19 THE COURT: Does the State have any presentation on
20 behalf of the victims?

21 SOLICITOR BARNETTE: Yes, sir, we do. One, one
22 question, I may of missed this, did you ask her about the
23 waivers on the accessory after the fact?

24 I didn't know if the Court did or not.

25 THE COURT: All right. Ma'am, you've indicated on the

1 sentencing sheet you're waiving your right to have the
2 charges of accessory after the fact of a felony murder,
3 you've indicated that you waive your right to have those
4 presented to the Grand Jury.

5 Is that, in fact, your initials on the sentencing
6 sheet?

7 DEFENDANT: Yes, sir.

8 THE COURT: All right.

9 MR. BRANNON: I have explained that to her, Your Honor,
10 and she is waiving it freely and voluntarily.

11 THE COURT: All right.

12 SOLICITOR BARNETTE: Okay. Thank you, Your Honor.

13 I do have three family members, Your Honor, that would
14 like to address the Court.

15 MR. BRANNON: Your Honor, would it be appropriate for
16 me to get a chair that my client may sit in?

17 THE COURT: Certainly.

18 Sir, if you would, I just need to let you know that we
19 are making a recording of everything that happens here. So,
20 just speak up loud so the court reporter and I both can hear
21 you and just start by giving us your full name.

22 MR. LUGO: My name is Alejandro Lugo. I'm the brother
23 of one of the victims. I just want to say a few things. I
24 been living in this country for almost 16 years. I been
25 trying to respect the law the best way, trying to be an

1 example resident, doing the best things for me and my
2 family.

3 Listened to the, all the words the solicitor mentioned
4 right here according to the facts that happened on
5 January 26th, 25th of 2009. It's really difficult to
6 have to live every time that we appear in court remembering
7 all those moments, but I learned something. We need to move
8 on and more so I need to, to start making a new life because
9 this incident do not just took my brother's life and his
10 girlfriend. It actually changed two families completely.

11 We had to start again. I have two childrens. One is
12 13, and a little girl three years old that every day she's
13 asking me where her uncle is, where Hugo is, why she can't
14 see him, and that's what I been learning everyday to explain
15 it to her.

16 The things happened in life, and we don't know why.
17 But we had to face it, and I have faith in God, and in the
18 law of this country. And I come in here to claim justice,
19 justice for that horrible incident that happened two and a
20 half years ago, and I just ask God for help to keep going,
21 to keep supporting my family, to keep teaching my daughter
22 and my son go in a good directions and make the right
23 decisions, but it is really difficult.

24 About this person, I don't have nothing against them.
25 They're the only ones knowing why they decide to do that

1 horrible act, and I'm nobody to judge them. It's only God
2 and justice and that's what I'm here for. That's all I have
3 to do, and that's what I -- that's all I have to say, Your
4 Honor.

5 THE COURT: Thank you, sir.

6 SOLICITOR BARNETTE: Your Honor, we'll have to use the
7 interpreter for this gentleman.

8 Would you like Chelsea to interpret for her?

9 Do you need to swear her?

10 THE COURT: No.

11 MS. URBINA: I am Candelaria Urbina. I am -- well, I
12 am Hugo's mother. Before I say anything else I ask for
13 forgiveness for whatever that my son may have done, but I
14 lost my son. That half of my life I lost.

15 My son was good. He always worried about me. He was
16 everything to me. I don't hold a grudge. I don't hate
17 anyone. I don't hate any of these people. The only thing I
18 have in my heart is, is hurt. They took away my right arm.

19 He was always worried about me, worrying about me if I
20 was sick, taking me to the doctor. When I was with, without
21 work it was him who was the one to help me. I have two
22 other children. He was the closest to me. He was the
23 closest to me.

24 I remember when I went to the hospital. He was the one
25 that was there taking care of me. When they take my, the

1 life of my son they, they took my life away too. I miss him
2 so much.

3 I'm sorry for any errors that he have committed. They
4 took away his life and all my family, and the nephews. I
5 want to remember I don't hold a grudge or hate in my heart
6 for anyone. I know that God is gonna forgive them for what
7 they did. I believe in God and God is gonna help me through
8 this.

9 That's all I have.

10 THE COURT: Thank you, ma'am.

11 MS. DELGADA: Judge, my name is Lidia Delgada Martin.
12 I'm from Mexico. I came here looking for a better life for
13 my children. I also want to ask for forgiveness for the,
14 for the errors. I'm the mother of Teresa.

15 These people changed our lives. They changed it into a
16 hell for us. Now I ask God to give me strength to forgive
17 them because I don't know how, how a mother can be
18 responsible for all of this.

19 My life is changed in an ugly way. She's my oldest
20 daughter. She always looked after her brothers. My right
21 arm when we came here to the United States. My sons, they
22 saw her as their mother too. Then they took her life from
23 me.

24 My youngest son, who is, who is 13 years old, he tried
25 to kill himself after this. After they killed his sister he

1 wanted to take his life away too. He's now sort of a rebel
2 and, and a year and a half later her husband committed
3 suicide. After coming here to court she wanted to know what
4 happened to her daughter, what did they do to her. My
5 husband, I could -- my husband couldn't take it. He turned
6 aggressive towards us and took his own life.

7 I ask you, judge, justice. They, they, they didn't
8 just take away my daughter's life or my son-in-law's life,
9 but they took our life too. This, this lady, I forgive her.
10 But she, she needs to ask God for forgiveness every day, and
11 I'm asking for justice here, that she pays for what she did.
12 Those young -- those young people, they didn't have to end
13 so horribly for them. This is all that I can tell you,
14 that, that was my life for me, and it -- how could they have
15 done all this?

16 Sorry.

17 THE COURT: Thank you, ma'am.

18 Anything else from the State?

19 SOLICITOR BARNETTE: No, sir.

20 THE COURT: Yes, sir.

21 MR. BRANNON: Your Honor, I was appointed to represent
22 Ms. Cortez shortly after her arrest. The Court's aware that
23 she's 40 years old and she's the mother of nine children.
24 She's been in jail, Your Honor, for two years and seven
25 months. I certainly ask the Court to give her credit for

1 the time that she has served.

2 Your Honor, my client is not had an easy life. If you
3 did the math, when she told you that her oldest child was 28
4 years old, Your Honor, you will find that she became
5 pregnant either at age 11 or age 12.

6 Your Honor, her last job before moving to Georgia was
7 in the State of California and she worked in a body shop.
8 She described the work she did as the man's work. She moved
9 to Atlanta or the Atlanta area, and she took jobs that she
10 could find as a cashier or, or store clerk. She did become
11 familiar with some Spanish artisans and would help those
12 people in displaying or promoting their works.

13 But, Your Honor, my client is a very spiritual person,
14 and unfortunately for her it was because of her spiritual
15 work that she came to know the gentleman who is been
16 described as Carlos or called Carlos. This Carlos man
17 called her when she was in Atlanta and asked her to come to
18 Spartanburg to do a spiritual cleaning on his home.

19 She was asked to do two other things, Your Honor. She
20 was asked to give Carlos some insight into who it was that
21 may have been stealing from him, and then she was asked to
22 travel back to Atlanta to pick up three people that she was
23 told by Carlos were business associates. Your Honor, she
24 did those things.

25 When she was arrested in Atlanta, Your Honor, she told

1 the police that she could identify those three business
2 associates of Carlos. She was shown a photo lineup and she
3 picked three people out. One of those people is this man
4 who's been identified as Rudy in court today.

5 Your Honor, she is told the State that she does not
6 know where the other two people are, but she does know of a
7 girlfriend of one of those people, and she would give them
8 information that might lead to that person and potentially
9 to the apprehension of another of the three business
10 associates of Carlos.

11 Your Honor, my client knows full well the minimum
12 sentence she can receive in this court today is 15 years,
13 and she knows full well that you could put her in prison for
14 the rest of her life. Your Honor, I can't speak of the -- I
15 can't talk about the unspeakable tragedy that these families
16 have suffered. I hope you've taken note from the tears shed
17 by my client.

18 Your Honor, I simply ask that you be as lenient as the
19 law will allow you to be. I understand that the evidence
20 that you've been presented through the 17 or 18 exhibits
21 provided by the State are, are appalling. I understand
22 that. I would ask you to keep in mind that my client gave
23 statements to the police. She named names and because of
24 her identification they apprehended one of the defendants.

25 I ask you to simply keep that in mind and be as

1 lenient, lenient as you possibly can.

2 Thank you, Your Honor.

3 THE COURT: Ms. Ramirez, were you able to hear the
4 statements that were made by your lawyer?

5 DEFENDANT: Yes, sir.

6 THE COURT: Do you agree with the statements that were
7 made by your lawyer?

8 DEFENDANT: Yes, sir.

9 THE COURT: Ms. Ramirez, is there anything---

10 INTERPRETER: Excuse me, Your Honor. She is dizzy.
11 Can she sit?

12 THE COURT: She may sit.

13 Ms. Ramirez, is there anything that you would like to
14 say to me or want me to know or consider?

15 DEFENDANT: Please forgive me. That was not my
16 intention, and to all the family members, deep from my
17 heart, please forgive me. God give them blessings. My
18 heart knows that if I ever know that those people were gonna
19 die that way I would prefer to take their spot and die
20 myself instead of them dying the way they did.

21 It was a disgrace at the destiny to put in a wrong
22 game, wrong space. I have my things and I know how much,
23 and how much love you can have for your own kids. Please
24 forgive me. Forgive me.

25 MR. BRANNON: Thank you, Your Honor.

1 THE COURT: Thank you, ma'am.

2 I'm gonna step down just for a moment to take a look at
3 the exhibits. I will, I will return in a few minutes.

4 SOLICITOR BARNETTE: Yes, sir.

5 (WHEREUPON, a short recess was taken at this time.)

6 MR. BRANNON: Your Honor, we had a change in
7 translators and we would need to swear this translator.

8 THE COURT: All right. If you will, please raise your
9 right-hand.

10 (WHEREUPON, the interpreter was placed under oath at
11 this time.)

12 THE COURT: I will find that there's a substantial
13 factual basis for the plea. I'll find that the defendant's
14 decision to enter the plea is made freely, voluntarily,
15 knowingly, and intellectually by her. I'll find that she is
16 received the services from very competent and able legal
17 counsel, services that she's indicated to the Court that she
18 is relied on in reaching the decisions that she's made.
19 Therefore, I will accept the plea.

20 The Court was able to, attempted to take a look at the
21 CD's. They are quite lengthy. We were able to locate some
22 reference of the defendant and the other people in the CD's,
23 but I would not want the record to suggest that the Court
24 looked at everything that was on the CD's. But we did have
25 isolated pictures of them.

1 The Court was able to review the statements of,
2 contained in State's Exhibit 1, 10, 2, 5, 8, 9, 11. I might
3 have read the numbers, but the Court read in great detail
4 the statements that were made in Exhibit 5, which I would
5 reference as being the defendant's own statement. Reviewed,
6 not in, not in great detail, but did review the information
7 contained in seven and six and also four and three meaning
8 that I read those faster than I did the others. Also
9 reviewed State's Exhibit 12.

10 Sentence of the Court on these charges for the
11 accessory after the fact is a 15-year sentence. They'll run
12 concurrent with other. She will receive credit for the two
13 years and seven months. Also concurrent to that other
14 charge is a 50-year sentence on the accessory before the
15 fact of burglary in the first degree.

16 Good luck to you, ma'am.

17 MR. BRANNON: Your Honor, forgive me, will you say that
18 number again?

19 THE COURT: Fifty.

20 MR. BRANNON: Thank you. Thank you, Your Honor.

21 SOLICITOR BARNETTE: Thank you, judge.

22 MR. KENNEDY: Thank you.

23

24 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

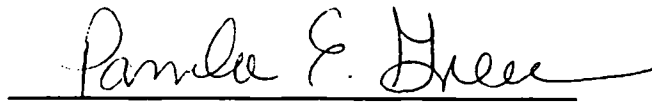
25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 16th day of September, 2011.

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

May 20th, 2012

A handwritten signature in cursive script, reading "Pamela E. Green", is written over a horizontal line.

PAMELA E. GREEN, Court Reporter

FORM 5

2012-CP-42-00673

STATE OF SOUTH CAROLINA

County of RichlandYesenia Cortez Ramirez 347890

Full name and prison number (if any) of Applicant

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

2012 FEB -3 PM 3:59

FILED
CLERK OF COURT
SPARTANBURG COUNTYINSTRUCTIONS - 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 Camille Graham Corr. Inst. - 4450
Broad River Rd. - Columbia, SC 29210
2. Name and location of Court which imposed sentence Spartanburg County
General Sessions, 180 Magnolia St., Spartanburg, SC 29306
3. Name(s) of co-defendant(s) (if any) Migel Lopez, Edgar Pineda
(Please see attached.)
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2010-GS-4203161 - Accessory after the fact - Count 1
 - (b) 2010-GS-4203161A - Accessory after the fact - Count 2

(c) 2010 - GS - 4203161B - Accessory after the fact - Count 3

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

(a) September 16, 2011 - 15 years - Concurrent

(b) September 16, 2011 - 15 years - Concurrent

(c) September 16, 2011 - 50 years - Concurrent

6. Check whether a finding of guilty was made:

(a) after a plea of guilty yes

(b) after a plea of not guilty _____

(c) after a plea of nolo contendere _____

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

NO

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

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

i. _____

ii. N/A

iii. _____

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

i. _____

ii. N/A

iii. _____

(c) the date of each such result:

i. _____

ii. N/A

iii. _____

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

i. _____

ii. N/A

iii. _____

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

(a) Did not know I could appeal - I speak very

little English, communication between myself

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CLERK OF COURT
SPRINGFIELD
2012 FEB -3 PM 3:59
M. HOPE BLACKLEY

~~(a)~~ and lawyer was non-existent.

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

~~(a)~~ I was not present when these crimes were
~~(b)~~ committed, I was set-up.
~~(c)~~ Ineffective Counsel

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

(a) I was convicted because of guilt by associa-
~~(b)~~ tion. I am the only one that has been to
~~(c)~~ trial.

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

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

(a) the specific nature thereof:

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

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

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

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 HARTLEIGH COUNTY
 2012 FEB - 3 PM 3:59
 J. HODGE BENCKLEY

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

Not proper forum.

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

(a) which grounds have been presented:

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

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

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

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CLERK OF COURT
SPRINGFIELD COUNTY
2017 FEB -3 PM 3:59
M. HOEHL-ACHLEY

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

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

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

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

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

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

i. Douglas N. Brannon - 128 Magnolia St.,
Spartanburg, SC 29306

ii. _____
 iii. _____

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

i. arraignment, plea, and sentencing

ii. _____
 iii. _____

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 CLERK OF COURT
 SPARTANBURG COUNTY
 2012 FEB -3 PM 3:59
 M. HOPE BLACKLEY

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

To get this case remanded back to court -
Overturn conviction.

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

NO

STATE OF SOUTH CAROLINA)

County of Richland)

VERIFICATION

I, Yesenia Cortez Ramirez, 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.

Yesenia C Ramirez

SWORN to and subscribed before me this 19th
 day of January, 2012

Julia D. Williams (L.S.)
 Notary Public

My Commission Expires: August 25, 2015

FILED
 CLERK OF COURT
 SPARTANBURG, SOUTH CAROLINA
 FEB - 8 PM 3:59
 HOPE BLACKLEY

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

I, Yesenia Cortez Ramirez, 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.

Yesenia C. Ramirez
Applicant

SWORN or affirmed to and subscribed before me this

30th day of January, 2012.

Peggy K. Lyle
Notary Public

My Commission Expires: 11/23/14

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 FEB -3 PM 3:59
M. HOPE BLACKLEY

18
Question # 3 . Applicant does not know the names
of the other co-defendants . Please see transcript.

I will need a translator for Spanish because
I speak very little English.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 FEB -3 PM 3:59
M. HOPE BLACKLEY

FORM 5

STATE OF SOUTH CAROLINA

County of SpartanburgYessenia Cortez Ramirez

Full name and prison number (if any) of Applicant

347890

v.

Spartanburg County
State of South Carolina

IN THE COURT OF COMMON PLEAS

Motion To Amend The
Pleadings Under
F.R.C.P. Rule 15C

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 ~~AAC Donald~~ Mc. Donald
2. Name and location of Court which imposed sentence Spartanburg County
Court House 180 Magnolia Street P.O. Box 3483 Spartanburg, S.C. 29304
3. Name(s) of co-defendant(s) (if any) Edgar Pineda
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 9-16-11 Murder - Count one 16010055
 - (b) Murder - Count two Accessory after
the fact

S.C. code 16010040, 50 ^(15th) years to life 50 years

(c) Accession/ After before the fact Burglary

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

- (a) 9-16-11
 (b) 9-16-11
 (c) 9-16-11

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty yes
 (b) after a plea of not guilty na
 (c) after a plea of nolo contendere na

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

na

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

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

- i. na
 ii. na
 iii. na

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

- i. na
 ii. na
 iii. na

(c) the date of each such result:

- i. na
 ii. na
 iii. na

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

- i. na
 ii. na
 iii. na

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

(a) na

(b) na

(c) na

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

(a) entrapment ~~defen~~ defence(b) nolle pross(c) subject matter jurisdiction

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

(a) Implicated by Co-conspirators(b) Transitional Immunity(c) Defect And delayed Indictment

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

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

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. naii. naiii. naiv. na

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

i. naii. naiii. naiv. na

(c) the disposition thereof:

- i. Na
- ii. Na
- iii. Na
- iv. Na

(d) the date of each such disposition:

- i. Na
- ii. Na
- iii. Na
- iv. Na

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

- i. Na
- ii. Na
- iii. Na
- iv. Na

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?

Na
Na

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

(a) which grounds have been presented:

- i. Na
- ii. Na
- iii. Na

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

- i. Na
- ii. Na
- iii. Na

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) After Discovered Evidence
 (b) After Discovered Evidence
 (c) After Discovered Evidence

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

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

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. Atty. Douglas Brannon
 ii. No
No
 iii. No
No

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

i. Couilty Plea
General Session Court
 ii. No
No
 iii. No
No

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

Motion to Re/opened State Evidence
Fast Speedy Trial (within 6 months)
Appeal bond until final Date

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

Na

Na

STATE OF SOUTH CAROLINA)

County of Spartanburg)

VERIFICATION

I, Yesenia cortes Ramirez, 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.

yesenia cortes Ramirez

SWORN to and subscribed before me this 31st
 day of May, 2012

Victor R. Padgett (L.S.)
 Notary Public

My Commission Expires: August 25, 2015

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

I, Yessenia Cortes Ramirez, 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.

Yessenia Cortes Ramirez
Applicant

SWORN or affirmed to and subscribed before me this
31st day of May, 2012.

Walter R. Padgett
Notary Public

My Commission Expires: August 29, 2015

019-007
 THE STATE OF SPARTANBURG
 County
 -v- #347890

Yesenia Ramirez Cortez Court of Common Pleas

2012-CP-420-00675

Motion To Supplemental

THE ISSUES ON P.C.B. Application
 Pursuant To FED-R-C-P-15

(A)(B)(C) Based on After -

Discovered, Evidence (Exhibit B#)

THE (Defendant) Raises The following Issues

Ground (1) Entrapment Defense

Ground (2) Nolle Pross

Ground (3) Subject-Matter Jurisdiction

Ground (4) Discovery Evidence (Miranda Rights)

Ground (5) Involuntary - Unlawful - Guilty Plea.

Ground (6) Denied Rights To Appeal Guilty Plea

~~Yesenia C. Ramirez~~

5-31-12

Sworn To And Subscribe Before ME

ON This 31st Day OF May 2012

Notary Public For THE STATE OF South Carolina

Nicholas R. Padgett

My Commission Expires: August 25, 2015

(TABLE OF AUTHORITIES)

4th Amendment U.S.C.A. F.R.C.P. Rule 16
 5th Amendment U.S.C.A. / F.R.C.P. Rules 1, 2, 3

6th Amendment U.S.C.A.

14th Amendment U.S.C.A.

18th Amendment U.S.C.A.
 U.S.C.A. 3161 Id ⑥ 18, 6 S.C.A. 316 216.

Entrapment Defense / F.R.C.P. Rule 16

Nolle Pross Defense / F.R.C.P. Rule 16, S.C.R.E. code 401

Subject-Matter Jurisdiction 18 U.S.C.A. 316/2

After-Discovered Evidence

Citing Case Laws of Precedent.

① U.S.-V-Long, 900 F.2d 1270, 1274 (8th Cir 1990)

② U.S.-V-Jones, 676 F.2d 327 (8th Cir) 459, 458, 103, 501, 71, L.Ed. 71.

③ Gibson-V-STATE-V-³³⁴ SC, 515 S.E.2d 320 (1999)

④ Brady-V-Maryland, 373, U.S. 83, 1963, Id at 523, 514, 5 Ed 324.

⑤ United State-V-Avellino, 136, F.3d 249, 255 (2nd cir, 1998)

⑥ Cherry-V-STATE, 300, SC, 115, 386, 5 E. 2d, 624 (1989)

⑦ Strickland-V-Washington-Heb. US. 668, 104, S.Ct. 2052, 80, L.Ed. 2d, 674, 692 (1984)

8 Judge-V-STATE, 321, S.C. 554, 471, S.E. 2d, 146 (1994)

STATE OF SOUTH Carolina	COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	2012-CP-4200675
019-007 HOME	Motion To Supplemental The
=VS=	Pleadings Pursuant to Fed. R.C.P.
V THE state OF South Carolina	Rule 15 a b.c Exhibit (A)
Yessenia C. Ramirez	AFFIDAVIT OF SERVICE
# 347890	

THE (Defendant) hereby move on her own acaened
 Petrtioning said (Attorney Douglas Brannon) to file a
 Motion to supprement the Pleadings on the merits of
 my P.C.R. Application. Motion is based on After
 Discovered Evidence, knowledge was uncovered after
 the filing of the Original P.C.R. Application.

Respectfully
 Submitted

Sworn To And Subscribe Before ME, ~~Yessenia Ramirez~~
 ON This 31st DAY OF MAY 2012, ~~6-31-12~~

Notary Public For THE State OF South Carolina

Vickie R. Padgett

MY COMMISSON Expires august 25, 2015

STATE OF SOUTH Carolina	THE COURT OF Common Pleas
THE STATE OF SPARTANBURG	2009-GS-42-03161
Spartanburg County	S.C. Code ANN: 16-01-0055
<u>V.</u>	
Yesenia C. Ramirez #347890	Motion To Appear To Court JUDGEMENT Under F.R.C.P. 59e
	Exhibit

She (Yesenia C. Ramirez) states that she is entitled to
 Amend her (P.C.R) application based on After-Discovered
 Evidence and Pursuant to F.R.C.P. 15(b)(2) Pursuant to Fed.
 Rule C.P. Rule 16, The Evidence of the case and Pursue

UNDER the Entrapment Defense: THE (Defendant) Presents A
 Prima Facie Case beyond a Reasonable doubt, as the one and only
 Element OF the Alleged Crime; in which she was implicated as
 being the Executioner OF this crime, (2) Nolle Pross: THE (Defendant)
 raises the Nolle Pross Defense because the Person's arrested for
 the Crime at the crime scene OR shortly after the Alleged
 Crime was committed Implicated the (Defendant) and received
 (Transitional Immunity) from Prosecution, Absence A Grand Jury's
 verdict to dismissed Charges against them, in conjunction with the
 solicitor's Arranging Evidence to Present to A (STATE Grand Jury)
 to Issue A warrant for the Co-defendant and the (Defendant)
 THE Co-Defendant's was granted Transitionally Immunity from
 Manifests Injustice, It's in conflict with a state and
 Federal Civil Protective Rights. Act, Under the 5th Amend. U.S.C.A.
 A ^{citizen} ~~citizen~~ must be indicted by A (Petate Grand Jury) in
 order to be brought before A Court OF Law, for Prosecution.

②

if she would've known the state had violated her constitutional rights, she would've proceeded to trial. Because the (appellant) doesn't speak English well and is an (Immigrant) from New Mexico. She was truly deprived of her right to a fair trial; the Discovery Evidence is based on a material and Genuineness of Fact on the merit of the (applicant's) Innocent and is of a mitigating Factor to prove that she is not guilty of the crime and was implicated on the theory of being a co-conspirator with the two (2) other codefendants, who had for a Fifth Defense: Plea Agreement Procedure Guilty Plea; was based on advice of Counsel; Nevertheless, The plea agreement Procedure was violated, The (Defense) attorney, Inconspicuously, entered A Plea of Guilty prior to the (applicant's) guilty Plea Trial - The (Defendant) can show that, (1) Attorney, for the (Defendant) in this case at bar, "coerced" the (Applicant) to plead guilty; For Example; before accepting a plea of guilty or a conditioned Plea, the Court must approve or disapprove Reserving the Government's consent in writing, and the Right to appeal order judgement, to review of the adverse

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
	)	2012-CP-42-0675
Yesenia Cortez Ramirez, #347890,	)	
	)	
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
	)	

The Respondent, making its Return to the application for post conviction relief (PCR) filed February 3, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the May 2010 term of the Spartanburg County Grand Jury for two counts of accessory before the fact to murder and accessory before the fact to burglary – 1st degree (10-GS-42-3161, count 1, count 2, & count 3, respectively). Applicant was represented by N. Douglas Brannon, Esquire and Chris Kennedy, Esquire. On September 16, 2011, the Applicant pled guilty as indicted to the charge of accessory before the fact to burglary – 1st degree, but waived presentment of and pled to two counts of accessory after the fact to murder. Applicant was sentenced by the Honorable J. Mark Hayes II for a period of fifty years for accessory before the fact to burglary – 1st degree, and fifteen years for each count of accessory after the fact to murder to be served concurrently. The Applicant did not appeal her conviction or sentence.

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

II.

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

1. Ineffective assistance of counsel, in that;
 - a. Counsel failed to inform her of her right to appeal,
2. Actual innocence
 - a. "[She] was not present when [the] crimes were committed. [She] was set up."

III.

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

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

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

IV.

The Applicant also alleges that she is innocent of the charges and was set-up. A guilty plea generally constitutes a waiver of non-jurisdictional defects and claims of violations of constitutional rights. See Rivers v. Strickland, 264 S.C. 121, 124, 213 S.E.2d 97, 98 (1975) (a plea of guilty constitutes a waiver of non-jurisdictional defects and defenses, including claims of violation of constitutional rights prior to the plea); Whetsell v. State, 276 S.C. 295, 277 S.E.2d 891 (1981). Therefore the plea waives any non-jurisdictional defects and defenses, including challenges to the sufficiency of the evidence. "Where a defendant voluntarily, intelligently, and

understandingly enters a plea of guilt, this makes it unnecessary for the State to offer evidence to prove the offense charged in the warrant or indictment.” State v. Allen, 261 S.C. 448, 200 S.E.2d 684, 686 (1973). This is because the guilty plea “admits all matter of fact averments of the accusation.” Id. The defendant admits all circumstances described in the indictment, leaving only sufficiency of the indictment for review and waiving all other defenses. State v. Thomason, 341 S.C. 524, 534 S.E.2d 708, 709 (2000). Additionally, PCR is not a proper avenue to challenge the sufficiency of evidence. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974); S.C. Code Ann. § 17-27-20(a)(6).

Accordingly, the Respondent submits that this allegation must be summarily dismissed, as the record fully supports the knowing and voluntary nature of the Applicant's plea. In addition, S.C. Code Ann. §17-27-70(c) (1985) authorizes the Court to “grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.” Therefore, the Respondent requests that this Court summarily dismiss the Applicant's second allegation in the current application for post conviction relief for failure to state a cognizable claim under the Uniform Post Conviction Procedure Act.

V.

Each and every allegation contained within the application not hereinbefore 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
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
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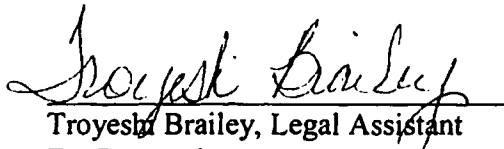
October 9, 2012.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	IN THE SEVENTH CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	2012-CP-42-0675
	)	
Yesenia Cortez Ramirez, # 347890	)	
	)	
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** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Staci M. Rollins, Esquire
606 Pettigru Street
Greenville, SC 29601

DATED this 9th day of October, 2012


Troyesh Brailey, Legal Assistant
For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF COMMON PLEAS
3
4 Yesenia Ramirez,)
5 Applicant,) TRANSCRIPT OF RECORD
6 The State,) 2012-CP-42-0675
7 Respondent.) June 28, 2013
8) Spartanburg, South Carolina
9
10
11
12
13
14

11 B E F O R E:

12 HONORABLE R. LAWTON MCINTOSH, JUDGE
13
14

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

16 STACI M. ROLLINS, ESQUIRE
17 Attorney for the Applicant

18 SUZANNE H. WHITE, ESQUIRE
19 Attorney for the Respondent
20
21
22

23 Margaret A. Woods
24 Circuit Court Reporter
25

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Certificate of reporter

46

NO EXHIBITS INTRODUCED

MOTIONS AND MATTERS

1 THE COURT: Yesenia Cortez-Ramirez vs. State.

2 MS. WHITE: I'm sorry, yes, Your ---

3 THE COURT: And you had some problem with the
4 interpreter?

5 MS. ROLLINS: Yes, sir, the ---

6 THE COURT: What is your problem with the interpreter,
7 please.

8 MS. ROLLINS: --- the information that I have provides
9 that Ms. Marie and I apologize ---

10 MS. BUSTAMONTÉ: Bustamonté.

11 MS. ROLLINS: Bustamonté was the ordered to be the
12 interpreter for the hearing. The transcript states that there
13 were two separate interpreters. When Ms. Bustamonté got here,
14 my client informed me that she had not been the interpreter
15 that day, I don't know who was the interpreter and so I need
16 additional time to determine who the interpreter was at the
17 hearing.

18 THE COURT: What effect would the interpreter have in any
19 fashion at all these proceedings?

20 MS. ROLLINS: My client felt that the interpretation was
21 not effective and she also felt that she didn't understand the
22 guilty plea.

23 THE COURT: Who, the the interpreter didn't understand
24 it?

25 MS. ROLLINS: My client did not understand.

MOTIONS AND MATTERS

1 'cause I ---

2 THE COURT: I I can't hear you.

3 THE INTERPRETER: I want to cancel the application 'cause
4 I feel bad.

5 THE COURT: She wants to do what?

6 THE INTERPRETER: Cancel the application.

7 THE COURT: Okay, cancel the application. So, uh,
8 Ms. Ramirez, if you cancel or withdraw your application, you
9 will not be allowed to file another application for
10 post-conviction relief, do you understand that?

11 THE INTERPRETER: I want to fight for my case.

12 THE COURT: She wants to do what?

13 THE INTERPRETER: Fight for her case.

14 THE COURT: Okay, let's go forward. Call your witness,
15 please. Tell me the issues in this case.

16 THE INTERPRETER: Thank you, sir.

17 MS. WHITE: Your Honor, in the application she alleged
18 ineffective assistance of counsel and that counsel failed to
19 inform her of the right to appeal and she alleged actual
20 innocence.

21 THE COURT: Actual innocence?

22 MS. WHITE: Yes, Your Honor.

23 THE COURT: Okay.

24 MS. WHITE: And I can give you the procedural history if
25 you want ---

MOTIONS AND MATTERS

1 THE COURT: Sure.

2 MS. WHITE: --- of what the charges were.

3 THE COURT: It was a, it was a accessory after the fact
4 to murder?

5 MS. WHITE: Accessory after the fact to murder. She was
6 originally, uh, charged with accessory before the fact ---

7 THE COURT: Right.

8 MS. WHITE: --- and then accessory before the fact to
9 burglary first and she received a 50-year sentence on that
10 charge and a concurrent, uh, 15 on the two I think accessory
11 after the fact to murder charges.

12 THE COURT: Ms. Rollins, ---

13 MS. ROLLINS: Yes, sir.

14 THE COURT: --- uh, do you agree that grounds are
15 ineffective assistance of counsel bein' that, uh, the right to
16 appeal was not explained to the applicant and she's actually
17 innocent, are those her grounds?

18 MS. ROLLINS: My understanding of her grounds are that
19 she did not understand what she pled guilty to and that she
20 felt that her counsel was ineffective in communication and did
21 not notify her of her right to appeal.

22 THE COURT: Would you call your first witness.

23 MS. ROLLINS: I'd like to call Ms. Ramirez, please.

24 THE COURT: You're still under oath.

25 (Whereupon, the applicant came forward.)

YESENIA CORTEZ-RAMIREZ - DIRECT EXAMINATION BY MS. ROLLINS

1 MS. ROLLINS: Thank Your Honor.

2 DIRECT EXAMINATION BY MS. ROLLINS:

3 Q. Ms. Ramirez, could you please state your name for the
4 record.

5 A. Yesenia ---

6 Q. And could ---

7 A. --- Cortez Ramirez.

8 Q. --- you state your age.

9 A. Forty-two years old.

10 Q. And what is your education background?

11 THE COURT: You ask her to speak up, please.

12 A. I was only with my mother until I was 10-years-old.

13 Q. I'm sorry could you repeat that.

14 A. So I, at 10-years-old I was taken from my mother, uh, by
15 two men and brought over here and I was not educated. I
16 didn't, uh, go to school and I've only been here for that
17 time.

18 Q. When were you brought here?

19 A. I was taken to California first where I was, uh, kept in
20 a closed room and I've been in the States for 32 years.

21 Q. What have you done since you've been in the States?

22 A. So I worked in a body shop for ten years and after that I
23 was able to work in, uh, Artistic, uh, Promotional, uh,
24 Artisticks, uh, shop.

25 Q. And do you have any other criminal history?

YESENIA CORTEZ-RAMIREZ - DIRECT EXAMINATION BY MS. ROLLINS

1 A. Never.

2 Q. Have you ever had any involvement with an American legal
3 system?

4 A. Before?

5 Q. Before this case, correct.

6 A. No.

7 Q. Okay. Uh, could you please tell me a little bit about
8 your communication with Mr. Brannon your attorney.

9 A. Yes, ma'am.

10 Q. Did you get regular letters from him?

11 A. No.

12 Q. Did he come to visit you?

13 A. Yes, he went to visit me.

14 Q. How many times?

15 A. Uh, if I remember correctly it was four times that he,
16 Mr. Brannon came to visit me.

17 Q. And did he bring an interpreter with him when he came to
18 visit you?

19 A. Yes.

20 Q. Do you know the name of that interpreter?

21 A. I don't remember the first one.

22 Q. Okay. And when he brought the interpreter, did he
23 discuss it -- your case with you?

24 A. No.

25 Q. What did you discuss?

1 A. So we discussed er -- other things: uh, my first job, uh,
2 of which I used to clean houses and the fact that I used to
3 practice, uh, witchcraft and we also talked about, uh, the
4 death of his sister.

5 Q. When did he explain to you what would happen with your
6 case?

7 A. The the first three times that he came to visit me we
8 never discussed anything about my case but I did mention to
9 him and wanted to know what was goin' on.

10 Q. When did he tell you what was happening with your case?

11 A. Uh, so the times that he did come we, uh, he only
12 mentioned the fact that what I was facing, the time that I was
13 facin' and if I was to go to, uh, court or a trial then the
14 other ones that were arrested with me would, uh, would testify
15 on on on the side.

16 Q. So he told you what the amount a charges you were facing
17 were.

18 A. No.

19 Q. Uh, when you went to the hearing, did he bring an
20 interpreter?

21 A. I didn't have a trial.

22 Q. Your sentencing hearing.

23 A. Yes.

24 Q. And do you remember the name of that interpreter?

25 A. Okay. The first one that was doing the sentencing

YESENIA CORTEZ-RAMIREZ - DIRECT EXAMINATION BY MS. ROLLINS

1 hearin', uh, told me that I had to leave -- that she had to
2 leave because she had to go pick up her kids and Mr. Brannon
3 was not paying her to interpret for her, she was just doin' it
4 outta the goodness of her heart.

5 Q. Do you remember her name?

6 A. She didn't remember her name.

7 Q. Do you know who the second interpreter was?

8 A. I remember really well the name of the other one was
9 Maria Delores.

10 Q. Okay, and when you were at the hearing did you understand
11 what they were telling you?

12 A. In the Court?

13 Q. Yes.

14 A. I didn't understand a a lot but and didn't know how to
15 answer. I've never been in a situation like this and I was
16 askin' the lady what should I, uh, reply.

17 Q. What lady?

18 A. The the first one, the one that I don't remember her
19 name.

20 Q. The first interpreter.

21 A. So I asked her what should I reply and to ask the
22 attorney how should I answer and I was told to say yes to
23 everything 'cause I didn't know how to respond.

24 Q. Did you meet with Mr. Brannon and the interpreter before
25 the hearing?

1 A. The -- yes, I did, in the same room that we met today
2 with you.

3 Q. And did he explain to you what was going to happen?

4 A. No.

5 Q. So when you went into the hearing, did you understand
6 that you were pleading guilty?

7 A. So not -- there wasn't a time that they explained to me
8 or read to me in Spanish to explain what was goin' on, uh,
9 with the paperwork.

10 Q. When you met with Mr. Brannon and the interpreter in the
11 room, what did you discuss before the hearing?

12 A. So when I was asked if I was gonna plead guilty, they
13 said, What do you think, and I was told, Well either way if
14 you plead guilty or not that you would probly get life.

15 Q. Who told you that?

16 A. Mr. Brannon.

17 Q. Through the interpreter?

18 A. Yes.

19 Q. So when you went to the hearing, did you understand that
20 you were pleading guilty?

21 A. I went to the hearing saying that I would plead guilty
22 because Mr. Brannon said that afterwards he would explain
23 everything, so he said that I understand that you weren't in
24 that place or you didn't see anything and you weren't involved
25 in this but, uh, one hand and all, one and all is all I

YESENIA CORTEZ-RAMIREZ - DIRECT EXAMINATION BY MS. ROLLINS

1 know.

2 Q. Wh -- did Mr. Brannon meet with you after the hearing to
3 explain what happened?

4 A. He, uh, went back to let me know that they gave me
5 50 years and he said bye.

6 Q. Did you ever hear any more information from him after
7 that?

8 A. No.

9 Q. Did he -- when you were at the hearing the judge asked
10 you several questions, did you understand those questions?

11 A. Uh, at that time I wasn't takin' my medication and I was
12 in a bad state, uh, there was times that I couldn't stand up
13 and I had to sit down durin', uh, the process.

14 Q. Did you tell Mr. Brannon or the judge that you needed
15 your medication?

16 A. So he said that, uh, I did inform him and and I was told
17 that they was gonna get all the paperwork together and ready
18 with the Delores, and if I remember correctly that's her name,
19 then they was gonna take me to a doctor to get the
20 medication.

21 Q. And I'm sorry you told that to Mr. Brannon?

22 A. I told him that I needed my medication. Uh, so I I did
23 tell him that I needed my medication and he said he would, uh,
24 take me to get my medication and he never took me.

25 Q. Was that before or after the hearing?

1 A. Before, much before the hearing.

2 Q. How long was the hearing, do you remember?

3 A. I don't remember because I was really in no...

4 Q. But you had to sit down during the hearing?

5 A. Yes.

6 Q. Did you tell the judge that you weren't feeling well?

7 A. So, um, I -- Mr. Bra -- I told Mr. Brannon and he even
8 said that, uh, I could sit down and once I sat down when the
9 time came for the judge to come in, uh, they told the the
10 young lady to let me know that I needed to stand up at that
11 point.

12 Q. Did you tell the judge that you weren't feeling well?

13 A. Uh, Mr. Brannon told the judge that I didn't feel good,
14 uh, and upon seeing the family members of the, uh, victims,
15 uh, the victim's family members I seen them cryin' and made me
16 cry also because I know that I didn't do this.

17 Q. Okay. Did you discuss that with Mr. Brannon?

18 A. He, Mr. Brannon told the judge to have mercy on me.

19 Q. When you said that during the hearing you asked the
20 interpreter what to say, ---

21 A. Yes.

22 Q. --- why did you ask her that?

23 A. 'Cause I didn't know what to answer. I've never been in
24 a place like this. I've only worked honestly and I've never
25 been in a situation like this with the police or in this type

YESENIA CORTEZ-RAMIREZ - DIRECT EXAMINATION BY MS. ROLLINS

1 of situation. It was hard for me to see in this type a
2 situation.

3 Q. Did you understand anything that was happening at the
4 hearing?

5 A. No.

6 Q. So you asked -- did you ask the interpreter or
7 Mr. Brannon what to say?

8 A. I ask the interpreter and she aks Mr. Brannon.

9 Q. And why did you answer the way they told you?

10 A. Uh, Mr. Brannon told me to say, uh, uh, yes to everything
11 and to plead guilty and that, uh, my attorney would explain.

12 Q. Why did you do what Mr. Brannon told you to?

13 A. So, uh, I I thought that Mr. Brannon was gonna explain
14 that I was not in that location and I had nothin' to do with
15 it and the only thing that I didn't do was call the police but
16 how could I, I was threatened.

17 Q. When you say you didn't call the police, is that what you
18 thought you were pleading guilty to?

19 A. So and I I feel bad and I feel guilty for not havin'
20 called the police but I was placed in a situation that they
21 was pointing the finger at me.

22 Q. Who was pointing the finger at you?

23 A. Mr. José and Carlos.

24 Q. Are those your co-defendants?

25 A. Those were the ones that did that so the only thing that

YESENIA CORTEZ-RAMIREZ - DIRECT EXAMINATION BY MS. ROLLINS

1 I did was when they were pointing the gun towards my boyfriend
2 and my nephew I tried to cover them so that way they wouldn't
3 get shot and the only thing they told me was that they have
4 everything under control, so I told my boyfriend to go
5 outside, so I want -- I wanted to leave too but they told me
6 that I couldn't leave and I wasn't able to leave.

7 Q. Did you discuss all of this with Mr. Brannon?

8 A. I told this to Mr. Brannon and he knows all this but I'm
9 payin' a price, a heavy price for somethin' that I didn't do
10 and that God hears me that I had nothin' to do with this. You
11 don't know what I've suffered and had to go through. I didn't
12 participate in this action and I plead the Court that they
13 will listen, I didn't participate in this.

14 Q. When when did you give this information to Mr. Brannon?

15 A. So he, uh, so I I told this to Mr. Brannon and I I
16 explained to him but he said if you weren't guilty then you
17 wouldn't be here.

18 Q. And so is that what he told you to plead guilty?

19 A. So that's what he told me because, uh, if I wasn't guilty
20 then I wouldn't be in jail or I wouldn't be in this situation
21 and I feel bad because I didn't have the money to pay
22 Mr. Brannon so the only thing I had was jewelry and the money
23 that I had from work that I've done in Artistic, uh,
24 Promotions which was three thousand three hundred dollars so
25 that money was placed in my canteen account.

YESENIA CORTEZ-RAMIREZ - DIRECT EXAMINATION BY MS. ROLLINS

1 Q. And you would have used that money to pay Mr. Brannon?

2 A. So I would have paid in a portion of that amount to
3 Mr. Brannon and also a a car but I couldn't get any a that
4 money outta my account. So, so, uh, I had a GMC, uh, 150 and
5 I was gonna use that to pay Mr. Brannon but my, uh,
6 daughter-in-law, uh, stole that from me and so I didn't have
7 the money to pay him and when I told him I didn't have the
8 money to pay him, he said don't worry about it.

9 Q. And Mr. Brannon was a court-appointed attorney,
10 correct?

11 A. So I think it was afterwards because, uh, I was told by
12 my brother that Mr. Brannon had asked for five thousand
13 dollars, uh, but he, my brother didn't have that amount to
14 give him.

15 Q. Was that for your case where he represented you?

16 A. Uh, yes, that was for my case to take my my case but, uh,
17 the truth is I never paid, uh, Mr. Brannon.

18 Q. Okay, but you understand he was was appointed by the
19 Court?

20 A. I don't know.

21 Q. Okay. Uh, you mentioned your brother, did Mr. Brannon
22 communicate with your family?

23 A. Yes.

24 Q. Did he explain to your family what the charges were?

25 A. No.

YESENIA CORTEZ-RAMIREZ - DIRECT EXAMINATION BY MS. ROLLINS

1 Q. What -- I'm sorry, go ahead.

2 A. So, uh, no, he did not, uh, but he had moved location, he
3 had a new address and I was tryin' to, uh, find that
4 information. I asked someone and, uh, this young lady at --
5 in jail to help me find his location and we was lookin' in the
6 yellow pages.

7 Q. For Mr. Brannon, Mr. Brannon new location while he was
8 representing you?

9 A. Yes.

10 Q. Did you receive any letters from him telling you ---

11 A. No. So, uh, since I wasn't payin' him I asked someone to
12 help me since I don't speak English well and write it. I
13 asked someone to help me write, uh, Mr. Brannon a letter to
14 explain to him that since I don't have the money to pay him,
15 uh, maybe I should get a public defender.

16 Q. Okay. So did you pay Mr. Brannon any money at all?

17 THE COURT: Ms. Rollins, what's the rel -- relevance of
18 payment?

19 MS. ROLLINS: I just don't think that my client -- I'm
20 sorry, I'm just tryin' to understand what my client is
21 communicating with that. I think that she felt if Mr. Brannon
22 had been paid he would've done a better job, I'm just trying
23 to understand what she's telling me.

24 THE COURT: Let's let's let's kinda move it to our next
25 subject if you don't mind.

YESENIA CORTEZ-RAMIREZ - DIRECT EXAMINATION BY MS. ROLLINS

1 MS. ROLLINS: I understand. Thank you, Your Honor.

2 BY MS. ROLLINS:

3 Q. Um, was your family present at the hearing?

4 A. So, uh, no they did not because my brother had rented a
5 car and was plannin' to rent a car and to bring my kid and
6 family to court but Mr. Brannon had told them that it was not
7 a court, uh, date, that they -- it would be a conference
8 meetin'.

9 Q. When you went to the courthouse, did you think it was a
10 conference?

11 A. Uh, I, when I came to court, I thought it was gonna be a
12 conference because I've never been in a situation where I
13 would be in a court proceeding.

14 Q. When did you know what the charges were that you had pled
15 guilty to?

16 A. Uh, I knew of my charges when I was, uh, sent to SCDC or
17 prison. I didn't know anything about it and when I was there
18 that's when someone mentioned to me that I should do a, uh,
19 PCR hearin', so, uh, when I was there someone told me that you
20 should know yo -- what your charges are and ask your advisor
21 to get the paperwork out to let you see so you'll know what
22 your charges are and they did and that's when I was aware of
23 my charges and I, uh, was in a bad state and needed to take
24 medication.

25 Q. When did you find out that you could appeal your case?

1 A. So the first time was when someone helped me to, uh,
2 write a letter to Mr. Brannon about the appeal but he never
3 replied.

4 Q. Did Mr. Brannon ever tell you anything about an appeal?

5 A. So he he told me to leave everything as is and that, you
6 know, if I did try to do somethin' I would probly end up life
7 in prison.

8 Q. What he mean when he said if if you tried to do
9 something, did he say an appeal?

10 A. Uh, like if I was to reopen my case.

11 Q. Is there anything else that you felt Mr. Brannon did that
12 wasn't good on your behalf?

13 A. And to tell you the truth if Mr. Brannon had told the
14 interpreter to read me the charges and, uh, whatever was in
15 the paperwork in Spanish to allow me to understand what I was
16 signin', I would have never signed.

17 Q. So you signed the paperwork without ever reading it
18 in ---

19 A. No, no one read to me the paperwork in Spanish.

20 Q. Can you read or write?

21 A. Uh, uh, just a little now but I've never been to school,
22 uh, so they're teachin' me now and that's how I'm learnin' how
23 to read certain things 'cause I'm tryin' to read and write.

24 Q. At the time that you signed the paper, could you read?

25 A. It was in English, I did not know.

YESENIA CORTEZ-RAMIREZ - DIRECT EXAMINATION BY MS. ROLLINS

1 Q. And no one read the paper to you?

2 A. I swear that no one read that paper to me in Spanish.

3 Q. Why did you sign it?

4 A. I don't know, they got me at a time where I didn't
5 know.

6 Q. Who told you to sign the paper?

7 A. Mr. Brannon told his interpreter to tell me.

8 Q. Is there anything else you want the judge to know about
9 M -- what Mr. Brannon did or how you felt he was ineffective?

10 A. The only thing that I ask is that to realize that I am a
11 mother and I have kids.

12 Q. How many children do you have?

13 A. Nine.

14 Q. And how old is your oldest child?

15 A. Uh, the oldest 20 -- 31.

16 Q. And the youngest?

17 A. The youngest is 9 and he was 4-year -- he was 4-years-old
18 when -- since I was here.

19 Q. Is there anything else you wish for the judge to know
20 about Mr. Brannon?

21 A. The only thing that I ask of, uh, the judge is that
22 justice will be served in name of Jesus. I never drove a car
23 and I never was in that place and I never saw those people.

24 Q. Would you have pled guilty if you understood the
25 charges?

1 A. No.

2 MS. ROLLINS: No further questions.

3 THE COURT: Ms. White.

4 MS. WHITE: Just briefly, Your Honor.

5 CROSS-EXAMINATION BY MS. WHITE:

6 Q. Ms. Ramirez, you testified that you did not discuss the
7 case with Mr. Brannon but he was able to give the Court some
8 explanation and history about you and your family, is that
9 correct?

10 A. I don't understand.

11 Q. Did your attorney, did Mr. Brannon speak on your behalf
12 at the plea?

13 THE APPLICANT: In the courtroom?

14 A. In court?

15 Q. Yes.

16 THE APPLICANT: No.

17 Q. So if the transcript reflects that he did talk to the
18 Court about your history, your children, the fact that you
19 picked some of the people out that were involved in this, do
20 you not recall that?

21 A. He told me that when I was bein' sentenced by the
22 judge.

23 Q. In court.

24 A. That's the only thing he said.

25 Q. And he did talk to you about, he did tell the Court that

YESENIA CORTEZ-RAMIREZ - CROSS-EXAMINATION BY MS. WHITE

1 you had helped identify one of the co-defendants?

2 A. Uh, repeat please.

3 Q. He was able to tell the Court that you helped identify
4 some of the other defendants?

5 A. Yes.

6 Q. Okay. In regards to the medication, you said that you
7 told Mr. Brannon you needed your medication, ---

8 A. Yes.

9 Q. --- what illness do you have that you need medication
10 for?

11 A. Okay, I need it for depression 'cause when I don't take
12 my, the medication for, uh, depression then I don't feel well.

13 Q. And you started this prior to the sentencing?

14 A. At that time I wasn't in the a good state but right now I
15 understand a little bit more.

16 Q. And you had an interpreter that went over with you
17 everything the judge was saying, did you not?

18 A. Uh, now or at the Court?

19 Q. At the sentencing.

20 A. Yes, there was an interpreter telling me and I asked, uh,
21 the man what what to answer.

22 Q. You testified that they told you to say yes to
23 everything, ---

24 A. Uh, they told me to say yes and I, uh...

25 Q. --- so the times when the Court asked you if you had ever

1 received help for drugs or alcohol and you said no, ---

2 A. I said no.

3 Q. --- and had you been threatened or promised to plead to
4 make you plead you said no, sir?

5 A. What?

6 Q. You told the Court you had not been threatened in any way
7 or been made any promises in order for you to plead guilty.

8 A. I didn't explain the threats of the others.

9 Q. But threatened in order to plead guilty.

10 THE APPLICANT: No.

11 A. No.

12 Q. You also answered no to whether or not you wanted a jury
13 trial.

14 A. So I told Mr. Brannon no because he told me that the
15 others would be there testifyin' and, uh, it would be my word
16 against theirs and I wouldn't have anything to say and I would
17 get life.

18 Q. But my question is it appears you understood the
19 questions that the Court asked 'cause you gave appropriate
20 answers.

21 A. So yes, only because Mr. Brannon was tellin' the
22 interp -- or the young lady what to tell me to say, so
23 Mr. Brannon was sayin' real slowly what to say.

24 Q. And when you stated that you declared yourself guilty,
25 was that Mr. Brannon and not you?

YESENIA CORTEZ-RAMIREZ - CROSS-EXAMINATION BY MS. WHITE

1 A. So I was waiting for Mr. Brannon to explain and and let
2 them know that I was not in that place and I kept askin' what
3 should I say and the interpreter was askin' Mr. Brannon what,
4 uh, and he was tellin' me, Well you should answer yes, say
5 yes.

6 Q. And it was clear from both the State and your attorney
7 that you were responsible for dropping people off at the site
8 and picking them up.

9 A. What location?

10 Q. Where the crimes occurred.

11 A. And at neither time or no time at all that I dropped off
12 anyone 'cause I never drove.

13 Q. So when you apologized to the Court and said you were in
14 the wrong space, destiny had you in the wrong place, was that
15 not true?

16 A. I was in the trailer where, uh, Mr. José lived and so and
17 at that location that, uh, that man would sell drugs and that
18 I would see a lotta people go in and out and I seen somethin',
19 a small white, uh, substance, so he told me that, You're not
20 goin' anywhere and that he -- I would have to stay there. I
21 told him I wanted to go home to to my kids in Georgia, he
22 said, No, you're not goin' anywhere.

23 Q. Okay, thank you.

24 MS. WHITE: That's all the questions I have for this
25 witness.

NORMAN DOUGLAS BRANNON - DIRECT EXAMINATION BY MS. WHITE

1 THE COURT: Any redirect in response ---

2 MS. ROLLINS: No, Your ---

3 THE COURT: --- to those questions?

4 MS. ROLLINS: --- No, Your Honor

5 THE COURT: Thank you, ma'am. She may step down.

6 (Whereupon, the applicant left the stand.)

7 THE COURT: Ms. Rollins, do you have any other witnesses?

8 MS. ROLLINS: No, Your Honor.

9 MS. WHITE: Your Honor, the State would call Doug
10 Brannon.

11 THE COURT: Would you explain to, uh, the applicant that
12 the -- they have called the attorney to the stand, please.

13 MS. ROLLINS: I'm sorry, I ---

14 THE COURT: I was talking to the interpreter.

15 THE INTERPRETER: I'm sorry, what?

16 THE COURT: Would you explain to the applicant that the
17 attorney has been called to the stand.

18 THE INTERPRETER: Yes.

19 (Whereupon, the witness came forward.)

20 NORMAN DOUGLAS BRANNON, having
21 been first duly sworn, testified as follows:

22 THE BAILIFF: Have a seat please, sir.

23 THE WITNESS: Thanks.

24 DIRECT EXAMINATION BY MS. WHITE:

25 Q. If you could state your name for the record.

NORMAN DOUGLAS BRANNON - DIRECT EXAMINATION BY MS. WHITE

1 A. My name is Norman Douglas Brannon.

2 Q. And, Mr. Brannon, were you appointed to represent
3 Ms. Ramirez?

4 A. I was.

5 Q. And is it accurate that you met with her maybe four or so
6 times with an interpreter?

7 A. Seven times.

8 Q. And did you discuss the case when you met with her?

9 A. From the very beginning, in in in fact, uh, you couldn't
10 get her to stop talking about the case. She was talking about
11 it with law enforcement in the detention center, we talked
12 about it every time I was there.

13 Q. And to your understanding what was her involvement in
14 this case?

15 A. She had couple of different roles. Uh, she was a
16 resident of At -- the Atlanta area anyways and she received a
17 phone call from a man named Carlos who was apparently the
18 leader of this, uh, drug ring and he asked her to come to his
19 house to clean his house. Uh, after she got -- and she agreed
20 and and she came from Atlanta to Spartanburg County and
21 overheard a phone call between this Carlos and another person
22 and after that phone call she was asked to drive back to
23 Atlanta to pick up three men who were allegedly business
24 associates of Mr. Carlos, uh, so she did that. She drove to
25 Atlanta, picked up these three men and drove them back to

1 Spartanburg County. Uh, at some point Carlos asked her if she
2 had the ability to divine who it was that was allegedly
3 stealing drugs or money from him and, uh, she explained how
4 she did all of this but I'll I'll I'll let that go, uh, she
5 she did something and and and this Carlos wrote a bunch of
6 names down on pieces of paper and cut them into small pieces
7 of paper, put them in the middle of this table and and through
8 her s -- through her works, uh, two pieces a paper came outta
9 this pile and and it turns out that the two people whose names
10 were written on those pieces of paper are the people who were
11 killed. The night of the, of the killings my client told me
12 that part of her pay was a a Chevy, one a them car/truck
13 things, uh, I can't think -- a Ch ---

14 Q. Avalanche?

15 A. An Avalanche, yes. She was to be paid, part of her fee
16 was that Avalanche and her and José got into the front seat of
17 this Avalanche and the three men that she went to Atlanta to
18 bring back got in the back of the car. They dropped the three
19 men off at a location, they rode around a little while, there
20 was a phone call to José, they went back to another area, the
21 three men got in the car and they left and then later that
22 evening she talked significantly about being at the trailer
23 and being held at gunpoint and not being allowed to leave and
24 she told me all of that but that was after they picked up the
25 three people who turned out to be the the the shooters, uh,

NORMAN DOUGLAS BRANNON - DIRECT EXAMINATION BY MS. WHITE

1 but she was subsequently allowed to leave and took the three
2 men back to Atlanta along with some other family members, uh,
3 that that was the role that or that's what she told me she
4 knew about this case, okay.

5 Q. And she had been charged with accessory before the fact
6 to two murders and burglary first, is that ---

7 A. Correct.

8 Q. --- right?

9 A. Well besec --- accessory before and accessory after ---

10 Q. Okay.

11 A. --- and then burglary, ---

12 Q. Okay.

13 A. --- yeah.

14 Q. And at the time the State was presenting evidence that
15 they believe she knew not only what was goin' on but that
16 these men were coming to kill the people that, uh, that
17 ultimately died?

18 A. Well the -- that's what they believed, ---

19 Q. Right.

20 A. --- she never told me that she knew why she went to get
21 those three men and she -- and and and and I don't know that
22 she knew that she, why she went to get those men.

23 Q. In regards to the charges, she mentioned something about
24 one hand, is that -- did you talk with her about the theory of
25 hand of one hand of all?

1 A. I certainly did.

2 Q. And in your conversations with her about the charges she
3 was facing and the possible sentence she was facing, did you
4 think that she understood what was happening?

5 A. Yes. I never, I never talked to her without an
6 interpreter present and the interpreter's name is Secora
7 (Phonetic) Walt. Secora does not work for me but she
8 interprets for me when I have the need for a Spanish
9 interpreter and and she's excellent. Uh, ---

10 Q. Did you ever receive any indication from her that she was
11 unclear as to what she was being charged with?

12 A. No.

13 Q. Did she ever indicate to you that she had an illness that
14 she needed medication for she was not receiving?

15 A. After she said that on direct testimony I looked in my
16 notes and and she did tell me that she had a gastro problem
17 and and that was the only medication that she was on during,
18 uh, during my nego -- my talks with her.

19 Q. And to your understanding would the illness that she said
20 she had cause a lack of understanding on her part?

21 A. Well she never indicated that to me so no, I I I don't
22 believe so.

23 Q. Okay. In regards to the actual, uh, day of the guilty
24 plea, had you talked with her prior about proceeding to trial
25 or pleading guilty?

NORMAN DOUGLAS BRANNON - DIRECT EXAMINATION BY MS. WHITE

1 A. In -- yes in fact, I never talked with her about a guilty
2 plea until she said she had to plead guilty, it -- this was
3 always a trial.

4 Q. And did she explain why she wanted to change to a guilty
5 plea?

6 A. Yeah, she and and and let's be -- understand there were,
7 there were, I think there were seven co-defendants in this, in
8 this crime and the trial was gonna go that week for some of
9 the co-defendants but not necessarily her and, uh, we started,
10 we were talking about --- well this is how the conversation
11 started: I asked her how she, how she wanted me to describe
12 her to the jury in my opening statement and she said, I want
13 you to tell the jury that I'm a witch and and I said, I I I
14 can't do that in South Carolina, I I can't, and and then she
15 went on to me tell me that in her religion a witch is like a
16 preacher and I said, Well then let me call you a preacher, and
17 she said, No, no, no, no, no, no you gotta call me a witch and
18 then she went right from there into, I have to plead guilty
19 because if I have had anything to do with another person's
20 death or injury, my family, not just me, but my family for
21 seven generations will be cursed.

22 Q. And from that conversation then it led to the guilty
23 plea?

24 A. Correct.

25 Q. And from your understanding of that conversation she

1 acknowledged some participation or association with the fact
2 that these people ended up killed.

3 A. Well well yeah, her story didn't change, it was always
4 all along, I went to Atlanta and got these three guys, I I I
5 did this thing with the candles and the little pieces of paper
6 and I was in the car when the three guys were dropped off and
7 when they were picked up, I mean, that was always her story
8 and that's why I thought it was a trial because she ne -- she
9 didn't specifically know what the three guys were gonna do,
10 she didn't -- wasn't at the house where the people died, I,
11 you know, I thought it was a trial.

12 Q. When she decided to plead guilty, did you talk with her
13 about the rights that the judge would go over with her and and
14 the questions he would ask?

15 A. I I've been doin' this a long time and I would and and
16 I've handled a lotta pleas in front of Judge Hayes so not only
17 did I tell her the questions that he would ask them, I told
18 her the order in which he would ask them, uh, and I certainly
19 never told her how to answer a question.

20 Q. And that was my next question. Uh, did you ever
21 encourage her to sign paperwork, uh, that maybe she had not
22 had someone tell her what it was, that's not the best question
23 I know ---

24 A. Yeah.

25 Q. --- but ---

NORMAN DOUGLAS BRANNON - DIRECT EXAMINATION BY MS. WHITE

1 A. No, but I know what you're talkin' about, ---

2 Q. Okay.

3 A. The sentencing sheets were placed on a table, uh in in a,
4 it was actually in the jury room, uh, that is attached to the
5 holding room in across the hall. Uh, I sat on the end a the
6 table, Secora sat on one side of the table and
7 Ms. Ramirez sat on the other table, on the other side of the
8 table, excuse me. I showed Ms. Ramirez the sentencing sheets
9 and then I got up and Secora read word-for-word what the
10 sentencing sheets say and I'm only talking about where it says
11 the the the charge, the possible sentence and and those
12 things, so I don't mean she read verbatim what the paper said
13 but as far as what the charge was ---

14 Q. Okay.

15 A. --- and the potential sentence.

16 Q. Okay. And in regards to an appeal, did you ever receive
17 a letter from her asking you to appeal this case?

18 A. I I did but it was about three and a half months after
19 the plea was entered.

20 Q. At the time of the plea, had you received any indication
21 from her that she wished to appeal?

22 A. None. Can I respond further to that?

23 Q. Yes, please.

24 A. I cannot tell you that I told her she had ten days to
25 appeal but just like I went over every question in the order

1 that Judge Hayes would ask them, I went down her
2 constitutional rights like I always do and, you you know, I
3 may have missed it but when I do a plea or a sentencing, I I
4 go over the right to appeal, I may not have done it with her
5 but I'm telling you that I usually do.

6 Q. Okay. After the plea obviously it was not the sentence
7 that you had hoped for ---

8 A. No.

9 Q. --- but did you have any concerns about whether or not
10 she had pled intelligently and freely and voluntarily?

11 A. No, it was -- I, like I said, I I, the last time I went
12 there was to get ready for the trial, it was her decision to
13 plead guilty, uh, she did what she wanted to do.

14 Q. Thank you, that's all I have, Mr. Brannon.

15 THE COURT: Ms. Rollins.

16 CROSS-EXAMINATION BY MS. ROLLINS:

17 Q. Mr. Brannon, you stated that you don't think that she
18 knew why she went to go get those men, you're not sure that
19 she knew why she went to get those men?

20 A. What she, what she told me and I I wrote it in, I've got
21 my notes here, what she told me was that she got the call from
22 Carlos to come and clean his house, once she got there she
23 overheard a phone conversation and that after that phone
24 conversation he asked her to go and get some people that he
25 described as business associates. Now what I know is that

NORMAN DOUGLAS BRANNON - CROSS-EXAMINATION BY MS. ROLLINS

1 when she got to Atlanta to pick these people up she knew them,
2 well she knew one of them, and she knew that he was a gang
3 member and the gang is a Mexican gang and I don't know the
4 Spanish word but the gang translated the name is Crazy Ducks
5 so she knew one of the three men that got in the car.

6 Q. But you stated that you weren't sure that she knew that
7 she was getting those men to transport them to the place where
8 the killing occurred.

9 A. Well what she told me was after overhearing a
10 conversation that she then went and picked up three men that
11 were described as business associates. Now she never told me
12 that she understood or heard everything that she overheard in
13 that phone call, so I don't know if she knew why she was
14 going, I only know what she told me.

15 Q. So you said that after that you expected it to be a
16 trial, that you were prepared for it to be a trial and you
17 went to speak with her and at that time she told you that she
18 had to plead guilty, did she say that she had to plead guilty
19 because she had been a part of what occurred?

20 A. Her, I I wrote it down, she said, If I have been a part
21 of anyone's death or harm or or injury then I have to do this
22 or my family will be cursed for s -- so she said, If I have,
23 that -- those were her words, not mine.

24 Q. But at that time did you believe that her understanding
25 was the charges of accessory before and after the fact and

1 burglary?

2 A. I I'm sorry a -- would you ask that last part again, I'm
3 sorry.

4 Q. Do you think she understood the weight of what she was
5 actually pleading to? Do you think when she said, I have to
6 plead guilty for being involved in this, do you think that
7 she, her understanding of being involved was an accessory
8 before the fact and accessory after the fact of burglary?

9 A. Well I know that we had a lengthy talk about how long I
10 thought that she might serve in prison and and based on the
11 length of the number of years that I thought she could serve
12 in prison, I think she had a pretty good idea of the gravity
13 of the situation.

14 Q. And how many years did you inform her that she could be
15 looking at?

16 A. Well it wasn't 50. Uh, I thought she was looking between
17 20 and 30 years, uh, and if you read the transcript you know
18 that when Judge Hayes sentenced her to 50 years I even took a
19 step back, I ask him, Would you say that again, I I mean, I
20 didn't expect 50 but she knew that I expected between 20 and
21 30.

22 Q. So you think that, I just wanna clarify, you felt that
23 you expressing to her the amount of sentence was cle -- made
24 it clear to her the severity of the charges or what the
25 charges were that she was pleading to?

NORMAN DOUGLAS BRANNON - CROSS-EXAMINATION BY MS. ROLLINS

1 A. Well, ma'am, understand that when I, the first time I met
2 her she knew that two people had been brutally murdered. I
3 mean, this wasn't, this wasn't a single gunshot, these people
4 were tortured and in fact when I first got there she thought
5 that she had been charged with their murder so, I I mean, she
6 understood everything that that happened, okay, and and she
7 was talkin' to the police, I couldn't get her to shut up.

8 Q. Do you -- so when you -- when she pled guilty, you felt
9 that she understood the charges: accessory after the fact,
10 accessory before the fact and her actions that related to
11 those charges?

12 A. Yes.

13 Q. And when she told you that she had to plead guilty, you
14 made sure that she understood what she was pleading guilty
15 to?

16 A. Yes.

17 Q. And you stated that you you went through the judge's
18 questions with her, ---

19 A. Yes.

20 Q. --- you felt like she understood those questions at that
21 time, I know a lotta times for attorneys it's very common, did
22 you feel like you expressed to her fully what she was
23 waiving?

24 A. Well I know that every time that I spoke with her
25 including the day of the plea Secora Walt was the translator,

1 alright, ya know we changed translators in the middle of that
2 plea but Secora was there for the, for the signing of the
3 sentencing sheets in the beginning of the plea. Her and
4 Secora would have conversations without me, I mean, they
5 they -- there was a rapport, I believe there was a rapport
6 between the translator and the client. Uh, I had had Ms.
7 Ramirez ask me to talk slower from time to time, I, you know,
8 not that day but in previous conversations and meetings, I
9 was comfortable that if she didn't understand something, she
10 would tell Sequora she didn't understand something and there
11 were often times when Sequora would back up and say, Let me
12 say it this way, and she would say something else but at no
13 point during the discussions of the guilty plea either the day
14 before the plea or the day of the plea did she indicate she
15 didn't understand what was going on

16 Q. At any point in the hearing, did she ask you any
17 questions during the hearing?

18 A. I'm I'm sure she probably did but I don't remember s -- a
19 specific question.

20 Q. Uh, ---

21 A. I know she asked for a chair and, uh, and then I got the
22 chair and asked for the opportunity for her to sit down, uh,
23 but I don't, I don't remember any other specific questions.

24 Q. After the facts were reviewed by the solicitor and the
25 judge asked her if she thought they were, uh, substantially

NORMAN DOUGLAS BRANNON - CROSS-EXAMINATION BY MS. ROLLINS

1 correct she said yes but you were going to explain, there was
2 then a bench trial, ---

3 A. Um-hum.

4 Q. --- at that point ---

5 A. Uh, ---

6 Q. --- had you communicated with her to ensure that she
7 understood the facts that had been presented?

8 A. I'm not s -- I'm not sure I understand your question.

9 Q. Well, at one point ---

10 A. There was never a bench trial.

11 Q. I'm sorry.

12 A. You mean a bench conference?

13 Q. Bench conference, ---

14 A. Okay.

15 Q. --- yes. So she said that you were going to explain
16 at -- was there a discussion between the two of you as to what
17 the actual evidence presented by the solicitor was?

18 A. U -- the evidence presented were were were photographs of
19 the victims and co-defendant statements that implicated her.

20 Q. And you felt at that time she did understand?

21 A. She'd seen the pictures and and we had talked about the
22 statements. I, what I told her was the judge saw the pictures
23 and the statements, her and I had looked at the pictures and
24 and gone over the statements.

25 Q. Okay. Can I have a moment?

1 (Attorney/client discussion held off the record.)

2 Q. Every time that you met with Ms. Ramirez, you had an
3 interpreter present?

4 A. Yes.

5 Q. And you felt that you explained to her what her charges
6 were.

7 A. Yes.

8 Q. When she stated to you that she needed medication, what
9 type?

10 A. She ---

11 Q. Did she state ---

12 A. --- never t ---

13 Q. --- that ---

14 A. --- she never told me she needed medication. I asked her
15 at the second meeting with her if she was on any medication,
16 she never told me she needed medication.

17 Q. So at the hearing she did not relate to you that she
18 needed medi ---

19 A. She said she was dizzy.

20 Q. Okay. And what type of illness was it that she stated to
21 you that she ---

22 A. I I ---

23 Q. --- had ---

24 A. --- I ---

25 Q. --- if you ---

NORMAN DOUGLAS BRANNON - CROSS-EXAMINATION BY MS. ROLLINS

1 A. --- I got gastro, that's what, that's what I wrote.

2 Q. Okay, I understand. Okay, no further questions. Thank
3 you.

4 THE COURT: Thank you.

5 MS. ROLLINS: Thank you.

6 THE COURT: Any redirect?

7 MS. WHITE: Nothing, Your Honor.

8 THE COURT: May this witness be excused?

9 MS. WHITE: Yes, Your Honor.

10 THE COURT: Ms. Rollins.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: Alright, thank you.

13 (Whereupon, the witness left the stand.)

14 MS. WHITE: The State has no other witnesses, Your Honor.

15 THE COURT: Ma'am?

16 MS. WHITE: The State has no other witnesses.

17 THE COURT: Okay. The issues bein' right to appeal,
18 actual innocence and not understanding what she's pleading
19 guilty to I'm gonna address those in this order: Uh, number
20 one, right to appeal is denied, uh, it's well known that, uh,
21 at a plea that plea counsel does not necessarily have to
22 advise of a right to appeal unless there's something to
23 indicate that he should or that there's a request and and that
24 wasn't present here, uh, although it was a lengthy sentence.

25 Uh, actual innocence, uh, two things regard to that, uh,

MOTIONS AND MATTERS

1 the the applicant admits in her colloquy with Judge Hayes her
2 guilt, uh, listened to her attorney, uh, she the one who
3 initiated the plea as opposed to goin' to a jury trial, also,
4 it appears that she gave some type a statement to law
5 enforcement that would implicate her as well, uh, all that
6 i -- all that. Uh, I notice that Judge Hayes in the
7 transcript pointed out that she was seen on CD at the location
8 and I forgot what else is in there but it's sufficient amount
9 a evidence up there to establish that she was pleadin' guilty
10 to the charges which she knew, uh, what they were because she
11 was guilty of those charges.

12 As to the understanding, uh, I've watched her interact
13 here in the courtroom with her interpreter, with her lawyer,
14 uh, and with opposing counsel and she has been able to respond
15 and the responses that I hear from her are are, uh, consistent
16 with her understanding what was bein' asked, uh, the
17 transcript is clear, uh, that Judge Hayes properly went
18 through all the different elements he knew to with her, uh,
19 also he gave her the opportunity to speak with her attorney at
20 any time, uh, and he would give her and let her do that in
21 private. If you'll look through the various responses through
22 the transcript contrary to her testimony, uh, she didn't just
23 say yes, she a -- she responded to the questions asked and
24 appropriately so. Judge Hayes contrary to what she was saying
25 clearly went over the charges and the time that she could get

MOTIONS AND MATTERS

1 on those charges. She admitted the facts in the case after
2 then, af -- then goin' forward with the underlyin' facts.
3 She, each and every one of her responses through the colloquy
4 are are appropriate and indicate a full understanding of the
5 process and what she was pleading guilty to, it it appears
6 also as to the medications she she specifically told Judge
7 Hayes that she was not on any drugs and she had not received
8 any treatment for drugs or alcohol problems, that's on Page 5
9 the transcript, totality of the plea is such that she clearly
10 understood what she was doin' and, uh, unfortunately for her
11 she got a very lengthy sentence but I'm gonna deny her
12 petition, I'm gonna ask Ms., uh, White to draft the order,
13 give it to Ms. Rollins. Ms. Rollins, if you have a a problem
14 with anything in the order, just write her a letter and I'll
15 look at it, appreciate it.

16 MS. ROLLINS: Alright.

17 THE COURT: Thank you. Thank you for bein' here and your
18 participation.

19 MS. ROLLINS: Thank you ---

20 MS. WHITE: Thank Your Honor.

21

22

23

24

25

1 CERTIFICATE OF REPORTER
2

3 I, Margaret A. Woods, Court Reporter in and for the State
4 of South Carolina at Large, hereby certify that I reported the
5 preceding case on June 28, 2013 at the time and place
6 heretofore set forth; and that the foregoing pages numbered
7 from 3 through 45, inclusive, constitute a true and accurate
8 transcription of my stenographic notes of the said proceeding.

9 I further certify that I am neither attorney nor counsel
10 for, nor related to or employed by any of the parties
11 connected to the action, nor am I financially interested in
12 the action.

13 March 18, 2014
14

15 Margaret A. Woods

16 Margaret A. Woods, Court Reporter
17 in and for the State of South Carolina at Large.
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
	)	2012-CP-42-0675
Yesenia Cortez Ramirez, #347890,	)	
	)	
Applicant,	)	
	)	
v.	)	ORDER OF DISMISSAL
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

This matter comes before the Court by way of an Application for Post-Conviction Relief filed February 3, 2012. The Respondent made its Return on or about October 10, 2012. An evidentiary hearing into the matter was convened on June 28, 2013, at the Spartanburg County Courthouse. The Applicant was present and represented by Staci M. Rollins, Esquire. Suzanne H. White, Esquire, of the South Carolina Attorney General's Office, represented the Respondent.

At the hearing, the Applicant testified on her own behalf with the assistance of a court certified interpreter. N. Douglas Brannon, Esquire, also testified. This Court also had before it a copy of the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the Return, and the plea transcript.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. The Applicant was indicted at the May 2010 term of the Spartanburg County Grand Jury for two counts of accessory before the fact to murder and accessory before the fact to burglary – 1st degree (10-GS-42-3161,

count 1, count 2, & count 3, respectively). Applicant was represented by N. Douglas Brannon, Esquire and Chris Kennedy, Esquire. On September 16, 2011, the Applicant pled guilty as indicted to the charge of accessory before the fact to burglary – 1st degree, but waived presentment of and pled to two counts of accessory after the fact to murder. Applicant was sentenced by the Honorable J. Mark Hayes II for a period of fifty years for accessory before the fact to burglary – 1st degree, and fifteen years for each count of accessory after the fact to murder to be served concurrently. The Applicant did not appeal her conviction or sentence.

ALLEGATIONS

In the current application, the Applicant alleged she was being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel, in that:
 - a. Counsel failed to inform her of her right to appeal,
2. Actual innocence
 - a. “[She] was not present when [the] crimes were committed. [She] was set up.”

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 at the hearing, 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).

PCR Hearing Motions

On the record, Applicant requested to relieve her appointed attorney and requested a continuance. This Court found that Applicant failed to offer good cause that would necessitate granting of the motions; therefore, this Court denied both motions and ordered Applicant to

proceed with her application after an additional meeting with her appointed counsel.

Ineffective Assistance of Counsel

The Applicant alleges she 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, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRPC). 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 v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

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

First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Applicant testified that she had approximately four visits with Counsel and an interpreter. However, Applicant testified that they did not discuss the case in any of the meetings. Applicant testified that Counsel only wanted to discuss her prior jobs, her prior involvement with witchcraft and the death of Counsel's sister. Applicant testified that Counsel only mentioned the time Applicant was facing and the fact that if she proceeded to trial, the other co-defendants would testify against her. In fact, Applicant testified that Counsel told her that she would receive a life sentence if she went to trial or pled guilty. Applicant testified that she did not understand what was happening at the plea and did not know how to answer the questions. However, Applicant testified that she proceeded with the guilty plea because Counsel said he would explain. Applicant testified that she would ask interpreter, who then asked Counsel, how to answer the judge's questions.

Applicant testified that at the time she was not taking her medication for depression, so she was not feeling well and had to sit down several times during the plea. Applicant also testified that she cried when she saw the victims' family members because she knew she did not do the crime. Applicant testified that she feels bad for not calling the police, but she was being threatened with a gun and her family was being threatened. Applicant testified that none of her family was present at the plea either because Counsel told them it was only a conference meeting, not a court date. Applicant testified that although Counsel was court appointed, he asked her brother for \$5,000 and she felt bad that she had no money to pay him.

Applicant testified that although she signed the paperwork for the plea, no one ever explained the charges or the paperwork to her in Spanish. Applicant testified that the first time she was aware of her charges was once she was in SCDC custody and someone helped her write a letter asking Counsel to appeal.

Counsel testified that he met with Applicant seven times with an interpreter each time. Counsel testified that they discussed the case every meeting and discussed the details of the night and events leading up to and after the night. In fact, Counsel testified that the first time he met with the Applicant, she was under the impression that she was charged with murder because she knew that two people had been brutally murdered. Counsel testified that the Applicant informed him that she had helped "Carlos" by divining the names of two people that were supposedly the people stealing from him. Applicant also informed him that she was paid a fee, which included a Chevrolet Avalanche truck, to pick up and drop off several men involved in the murder. Counsel testified that Applicant also informed him that she knew at least one of the men she brought up to the Spartanburg area from Atlanta was in a gang. Counsel testified that the State intended to introduce testimony and statements by several co-defendants and pictures of the victims, which he had reviewed with the Applicant.

Counsel testified that he never met with the Applicant without an interpreter. Counsel testified that he felt confident that Applicant would have indicated to him that she did not understand him because she had asked him to speak slower before. Counsel testified that he never discussed a guilty plea with Applicant until she told him that she had to plead guilty because multiple generations of her family would be cursed because she was involved with someone's death. Counsel testified that he reviewed the questions that the court would ask her at the plea with the Applicant and an interpreter and had a lengthy talk of the possible time she may serve in prison. Counsel testified that the sentencing sheets were read to her in Spanish and reviewed with her. Counsel testified that although they thought she might receive sentences of twenty to thirty years, Applicant knew the possible time she faced and the decision to plead guilty was her decision. Counsel also testified that he was aware that the Applicant was not

feeling well at the plea, but she never mentioned any issues with illness or medication other than gastrointestinal issues.

Counsel testified that his standard practice is to go over the right to appeal with his clients and he has no reason to think that he did not do the same in this matter. Counsel testified that he did receive a letter requesting him to file a notice of appeal, but it was approximately three and a half months after the time allowed for an appeal.

As to the Applicant's claim of actual innocence, this Court finds this claim lacks merit and it is denied and dismissed. This Court notes that the Applicant admitted guilt during her plea colloquy with Judge Hayes. (Tr. p. 7; p. 15-16). Applicant also indicated that she agreed with the facts as stated by the Solicitor, which included references to numerous videos and statements which would support Applicant's guilt. (Tr. p. 13).

In regards to the Applicant's claim that she lacked understanding of the charges and plea, this Court finds that not only did her testimony lack credibility, but that she failed to meet her burden of proof. This Court notes that the Applicant, during the PCR hearing, has been able to respond with assistance of an interpreter and her responses were consistent with being able to understand the questions. Contrary to her testimony at the hearing, the record reflects that the Applicant responded to the court's questions appropriately and indicated a full understanding of the plea process and of the charges that she was pleading guilty to. (Tr. p. 14-16). Further, the court provided the Applicant with an opportunity to speak with Counsel at any time in private during the plea if she had questions. (Tr. p. 4). Additionally, when asked by the court, Applicant indicated that she had not consumed any substance that could negatively affect her understanding during the plea. (Tr. p. 5).

This Court finds that the Applicant has failed to meet her burden of proof as to this claim. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985). The record and Counsel's credible testimony both reflect that the Applicant fully understood the charges and sentences that she faced, along with the plea process, and freely and voluntarily chose to plead guilty. There was no indication that the Applicant ever wished to proceed to trial on these charges. Therefore, this claim is denied and dismissed.

Regarding the Applicant's claim that Counsel failed to file an appeal on her behalf when asked, this Court finds Counsel's testimony to be credible and finds that the Applicant has failed to meet her burden of proof as to the claim. Counsel has a constitutionally-imposed duty to consult with a defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal, or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029 (2000). In this case, as testified to, the Applicant did not request that Counsel file an appeal until months past the deadline although Counsel informed the Applicant of the right to appeal prior to the plea. Therefore, this Court finds that this claim is denied and dismissed.

Summary

This Court finds that Counsel is an experienced attorney who was prepared for and effectively represented Applicant at her plea. This Court finds counsel adequately conferred with the Applicant, was thoroughly competent in his representation, and that Counsel's conduct does not fall below the objective standard of reasonableness.

Accordingly, this Court finds the Applicant has failed to prove the first prong of the Strickland test – that Counsel failed to render reasonably effective assistance under prevailing professional norms. The Applicant failed to present specific and compelling evidence that Counsel committed either errors or omissions in his representation of the Applicant.

This Court also finds the Applicant has failed to prove the second prong of Strickland – that she was prejudiced by Counsel's performance. There is no evidence that the outcome of the proceedings would have changed based upon any of the allegations of deficiency. This Court concludes the Applicant has not met his burden of proving counsel failed to render reasonably effective assistance. See Frasier supra. Therefore, this allegation is denied.

CONCLUSION

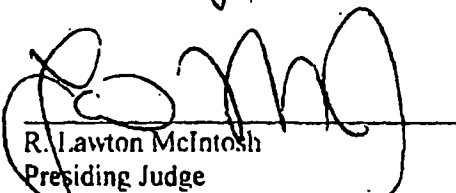
Based on all the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant her application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court cautions Applicant that she must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 25 day of Sept, 2013.



R. Lawton McIntosh
Presiding Judge
Seventh Judicial Circuit

CLERK
2013 OCT -2 PM 2:43

WITNESSES

SCSO

T. K. Thornton

ARREST WARRANT NUMBER

Count one, two, and three- Direct Indictment

ACTION OF GRAND JURY

Issue Bill

Foreperson of Grand Jury

Date: *5-6-10*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO.

10-GS-42-3161(A)(B)

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 17 2010

TERM

THE STATE

vs.

Yesenia Cortez Ramirez

Indictment for

ACCESSORY BEFORE THE FACT TO MURDER
(Count One)

ACCESSORY BEFORE THE FACT TO MURDER
(Count Two)

ACCESSORY BEFORE THE FACT TO
BURGLARY FIRST (1ST) DEGREE (Count Three)

SC Code: 16-1-40, 0050 & 16-1-10, 20 & 16-11-
311

CDR Code: 002, 0116 & 0079

Class UNC & FEL/A

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2010 MAY 10 PM 2:54

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

MAY 06 2010

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

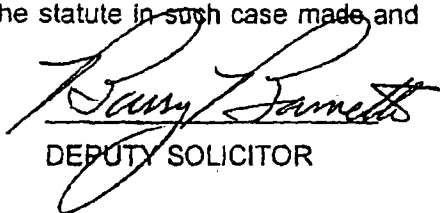
COUNT ONE- ACCESSORY BEFORE THE FACT TO FELONY-MURDER

That the defendant, Yesenia Cortez Ramirez, did in Spartanburg County on or about January 24, 2009, did aid, assist, procure, counsel, or command Rudis Ventura, Louis Perez, and/or Jose Del Angel Gomez to commit the crime of Murder of Hugo Del Carmen Lugo-Hernandez and conspiring with Rudis Ventura, Louis Perez, and/or Jose Del Angel Gomez, in violation of §16-3-10, 20 and Section 16-1-40, 50, CODE OF LAWS OF SOUTH CAROLINA, (1976, as amended).

COUNT TWO- ACCESSORY BEFORE THE FACT TO FELONY-MURDER

That the defendant, Yesenia Cortez Ramirez, did in Spartanburg County on or about January 24, 2009, did aid, assist, procure, counsel, or command Rudis Ventura, Louis Perez, and/or Jose Del Angel Gomez to commit the crime of Murder of Teresa De Jesus Avilla-Martinez and conspiring with Rudis Ventura, Louis Perez, and/or Jose Del Angel Gomez, in violation of §16-3-10, 20 and Section 16-1-40, 50, CODE OF LAWS OF SOUTH CAROLINA, (1976, as amended).

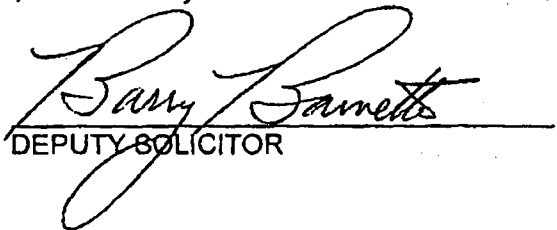
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


DEPUTY SOLICITOR

COURT THREE- ACCESSORY BEFORE THE FACT TO FELONY- BURGLARY
FIRST (1ST) DEGREE

That the defendant, Yesenia Cortez Ramirez, did in Spartanburg County on or about January 24, 2009, did aid, assist, procure, counsel, or command Rudis Ventura, Louis Perez, and/or Jose Del Angel Gomez to commit the crime of Burglary First (1st) Degree at the residence of Hugo Del Carmen Lugo-Hernandez and/or Teresa De Jesus Avilla-Martinez at [REDACTED], Greer, South Carolina and conspiring with Rudis Ventura, Louis Perez, and/or Jose Del Angel Gomez, in violation of §16-11-311 and Section 16-1-40, 50, *CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

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


DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS 113

COUNTY OF
STATE

SPARTANBURG

VS.

Yessenia Cortez Ramirez

AKA:

Race:

H

Sex: F

Age:

40

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

FBI#: 987863CD3

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☐ CONVICTED OF or ☒ PLEADS

TO: Accessory / Accessory before the fact to a Felony of Burglary First (1st) Degree- Count Three (3)

in violation of § 16-01-0040, 50

of the S.C. Code of Laws, bearing CDR Code #

0002

☐ NON-VIOLENT☒ VIOLENT☐ SERIOUS☒ MOST SERIOUS☐ Mandatory GPS(CSC☐ §17-25-45

w/minor 1st or Lewd Act)

The 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.

ATTEST:

BARNETTE, BARRY

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 50 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. 2 years 7 months☐ 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	\$100.00
§ 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	\$ 25.00
§ 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 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.40

_____ 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: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: P. Brady

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2132Sentence Date: 9-16-11