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S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

James R. Barber, III, Circuit Court Judge

JESSE RAY LANE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE # 2013-002568

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND) 2010-GS-40-2525

The State of South Carolina,)
vs.)
Jesse Ray Lane,) TRANSCRIPT OF RECORD
Defendant.)
_____)

April 15, 2011
Columbia, South Carolina

B E F O R E:

HONORABLE G. THOMAS COOPER, JR., JUDGE.

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Official Court Reporter

E X H I B I T SNO. DESCRIPTIONI.D. EVD.

(REPORTER'S NOTE: NO EXHIBITS WERE INTRODUCED AT THE
HEARING.)

I N D E XWITNESS DIRECT CROSS REDIRECT RECROSS

(REPORTER'S NOTE: NO WITNESSES TESTIFIED AT THE
HEARING.)

THE STATE VERSUS LANE

1 Friday, April 15, 2011:

2 THE COURT: All right, Solicitor.

3 MS. CAMPBELL: May it please the Court, Your
4 Honor. Before you today pleading guilty is Jesse
5 Lane. He's pleading guilty to one count of murder and
6 one count of burglary in the first degree.

7 (JESSE RAY LANE, the Defendant, was first
8 duly sworn.)

9 THE COURT: Mr. Cooper, Mr. Newton, you
10 represent Jesse Ray Lane?

11 MR. NEWTON: Yes, Your Honor.

12 THE COURT: You've advised your client of the
13 charges contained in these indictments and his right
14 to a trial by jury?

15 MR. COOPER: Yes, Your Honor.

16 THE COURT: How does your client indicate he
17 wishes to plead?

18 MR. COOPER: Guilty, Your Honor.

19 THE COURT: Both counts?

20 MR. COOPER: Yes, Your Honor.

21 THE COURT: Mr. Lane, you're charged in two
22 separate indictments, 2010-GS-40-2525. That charge --
23 that indictment charges you with murder. Murder in
24 this state carries a penalty of a minimum of 30 years
25 in jail and a -- up to a penalty of life in jail.

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1 Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You're also charged with burglary
4 in the first degree. That charge carries a penalty of
5 a minimum of 15 years in jail also to a life term
6 imprisonment.

7 Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Life without -- never mind, okay,
10 you understand that.

11 Understanding the charges you're facing and
12 the punishment you could receive, how do wish to
13 plead, guilty or not guilty?

14 THE DEFENDANT: Guilty.

15 THE COURT: Both charges?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You understand by pleading guilty
18 you're giving up your right to remain silent?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You understand that by pleading
21 guilty you're giving up your right to a trial by jury?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: If you requested or demanded a
24 trial by jury, the State would give you a trial.

25 Do you understand that?

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1 THE DEFENDANT: Yes, sir.

2 THE COURT: At that trial you'd have the
3 right to confront and cross-examine all witnesses
4 against you. You'd have the right to present any
5 witnesses and/or evidence in your own defense. You'd
6 have the right to testify in your own defense if you'd
7 wish to do so. No one can make you testify at your
8 own trial. If you decided to go to trial and not
9 testify, the judge would tell the jury they could not
10 hold the failure to testify against you. In fact, the
11 jury could not even consider your failure to testify.

12 In their deliberations, you would be presumed
13 innocent throughout the trial. The State would have
14 to prove you guilty beyond a reasonable doubt, a jury
15 of 12 people. All 12 people would have to unanimously
16 agree that you were guilty in order for you to be
17 convicted. Even if you were convicted, you would
18 still have a right to appeal that conviction.

19 Do you understand your rights with regard to
20 a trial by jury?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Understanding those rights, you
23 still want to plead guilty or you want to set your
24 case for trial?

25 THE DEFENDANT: Plead guilty.

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1 THE COURT: Has anyone promised you anything,
2 held out any hope of reward or threatened you in any
3 manner to make you plead guilty?

4 THE DEFENDANT: No, sir.

5 THE COURT: Has anyone promised you a
6 sentence in this case?

7 THE DEFENDANT: No, sir.

8 THE COURT: Are you satisfied with the manner
9 in which your attorneys advised -- have advised and
10 represented you in this case?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Have you and your attorneys fully
13 discussed these charges against you?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Have they told you the evidence
16 that the State has available to present at trial to
17 prove that you're guilty?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Have you told and discussed with
20 your attorneys any defenses that you might have or any
21 witnesses that you might be able to call to assist in
22 your defense?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Have they done
25 everything you asked them to do in preparation for

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1 this plea?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Are you satisfied with their
4 services?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you under the influence of
7 any alcoholic beverages, drugs or prescription
8 medications at this time?

9 THE DEFENDANT: No, sir.

10 THE COURT: I didn't hear you.

11 THE DEFENDANT: No, sir.

12 THE COURT: All right. Are you aware of any
13 mental conditions that would keep you from
14 understanding what you're doing here today?

15 THE DEFENDANT: No, sir.

16 THE COURT: Are you pleading guilty today of
17 your own free will and accord?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: On or about July the 5th, 2010,
20 did you commit a burglary at the home of Francis Rawl?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And on about that same day, I
23 believe in the evening hours, did you take the life of
24 one Francis L. Rawl?

25 THE DEFENDANT: Yes, sir.

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1 THE COURT: All right. Solicitor, give me a
2 little more factual basis.

3 MS. CAMPBELL: May it please the Court. Your
4 Honor, the victim in this case was 91 years old. His
5 name was Francis Lesley Rawl. He was the owner of a
6 family business, Sedgewood Golf Course, which is down
7 in the Hopkins area of Richland County. He was a
8 former legislator from the 1950's.

9 He was last seen alive on the evening of
10 July the 5th at his golf course business when he was
11 seen by his grandson as he was leaving the business
12 which was his normal way. His grandson also worked
13 with him at the business. He had left that evening
14 and gone home to his home on Woodlawn Avenue which is
15 not far from the Target Shopping Center on Garners
16 Ferry Road.

17 The next day Mr. Rawl did not appear at work
18 and he appeared every morning. He was known normally
19 to get there sometime around noon. That afternoon
20 around 4:00 he had not appeared and his grandson Les
21 had become worried. He then locked up the golf carts
22 and began to travel to his grandfather's home. He
23 wasn't able to contact him by cell phone or telephone
24 because Mr. Rawl did not have one.

25 Once he arrived at his grandfather's home,

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1 the grandson noticed that the door to the home was
2 opened. He thought this was unusual and called his
3 uncle who then advised him to call 911. The 911
4 operator got on the phone with the grandson who was
5 still outside at this point. She advised him that he
6 needed to go inside the home and see what was going
7 on.

8 Once he entered, he went back into his
9 grandfather's bedroom where he always slept and found
10 his grandfather beaten. He was lying lifeless on his
11 bed wearing boxer shorts and some socks.

12 Law enforcement responded. The Columbia
13 Police Department started the investigation. Hours
14 later that night the media began to air the story
15 about the violent nature of this homicide and what had
16 occurred.

17 The next day, an individual named Cynthia
18 Morrow who was 17 at the time came forward to law
19 enforcement. She actually turned herself in at the
20 Richland County Sheriff Department's substation in the
21 lower Richland area and informed them that she had
22 information about the crime that had occurred on
23 Woodlawn Avenue.

24 The County then contacted the City Police
25 because they understood that it was in the city

1 limits. At that point Sergeant Kelly Yates from CPD
2 escorted Ms. Morrow to the Columbia Police Department.
3 She was the interviewed. She gave statements to law
4 enforcement basically implicating three other
5 individuals -- implicating individuals that were
6 involved, ultimately two principal individuals in this
7 case along with Ms. Morrow, would be a young man named
8 James Bryan Gainey (phonetic) who was 15 years old.

9 THE COURT: James what?

10 MS. CAMPBELL: Bryan Gainey.

11 THE COURT: Gainey?

12 MS. CAMPBELL: Gainey. He was 15 years old,
13 as well as the Defendant in this case. In addition to
14 that, there were two other young girls, a 15 year old
15 and a 16 year old, who happened to accompany them the
16 night before.

17 It was later learned that ---

18 THE COURT: To the incident location?

19 MS. CAMPBELL: To the incident -- to near the
20 incident location. They were driven by Ms. Morrow and
21 I'll get into those facts in just a second, Your
22 Honor.

23 THE COURT: Okay.

24 MS. CAMPBELL: Basically all the individuals
25 were somehow -- all were not related but they had

1 relationships. Ashley Balkham (phonetic) was one of
2 the young women that was in the car that was not
3 charged in this case, along with a Ms. Tracy Tice
4 (phonetic). Ms. Balkham had been new to South
5 Carolina, she had located from Mississippi a few weeks
6 before after the death of her grandfather. She -- she
7 knew -- her cousin was Tracy Tice who she was with
8 that evening and they ultimately knew the 15 year old
9 that was involved in this, Your Honor, Mr. Gainey. On
10 that evening was the first time she'd actually met
11 many of the players that were involved in this case.

12 The relationship between this Defendant and
13 the 15 year old is basically they're related through
14 marriage. I believe one of the siblings was married
15 to one of his siblings or something of that nature.

16 Although there's some inconsistencies, all
17 the witnesses gave statements indicating that on the
18 evening of July the 5th, Ashley Balkham and Tracy Tice
19 were spending the night with Cynthia Morrow who was
20 the 17 year old, they were 16 and 15 respectively.
21 Around 11 p.m., Ms. Morris received a call from Mr.
22 Gainey who's the 15 year old to come and pick him up.
23 He was with Jesse Lane at the time. Gainey would have
24 testified that Lane had been talking about
25 burglarizing a business. That he knew of a man who

1 he'd previously done some work for who's going to end
2 up being the victim in this case. He'd cut grass,
3 done some other things and they could also rob him for
4 money because he would keep large sums of money in his
5 home.

6 The initial business they intended on robbing
7 and tried to rob that night was a place called Ham
8 Bones (phonetic). She drove them, because she's the
9 one with the car, she actually drove them to that
10 location. She did have knowledge that the robbery was
11 going to occur.

12 The two individuals then went in and
13 attempted to burglarize the business and shortly
14 thereafter they came running back to the car, had been
15 unsuccessful. Jesse Lane, and both of them actually,
16 informed Ms. Morrow that the burglary was unsuccessful
17 because an alarm had activated.

18 At that point they went to plan B. Jesse
19 Lane began to discuss how he's familiar with someone
20 else he could rob which is going to be the victim in
21 this case and he would have large amounts of cash that
22 he described as four stacks which meant \$4,000. It
23 was then discussed how Mr. Gainey, Ms. Morrow and the
24 Defendant would get their respective cuts of the money
25 that they would get. It's somewhat in dispute on who

1 was going to get what amount but it is all agreed that
2 they were all going to divide the money.

3 At that point, Ms. Morrow, the young girls
4 were still in the car, and the two Defendants, Gainey
5 and this Defendant were driven to the home of Francis
6 Rawl on Woodlawn Road.

7 Once arriving there, she drove by the house
8 several times. I guess they were trying to assess
9 what was going on inside the house. At this point,
10 both young girls, the 15 year old and the 16 year old
11 girls were requesting to leave and go home. Jesse
12 Lane then gets out of the car, begins a conversation
13 with some unknown man who was sitting in a car near
14 the incident location. At this point the girls are
15 now in the car riding around and then Gainey gets out
16 also and joins Lane.

17 The girls ride to Hampton Park and wait for
18 the boys. In the meantime, according to the testimony
19 the co-defendant would have given, the two boys walked
20 next door to a house that appeared to be vacant, next
21 to the victim's house. Then at that point, Mr. Lane
22 goes into the vacant house and comes back out with the
23 co-defendant would testify is a pipe in his hand.

24 They then go back to Mr. Rawls' home and
25 attempt to enter. They first went to the front door

1 because Lane said that he never locked the front door
2 and it should be open and they could just be able to
3 walk in. It was locked. At that point they went to a
4 window that was right next to the front door and were
5 able to open the window. And actually the co-
6 defendant actually removed the screen and started
7 opening the window and then Mr. Lane was able to gain
8 entry.

9 The co-defendant Mr. Gainey then stayed
10 outside, according to his testimony, and peered into
11 the window. He claims he could see the view through
12 some damaged blinds. He was able to see into the
13 bedroom actually of Mr. Rawl. He says when he first
14 got there, as Mr. Lane, once he entered, he saw Mr.
15 Rawl lying in the bed with his head being closest to
16 the window. He noticed that he was wearing socks and
17 boxers. There was a window air conditioner unit right
18 next to the bed that was on that night. It was on the
19 next day when the police responded which would have
20 muffled any noises that may have been made as far as
21 securing entry.

22 Once he noticed Lane went into -- at that
23 point he observes that Mr. Rawl actually repositions
24 himself in the bed. He appears to be asleep. Lane
25 then comes back -- Mr. Lane then backed away from the

1 bed. Once Mr. Rawl became still again, he went back
2 towards the bed. He began to violently strike him in
3 the head.

4 Gainey would have testified that he actually
5 saw this Defendant strike him in the head four
6 different times before he left and he doesn't know how
7 many times he struck him after that. And I've got
8 evidence from the autopsy showing the defensive wounds
9 and things of that nature later.

10 Gainey ran back to the car a short time
11 later. Jesse Lane also got back to the car. During
12 the time period when they were running back, Gainey
13 would have testified that he saw Lane throw the pipe
14 into a park area.

15 Once they were back in the car, the girls
16 would have testified that there was a conversation
17 between Gainey and Lane concerning getting rid of the
18 pipe, fingerprints on the pipe and things of that
19 nature. They would also -- the two girls and Gainey
20 would note that they noticed Lane had his cell phone
21 on and that he was trying to use it and at that point
22 they could observe what appeared to be blood spatter
23 on his arms.

24 At that point, the conversation was basically
25 Gainey saying something to Lane about it wasn't

1 supposed to go down like that. And there was also
2 some more conversation about whether or not he had
3 closed the door after and things of that nature.

4 At that point, Ms. Morrow is still driving,
5 the two girls are still in the car. They go and they
6 drop Jesse Lane and Gainey off where they had picked
7 them up. The girls go back to Ms. Morrow's house and
8 the three girls spend the night there.

9 Basically Ms. Morrow then sees the reports as
10 well as the other girls and J. B. Gainey all do see
11 the reports the next day on the media. They first to
12 report of course is Ms. Morrow who gives the
13 information to law enforcement. Shortly thereafter,
14 within hours, the two girls and the 15 year old Gainey
15 ultimately go to the police department and give
16 information about what had happened.

17 The police go back, they try to canvas the
18 park and recover the pipe that was supposedly used in
19 this. It was not recovered. Lane does not turn
20 himself in. He's later apprehended on July the 7th
21 which would have been two days after this occurred.
22 He gave a statement to law enforcement and denied any
23 involvement with the incident. Claimed he was home
24 asleep the entire time. He eventually admitted to law
25 enforcement his role in the attempted burglary at Ham

1 Bones and entering the home but he says -- points the
2 finger to the 15 year old as actually doing the
3 beating. He never takes responsibility for his role.

4 The clothing that he was wearing that evening
5 was recovered by law enforcement. However, he did
6 admit to law enforcement that his mother had laundered
7 all -- everything including the hat he was wearing
8 that night and there was no DNA evidence.

9 THE COURT: Did he ever admit it?

10 MS. CAMPBELL: He admits only that he was
11 there participating and that the 15 year old actually
12 did the beating.

13 The autopsy results, Your Honor, at the
14 appropriate time as far as the nature of the wounds in
15 this case.

16 THE COURT: How about -- was anything taken
17 from ---

18 MS. CAMPBELL: Nothing ---

19 THE COURT: --- home?

20 MS. CAMPBELL: --- they never took anything.
21 Once he finished beating him he left without actually
22 robbing him. There was actually money found on him --
23 or near him, sorry.

24 THE COURT: Other than ---

25 MS. CAMPBELL: He admits the intent was to

1 rob. They did not complete the robbery.

2 THE COURT: Did he give a statement?

3 MS. CAMPBELL: Yes, sir. He gave a recorded
4 statement to the Columbia Police Department.

5 Initially he denied any involvement in anything, said
6 he was home asleep. He then admitted to participating
7 in both the first business robbery as well as this
8 burglary robbery. However, he said that the 15 year
9 old was the one that actually beat Mr. Rawl.

10 THE COURT: Other than the hand of one, the
11 hand of all.

12 MS. CAMPBELL: He makes -- other than the
13 hand of one, hand of all and all the testimony from
14 the other witnesses ---

15 THE COURT: Other witnesses?

16 MS. CAMPBELL: Yes.

17 THE COURT: Only one there, only one witness.

18 MS. CAMPBELL: One witness there that saw it
19 but they were also present, the other girls were also
20 present to see the blood all over him as well as his
21 statements in the car.

22 THE COURT: Okay. He's admitted to murder?

23 MS. CAMPBELL: Yes, sir.

24 THE COURT: I find the decision of the
25 Defendant Jesse Ray Lane -- Jesse Ray Lane to plead

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1 guilty to be freely, voluntarily and intelligently
2 made. He's had the representation of competent
3 counsel in the persons of Mr. Cooper and Mr. Newton
4 with whom he's said he's satisfied. I find a factual
5 basis for his plea and therefore I will accept his
6 plea.

7 Mr. Lane, if you disagree with the sentence I
8 give you when this proceeding is completed, you have
9 ten days from today's date in which to file notice of
10 intent to appeal.

11 Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right.

14 MS. CAMPBELL: If I may, Your Honor. As far
15 as the autopsy report and how the body was found in
16 the bedroom, he suffered trauma due to the beating
17 with the presentation of multiple lacerations and
18 contusions to the head and face, defensive injuries to
19 the back right hand and a lost toenail on his second
20 toe, blunt head trauma. If you review the photos from
21 the scene, Mr. Rawl -- it's pretty obvious that there
22 was a struggle involved, that Mr. Rawl was alive for a
23 period of time and that he ends up to be at the end of
24 the bed, he kind of collapsed over the end of the bed.
25 However, there's a lot of blood and things on the

1 other part.

2 If I may, Your Honor, there are some
3 photographs from the crime scene that basically show
4 how he was found when the police got there as well as
5 the extent of some of his injuries.

6 THE COURT: You've shared these with defense
7 counsel?

8 MS. CAMPBELL: Yes, Your Honor. They have a
9 complete copy of all our photos in the case.

10 THE COURT: All right.

11 MS. CAMPBELL: In addition to that, Your
12 Honor, while you're reviewing those from the autopsy,
13 there are two lacerations almost two inches long. The
14 surrounding contusions presence on the back of the
15 right hand, the toenail of the right second toe has
16 been lost with surrounding hemorrhage. Both eyelids
17 are contused or bruised. The underlying eyelids are
18 also contused. A 1.8 by .3 inch laceration is
19 present over the right eyebrow. A .4 times .2 inch
20 abrasion contusion is present over the bridge of the
21 nose. A .04 -- a .4, excuse me, .2 inch laceration is
22 present over the medial aspect of the left eyebrow.
23 The nose is profusely contused and measures 2.2 inches
24 in the greatest dimensions and extends to the left
25 upper lip. Both inner aspects of the lip are found to

1 be contused. There was a 3.9 by .6 inch laceration
2 extending from the right side of the head through the
3 right ear. A 1.3 by .4 inch laceration is present
4 over the left eyebrow. There was an associated 2 by 1
5 inch purple contusion at approximately the 3 o'clock
6 position extending to the left side of the head. A
7 3.1 by .4 inch rectangular contusion extends from the
8 point of the left cheek to the left ear.

9 When they actually performed the autopsy,
10 Your Honor, and I will just hand up to you, part of
11 his skull had actually been broken in and actually
12 came off, was no longer attached to the rest of his
13 skull. You can actually see the pieces in the second
14 picture and they were able to piece it back together
15 like it was a puzzle.

16 As far as his prior record, Your Honor. Mr.
17 Lane's birth date was June the 17th of that year. He
18 turned 18 approximately two and a half, almost three
19 weeks prior to this occurring. He had been
20 adjudicated guilty of assault with intent to make
21 criminal sexual conduct in the first degree and placed
22 on a limited sex offender registry. He was initially
23 charged with criminal sexual conduct with a minor in
24 the first degree that dealt with Lane having sexual
25 intercourse with his eight year old sister with

1 penetration. In that case he did -- he never admitted
2 to penetration but admitted to improper touching of
3 his six year old sister. And as a result of that
4 adjudication, he was sent to Maine and had just
5 recently been relocated back to South Carolina.

6 It's the State's contention that the reason
7 he was desperate to get money was he was trying to get
8 back to Maine to see a girlfriend.

9 As far as anyone else that's been charged in
10 this case, Your Honor, Cynthia Morrow, the 17 year old
11 who was the driver who admitted knowledge, was charged
12 with accessory before the fact and the juvenile has
13 been charged in juvenile court.

14 THE COURT: The juvenile's been sentenced?

15 MS. CAMPBELL: He has not been sentenced,
16 Your Honor.

17 THE COURT: Neither has the ---

18 MS. CAMPBELL: Neither has the other for
19 accessory.

20 THE COURT: --- the lady?

21 MS. CAMPBELL: Your Honor, as noted on the
22 sentencing sheet, we are asking for a life sentence in
23 this case. This would be a potential death penalty
24 case. Because of his age, it's something we've taken
25 into consideration. We felt that this was the proper

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1 way to go in this case. We discussed it with the
2 family. They're all in agreement and everything. And
3 Chief Scott from the Columbia Police Department as
4 well as Investigator Dower (phonetic) beside me, Your
5 Honor, I believe they may want to address the Court at
6 the proper time, as well as at least a couple members
7 of the family would like to address the Court about
8 how this has affected them.

9 THE COURT: All right. I'll hear from Chief
10 Scott.

11 CHIEF SCOTT: Please the Court, Your Honor.
12 Just wanted to say that of course this is for the
13 family a very tragic incident and they are not the
14 only ones victimized in this situation but the entire
15 community. And just with the work that the
16 Solicitor's office has done, the Columbia Police
17 Department, just really would like to bring a closure
18 to the family and the community in this situation.

19 THE COURT: All right, sir, thank you.

20 Yes, sir.

21 INVESTIGATOR: No, Your Honor.

22 MS. GARFIELD: Would you like to hear from
23 the family now, Your Honor.

24 THE COURT: Yes ---

25 MS. GARFIELD: As you can see -- if I could

1 just reiterate to the media, they do not wish to be
2 photographed or videoed, Your Honor, family ---

3 THE COURT: I understand.

4 MS. GARFIELD: There are several family
5 members present to include Mr. Rawls' wife as well as
6 his children. We also have several grandchildren.
7 His daughter, Penelope Rawl, and his son, Francis
8 Rawl, Jr., would like to address the Court at the
9 appropriate time.

10 THE COURT: I'll be glad to hear from them.
11 Mr. Cooper, if you would step aside, just the way this
12 courtroom is laid out.

13 MR. COOPER: Yes, sir.

14 THE COURT: That's good.

15 MR. RAWL: Please the Court.

16 THE COURT: Yes, sir.

17 MR. RAWL: My name is Francis Rawl, Jr.

18 THE COURT: Yes, sir.

19 MR. RAWL: You know, this feels just like I
20 thought it would sitting here talking to you all
21 today. I've lost a father, friend, business partner.
22 The loss of the community is irreparable. I'll get to
23 that later.

24 I'd like to tell you some good stuff my dad
25 did for me when I was younger. I can remember one

1 Christmas, I was an especially good boy that year so I
2 took all the presents and moved them over in my little
3 spot. I think I left my sister a doll. Everything
4 else I lined up for me, taking them from my little
5 brother and everyone else in the family. And he
6 didn't -- didn't give me the punishment I deserved for
7 that. He just said, I looked in here earlier and a
8 tornado must have come through and messed this place
9 up. And he helped me put everything back like it was.

10 And I remember another time, I was driving
11 through a field in one of his automobiles and knocked
12 the muffler off the car. He didn't give me too bad a
13 time about that. I brought a vehicle home with the
14 window broken where I had been down at the nightclub
15 and somebody broke in it down there. He didn't give
16 me too bad a time about that. I learned quite a lot
17 from him.

18 He -- the loss to the community, I'll address
19 that now, if I may. My dad had such vision that I
20 really don't think there's anybody who can step up and
21 take his place. The parade of people coming in and
22 out of the golf course was just endless, politicians,
23 some Republicans like him, others Democrats.
24 Everybody wanted to run it by him. Whatever they had
25 on their mind, they came out there to run it by him,

1 Bernice Scott, Tom Elliott, Sheriff Lott, the list
2 goes on and on. He was very well known, very well
3 liked. Everybody wanted him on their side or they at
4 least wanted to hear his thoughts. And if he did not
5 agree with you, he would tell you. He'd say, this is
6 -- you're wrong and this is why you're wrong.

7 I remember one particular incident where a
8 developer had purchased the last dairy farm on our
9 side of town. An engineer had come out there with
10 blueprints and was wanting to run a sewer line across
11 some family property. And my father looked at his
12 plans and listened to everything he had to say. He
13 said, this is not going to work and I'm going to tell
14 you why. And the guy listened and my dad said, you
15 cannot build these houses and then expect to pay for
16 the infrastructure with the tax you will generate from
17 the new houses. And the engineer didn't really listen
18 to that because he didn't understand that.

19 Then my dad said, let me tell you something
20 else. While you've got this hole dug, instead of one
21 medium size pipe, why don't you put two while you've
22 got the hole dug and then you could accommodate growth
23 later, if one pipe becomes clogged you can just make a
24 switch until you have time to repair the clog. And
25 the engineer was just was flabbergasted, couldn't

1 speak for a few minutes, it was overwhelming him, the
2 knowledge which he learned.

3 And this was all well before housing -- the
4 kind of stuff that's going on now. My dad said,
5 nothing really mattered because not one house will
6 ever be built because of what's coming with the loans
7 that have been made and with the banking practices
8 that are going on now.

9 Beg the Court's indulgence for just one
10 second.

11 My -- my son has probably been impacted more
12 than anyone else, except my mom of course, because
13 he's the one who actually discovered the body of my
14 father who had been so severely beaten. The -- I had
15 never locked my doors at night, I never really
16 worried. Now I find myself clicking that lock back
17 and forth. We have a big old dog we bring inside now.
18 Every time he makes a bark, we jump up and run to the
19 windows and peep outside. And like my father, I live
20 in what I would consider a pretty safe neighborhood,
21 just in town. What could go wrong, we live in town,
22 we don't live out in the middle of the country where
23 somebody can just make a plan and come kick the door
24 in and -- and beat you while you lay in your own bed.

25 I am sorry, sir, I'm having a mental lapse.

1 I'm sorry, just give me one more minute, sir.

2 (Pause.)

3 THE COURT: If somebody else would like to
4 speak while he ---

5 MR. RAWL: If I could have a minute to think,
6 Your Honor, just a couple more sentences after my
7 sister speaks.

8 MS. CAMPBELL: Okay.

9 MR. RAWL: And I'm sorry. Beg your
10 indulgence for a moment ---

11 THE COURT: That's quite all right, sir.

12 MR. RAWL: Thank you.

13 MS. RAWL: Your Honor, my name the Penelope
14 Rawl. I am the daughter.

15 THE COURT: Yes, ma'am.

16 MS. RAWL: It's -- I never thought I'd find
17 myself in this situation in my lifetime. But I can
18 tell you that the first thing it did for me was to
19 explode any myth that I might ever have regarding
20 murder. I was naive and up until this happened, I
21 always thought that anyone that was murdered was
22 murdered as a result of being in the wrong place at
23 the wrong time, being with the wrong crowd, being
24 involved in alcohol or drugs or just being careless in
25 some way. But this -- this situation has changed my

1 life forever because I feel like I'm no longer safe
2 just trying to lead a normal good life and, you know,
3 I don't place myself in any dangerous situation. But
4 I don't feel safe any longer as a result of this.

5 I live in the neighborhood where my father
6 was murdered, one block from where he was murdered.
7 My nephew also lived in that neighborhood. My nephew
8 who's not here today because it's been just totally
9 devastating for him, my nephew actually left. In 30
10 minutes time, he packed everything that he could fit
11 in a suitcase and left and he has never set foot back
12 in his -- in his dwelling ever since. He won't even
13 go over to see if his television's been -- he had a
14 big TV, he won't even go over.

15 When this happened, I was the one who had to
16 deal with hearing the Coroner's report, the graphic
17 nature. My father's car was impounded in the -- in
18 the investigation. And when it was released, the keys
19 were not there. And somebody had to find the keys. I
20 never thought I would find myself in that situation.
21 But I was the one that had to go to the murder scene,
22 find my father's pants crumpled up at the foot of the
23 bed and go through the pocket to get the key out to
24 get the car.

25 I was the one that had to deal with cleaning.

1 And I can tell you that I have images that I will
2 never forget the rest of my life. And should Mr. Lane
3 just receive 30 years, I -- I can assure you that in
4 30 years time, I will still see the blood of my father
5 and how the mattress was soaked in his blood. I will
6 still see the blood splatter on the walls. I will
7 smell -- and I do not know if that particular smell,
8 that only is present with murder but I can tell you
9 that the scent is burned into my nostrils forever and
10 I will never be able to get that -- the smell will
11 haunt me several times a day. Seeing the -- my
12 father's blood, and there was a large amount of blood,
13 seeing that several times. And I will have that the
14 rest of my life. If Mr. Lane is out in 30 years, it
15 will not ever leave me.

16 On the day my father was murdered, my mother
17 lost her husband of how many years? She lost her
18 husband of 64 years. Three children lost their
19 father. Three grandchildren lost their grandfather.
20 And then my father never got to see his great-
21 grandchild who has been born since my father's death.
22 So a lot of us, my entire family, have been impacted
23 forever. And I can say that I don't think any of us
24 will ever be the same. 30 years from now, I don't see
25 much change in how we feel.

THE STATE VERSUS LANE

1 So, thank you for hearing me today.

2 THE COURT: Thank you, ma'am.

3 Mr. Rawl.

4 MR. RAWL: Please the Court. I'm sorry for
5 that memory lapse. I'll wrap this up in two or three
6 minutes.

7 THE COURT: Go ahead.

8 MR. RAWL: I am reminded of every bad child I
9 have ever met. I've been thinking about this since
10 last July, just trying to think what could be
11 different, you know, how can we keep this from ever
12 happening again. I'm a martial arts instructor, fifth
13 degree black belt, and I have met several children
14 that were waist high that terrified me. There was
15 pure evil in those children. I feared they would come
16 burn my house down. They were -- I could look at them
17 and tell there is no hope. I don't know what happened
18 to him but this kid is going to be trouble.

19 I'm also thinking back to high school. We
20 have a particular fellow who went to our church and he
21 made it his business to come visit all the church
22 members, the children, so he knew what was in the
23 house and he would skip school and come rob -- he
24 managed to rob every person in our church before he
25 caught. Every time they'd let him go, he did

1 something else. He did something else and he did
2 something else, I'm sure he's in the system
3 permanently now.

4 There was another little gang of fellows who
5 started off stealing lumber -- actually they started
6 stealing bicycles. When they came of age to get a
7 driver's license, they -- one of them got a van, they
8 began stealing building materials, building tree
9 houses and forts in the woods. To carpet these forts,
10 they invaded people's houses, threw the furniture n
11 the other room, took a box cutter, cut a circle out of
12 the house -- out of the carpet and used that to carpet
13 their tree house, with no regard to the feeling of the
14 people whose home they had invaded.

15 They went on to go to a car dealership, found
16 the keys to an automobile, drove it through the
17 showroom window, it just was a very fast sports car.
18 That's the kind of stuff I'm reminded of and I think
19 back, what could I have done to stop them. And these
20 guys went on to rob the PX and I will stop with that.
21 The put on army clothes and held up the Fort Jackson
22 PX and they were all juveniles. And I will leave you
23 with that.

24 It is my sincere hope that no harm comes to
25 the security officers who are in charge of keeping Mr.

1 Lane in custody.

2 THE COURT: Thank you very much, Mr. Rawl.

3 MS. CAMPBELL: Respectfully, Your Honor, I
4 believe the family members are all sitting right there
5 together. I will just note that for the record.

6 Your Honor, due the nature of this crime and
7 the heinous nature of this beating, we would
8 respectfully ask you to impose a life sentence.

9 THE COURT: All right. Mr. Cooper and
10 Mr. Newton.

11 MR. COOPER: Thank you, Your Honor, may it
12 please the Court. Your Honor, I want to begin my
13 remarks by making one thing clear and that is the
14 defense in this case does offer sincere condolences to
15 the family of Mr. Rawl and none of the remarks that
16 I've made to the Court today have been designed to
17 excuse what he did or in any way say it's okay. But
18 every case is different and I think it's appropriate
19 to make a few remarks about Mr. Lane and the
20 circumstances and how this came to happen.

21 Your Honor, Mr. Lane is 18 year old. He
22 didn't grow up with a lot of money, wasn't good in
23 school, had some cognitive difficulties ---

24 THE COURT: How far did he go in school?

25 MR. COOPER: He basically made it to the 8th

THE STATE VERSUS LANE

1 grade.

2 THE COURT: The 8the grade?

3 MR. COOPER: Yes, sir. Never a good student,
4 not a good learner.

5 THE COURT: Was he in special ed?

6 MR. COOPER: No, sir, he was in normal
7 classes but he ---

8 THE COURT: Okay.

9 MR. COOPER: --- had a lot of cognitive
10 difficulties and difficulties retaining material and
11 learning it.

12 And he had -- he's got a lot of family
13 support here today. But he had a difficult family
14 situation. He did not always receive the guidance
15 that he should have, and I have spoken with his family
16 members and they are clear about this, and I think
17 especially probably the kind of male guidance that he
18 needed. His father is here today in support of him.
19 His father is frank about his struggle with drug
20 addiction. And I think that because of some of these
21 circumstances, Mr. Lane became involved in alcohol and
22 drugs at a very early age, about 11 years old. And he
23 abused those drugs and that led him down the wrong
24 path.

25 And so this is how this story developed. But

THE STATE VERSUS LANE

1 I would say, the second thing I want to make clear, is
2 that Ms. Campbell said that Mr. Lane did not admit
3 swinging the pipe. And one thing that I think is very
4 important for him today is that he today is taking
5 full responsibility for swinging that pipe.

6 THE COURT: Is that correct, Mr. Lane?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right.

9 MR. COOPER: And that is something that took
10 a while. When I first met him, that wasn't the case
11 but I and Mr. Newton talked to him over the period of
12 months and I literally just saw him come to grips with
13 what he had done. And then finally one day we were
14 having a meeting and he said, Mr. Cooper, I'm ready, I
15 want everybody to know the truth whether it gives me
16 more time or not. And I said, okay, Jesse. And
17 that's really important to him that whatever happens,
18 the whole truth is out there and he takes full
19 responsibility.

20 And, Your Honor, you know, I will keep these
21 remarks short but I think it's important to remember
22 that every case is different. The murder statute
23 stretches from 30 to life for a reason. And I think
24 in this case what we as a community, and ultimately
25 you, Your Honor, are going to have to decide is with a

1 person like Jesse Lane and Jesse's age, do we lock him
2 up and throw away the key? And I know there are many
3 people in this room who want to see that happen and I
4 understand that. But other than taking the young
5 man's life, and Mr. Lane understands that he took a
6 life, other than taking the young man's life, the last
7 thing the young man has is just a little bit of hope,
8 just a little bit.

9 And so, in a situation like this, do we want
10 to take away his every last hope? We're already going
11 to take away the most important years of his life.
12 We're already going to take away the majority of the
13 remainder of his life. Do we in this situation want
14 to take away his very last hope?

15 And, Judge, our position is that this is not
16 one of those cases. This is a case where I would ask
17 you to leave him a little bit of hope as he does his
18 time. And, Judge, I would ask you to consider giving
19 a sentence of 35 years concurrent.

20 Now, Your Honor, I know that Mr. Lane has
21 some remarks he would like to make to everyone. So if
22 that's appropriate, if you'll let him do that.

23 THE COURT: How about Mr. Newton?

24 MR. NEWTON: Your Honor, I do want to
25 introduce his family to you. In the back, Peter Lane,

1 his father and Sheila Lane, his mother, are her. His
2 pastor Daryl Wood (phonetic) and his wife are along
3 with their daughter Annette Favors (phonetic) and some
4 close family friends are here on his behalf as well.
5 His best friend Michael Coleman (phonetic) and his
6 wife Elizabeth Coleman, his sister, and Elizabeth and
7 Michael's grandmother Diane Warwick (phonetic). And
8 they're here to support -- they don't anything they
9 want to address in open court but the mother and the
10 father and the father's fiancé wrote some letters to
11 you that they would like for you to have, if I can
12 approach and hand them to you.

13 THE COURT: Have you shared them with the
14 State?

15 MR. NEWTON: I have not shared them with the
16 State, if they would read them beforehand. But
17 they're just letters about Jesse.

18 MS. CAMPBELL: (Negative response.)

19 THE COURT: They've indicated they don't care
20 to.

21 MR. NEWTON: They do want to say through me
22 that they do apologize to the family for what occurred
23 and they're deeply sorry for your loss.

24 THE COURT: All right. Just give me a
25 minute.

THE STATE VERSUS LANE

1 MR. NEWTON: Yes, sir.

2 (Pause.)

3 THE COURT: All right, Mr. Newton.

4 MR. NEWTON: Thank you, Your Honor.

5 THE COURT: Mr. Lane, do you have anything
6 you want to say?

7 THE DEFENDANT: Yes, sir. I want to
8 apologize to the family for what I've done. There's
9 nothing that I can say that can make up for the loss
10 but I want them to know I am truly sorry for what I've
11 done.

12 THE COURT: All right. Anything further?

13 MR. NEWTON: No, Your Honor.

14 MS. CAMPBELL: Your Honor ---

15 MS. GARFIELD: If I can briefly reply?

16 THE COURT: Yes, ma'am.

17 MS. GARFIELD: Thank you, Your Honor. May it
18 please the Court. I just want to reply to Mr.
19 Cooper's and Mr. Newton's remarks concerning Mr.
20 Lane's school history.

21 The records we've reviewed, just so Your
22 Honor is aware, that he was actually in advanced
23 classes in the 7th grade.

24 THE COURT: He was in what?

25 MS. GAFIELD: Advanced classes in the 7th

1 grade. He did repeat the 9th grade three times
2 because of behavior issues. And he's demonstrated
3 behavior issues ever since 3rd grade. I just wanted
4 Your Honor to be aware of that, as well as I would
5 also like to follow up just briefly on some victim
6 impact information in reference to the grandchildren
7 of Mr. Rawl who are not present here today because,
8 Your Honor, not because they don't want to be here but
9 they just can't bring themselves to come here and see
10 Mr. Lane in person, the person that took their
11 grandfather from them.

12 And I especially just want to share some
13 things with you. That his grandson that found him,
14 Francis Lesley Rawl, III, he goes by Les. We
15 obviously had to interview him because he would have
16 been a witness and he shares with me, not only could
17 he not go back to his home that he lived in at the
18 time which ---

19 THE COURT: Where did he live?

20 MS. GARFIELD: He lived kind of across the
21 street from the victim and then to the left, a house
22 or so down. He -- he cannot go back to his home. He
23 cannot drive down the road.

24 THE COURT: What does he do ---

25 MS. GARFIELD: He also works at the golf

1 course.

2 THE COURT: How old is he?

3 THE PLAINTIFF: Mid-20's, 25ish. He shares
4 with me that this particular neighborhood, which is
5 where some of his family members live, he has so many
6 memories of this neighborhood where his grandfather
7 resided, from growing up in Hampton Park to doing many
8 things, that now all those childhood memories are gone
9 because all he can associate this location with is the
10 brutal and violent murder of his grandfather. And the
11 images he has from having to find his grandfather, and
12 you've seen the pictures, for him it's a life
13 sentence, as he will never be able to be rid of them.

14 THE COURT: All right, anything further?

15 (There was no response.)

16 THE COURT: He was arrested on the 7th?

17 MS. CAMPBELL: Yes, sir.

18 (Pause.)

19 THE COURT: All right, Mr. Lane, on both the
20 charges, sentence that you be committed to the State
21 Department of Corrections concurrent for a period of
22 50 years. Good luck to you, sir. Sentences to run
23 concurrent, credit for time served.

24 MR. COOPER: Thank you, Judge.

25 THE COURT: Ms. Campbell?

THE STATE VERSUS LANE

1 MS. CAMPBELL: Yes, sir.

2 THE COURT: Anything further?

3 MS. CAMPBELL: No, sir.

4 THE COURT: Court's adjourned.

5 MS. CAMPBELL: Thank you.

6 ----- END OF TRANSCRIPT OF RECORD -----

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1 CERTIFICATE OF REPORTER

2

3 STATE OF SOUTH CAROLINA)

4 COUNTY OF RICHLAND)

5

6 I, Crystal Holmes, Official Court Reporter for
7 the Fifth Judicial Circuit of the State of South
8 Carolina, do hereby certify that the foregoing is a
9 true, accurate and Complete Transcript of Record of
10 the proceedings had and evidence introduced in the
11 guilty plea hearing of the captioned case, relative
12 to appeal, in the Court of General Sessions for
13 Richland County, South Carolina, on the 15th day of
14 April, 2011.

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

17

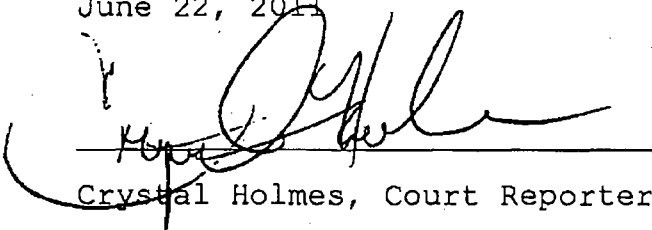
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June 22, 2011

19

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Crystal Holmes, Court Reporter

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25

THE STATE VERSUS LANE

WITNESSES

✓(S) NOLE DOW - Columbia Police Department

DOCKET NO. 2010-GS-40-2525

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

42

JULY TERM 2010

ARREST WARRANT NUMBER

K668349

THE STATE

VS.

ACTION OF GRAND JURY

Jesse Ray Lane

TRUE BILL

William H. Hinds

Foreperson of Grand Jury JUL 15 2010
Date:

VERDICT

Indictment for
MURDER

SC Code: 16-03-0010
CDR Code: 0116

Foreperson of Petit Jury
Date:

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

Defendant

I, *William H. Hinds*, Foreperson of Grand Jury, do hereby appear in my own person and plead guilty to the within indictment of *16-03-0010*

FILED TRUE COPY OF ORIGINAL FILED IN C.C.C.P.S. RICHLAND COUNTY SOUTH CAROLINA

William H. Hinds
Defendant

Witness:
William H. Hinds
C.C.C.P.S. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

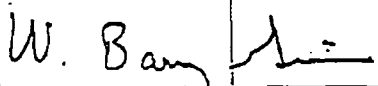
At a Court of General Sessions, convened on July 14, 2010, the Jurors of Richland County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That Jesse Ray Lane did in Richland County, on or about July 5, 2010, willfully, feloniously, and intentionally kill the victim, Francis L. Rawl, with malice aforethought, either express or implied, by means of striking the victim in the head with a blunt object, and the victim did die as a proximate result thereof on or about July 5, 2010 in Richland County, in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

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


WARREN B. GIESE, SOLICITOR

WITNESSES

✓(S) NOLE DOW - Columbia Police Department

DOCKET NO. 2010-GS-40-2524

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

42

JULY TERM 2010

ARREST WARRANT NUMBER

K668362

THE STATE

VS.

Jesse Ray Lane

Defendant

Witness:

C.C.C. P.S. AND G.S.

TRIP FUEL

Michelle N. Heide

Foreperson of Grand Jury

Date:

JUL 15 2010

VERDICT

Indictment for

BURGLARY 1ST DEGREE

SC Code: 16-11-0311

CDR Code: 0079

Foreperson of Petit Jury

Date:

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

Defendant

NOTIFIED TRUE COPY OF ORIGINAL FILE TO PROSECUTOR'S OFFICE, RICHLAND COUNTY, SOUTH CAROLINA

I, *Jesse Ray Lane*, hereby appear in my own person and plead guilty to the within indictment of to

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

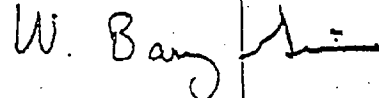
At a Court of General Sessions, convened on July 14, 2010, the Jurors of Richland County present upon their oath:

BURGLARY 1ST DEGREE

CDR: 079, 16-11-311

That JESSE RAY LANE did in Richland County on or about July 5, 2010, willfully and unlawfully enter the dwelling of Francis Rawl without consent and with the intent to commit a crime therein and the defendant or another participant in the crime while, in effecting entry or while in the dwelling or in immediate flight, is armed with a deadly weapon or explosive and/or causes physical injury to a person who is not a participant in the crime and/or uses or threatens the use of a dangerous instrument and/or the entering or remaining occurs in the nighttime. All in violation of Section 16-11-311, S. C. Code of Laws, 1976, as amended.

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



WARREN B. GIESE, SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Richland
STATE VS.
Jesse Ray Lane

INDICTMENT/CASE#: 2010-GS-40-2525

A/W#: K668349

Date of Offense: 7/6/2010

S.C. Code § : 16-03-0010

CDR Code #: 0116

AKA: _____
Race: _____ Sex: M Age: 18
DOB: _____ SS#: _____
Address: _____
City, State, Zip: _____
DL#: _____ SID#: _____

SENTENCE SHEET

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

☐ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0010 of the S.C. Code of Laws, bearing CDR Code # 0116
☐ 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: Campbell, Luok 13007 Jesse Lane 75758
SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 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. 7-7-10

☐ 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

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

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____

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

Clerk of Court/ Deputy Clerk

Court Reporter

Jeanette McBride
C. Holmes

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

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

\$ _____ paid to Public Defender Fund

Other: _____

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

Presiding Judge

Judge Code: 2126

Sentence Date: 4-15-11

4-15-11

48

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Richland

VS.

Jesse Ray Lane

AKA:

Race:

Sex: M

Age:

18

DOB:

SS#:

Address:

City, State, Zip:

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (After June 20, 1985) - First degree

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2010-GS-40-2524

A/W#: K668362

Date of Offense: 7/6/2010

S.C. Code § : 16-11-0311

CDR Code #: 0079

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Campbell, Luck

13059 SC Bar#

Defendant

Attorney for Defendant

20388 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ 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.☐ 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

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

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

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

Clerk of Court/ Deputy Clerk
Court Reporter:

Jeanette McBride / C. Holme

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Condition Discharge, § 44-53-450(C) requires

\$350 be paid to the Clerk prior to case disposition.

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

Presiding Judge

Judge Code:

2126

Sentence Date:

7-15-11

COPY

FILED

C.C. P. & G.S.
RICHLAND COUNTY
SOUTH CAROLINA

49
5/11/12
2012 CP #006138

STATE OF SOUTH CAROLINA

County of Richland

In the Court of Common Pleas

Jesse Ray Lane 345702

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

vs.

State of South Carolina

Name of Respondent.

APPLICATION FOR
POST-CONVICTION RELIEF

2012 SEP 13 AM 11:35
JEANNETTE W. MORRIS
C.C.P. 8th S.
FILED
RICHLAND COUNTY

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 it clear to which question any such continued answer refers.

Since every application must be sworn to 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 applicant was convicted.

1. Place of detention Lee Correctional Institute, Kershaw, N. 2218,
990 W. Sackey Hwy, Bishopville, SC, 29010
2. Name and location of Court which imposed sentence Richland County Judicial Center
1701 Main St. Columbia, SC 29201
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 10-GS40-2525 Murder
 - (b) 10-GS40-2524 Burglary 1st
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 4-15-11; 50 years; \$133.90 Dollar Fine
 - (b) 4-15-11; 50 years; \$133.90 Dollar Fine
 - (c) _____

5. Check whether a finding of guilty was made

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

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

yes

7. If you answered "yes" to (6), list

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

i. Richland County Judicial Center

ii. _____

iii. _____

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

i. Denial of Direct Appeal

ii. _____

iii. _____

(c) the date of each such result:

i. Have not gotten letter, but my Father called down to the

ii. Clerk of Court the beginning of the year and he was told that

iii. the Direct Appeal was denied because I didn't have good reasons

for a Direct Appeal.

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

i. N/A

ii. _____

iii. _____

8. If you answered "no" to (6), state your reasons for not so appealing:

(a) _____

(b) _____

(c) _____

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

(a) Ineffective Assistance of Counsels (See Attachment - A)

(b) Ineffective Conflict of interest (See Attachment - B)

(c) _____

10. State concisely and in the same order the facts which support each of the grounds set out in (9):

(a) See Attachment - A

(b) See Attachment - B

(c) _____

11. Prior to this application have you filed with respect to this conviction

- (a) any petition in a State Court under South Carolina Law? YES
- (b) any petitions in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petitions in the United States Supreme Court for certiorari other than petitions, if any, already specified in (7)? NO
- (d) any other petitions, motions or applications in this or any other Court?
NO

12. If you answered "yes" to any part of (11), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. Direct Appeal
- ii. _____
- iii. _____
- iv. _____

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

- i. Richland County Court of General Sessions. 1701 Main St. Columbia SC
29201
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. Denial of Direct Appeal
- ii. _____
- iii. _____
- iv. _____

(d) the date of each such disposition:

- i. Beginning of 2012
- ii. _____
- iii. _____
- iv. _____

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

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

13. Has any ground set forth in (9) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

(a) which grounds have been presented:

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

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

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

15. If any ground set forth in (9) has not previously been presented to any Court, State or Federal, set forth the ground, and state concisely the reasons why such ground has not previously been presented:

- (a) This is the first opportunity to raise the issue presented in this application
- (b) _____
- (c) _____

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

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

17. If you answered "yes" to one or more parts of (16), list:

- (a) the name and address of each attorney who represented you
- i. Jay Cooper III P.O. Box 192 1701 Main St. Columbia SC 29201
 - ii. _____
 - iii. _____

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

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

18. State clearly the relief you seek in filing this application.

Reverse and remand for a chance at trial and any other relief the Court deems just and proper.

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

No

I would like to reserve the right to amend

STATE OF SOUTH CAROLINA

VERIFICATION

County of Richland County

I, Jesse Lane, 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.

Jesse Lane
Lee Ct Ker: N 2218
990 Wisacky Hwy
Bishopville, SC 29010

SWORN to and subscribed before me this 12day of Sept, 192012

Debra Sisk (L.S.)
Notary Public

My Commission Expires: 11-4-2015

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

I, Jesse Lane, 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 therefor.

Jesse Lane
Applicant

SWORN or affirmed to and subscribed before me this

12 day of Sept, 192012

Debra Sisk
Notary Public

My Commission Expires 11-4-2015

2012 SEP 13 AM 11:36
JEANNETTE W. MCBRIDE
C.C.P. & G.S.
FILED
RICHLAND COUNTY

ATTACHMENT [A]

Ineffective Assistance of Counsel

My state appointed counsel, Jay Cooper, III, hardly ever came to the county jail to see me to let me know what was going on with my case. Whenever he did come to see me, he kept telling me that the investigators did not believe me and that I should not take my case to trial ... that without a doubt, if I insisted on going to trial, I would loose because the state had "evidence" that would convict me. I did not find out until after I had excepted a plea that there was not any evidence as told to me by my assigned attorney. He kept telling me that there was blood on my clothes from when I pulled the other person away from the victim and that that was enough to convict me for life, and that the jury would not believe me. My counsel provided ineffective assistance by not truthfully informing me about my case in that the state did not have any evidence necessary to convict me.

When Cooper brought my motion of discovery to me he conveniently failed to give the SLED portion to me. Yet, while I was in the county jail I had specifically requested to Cooper in both letter and in person that I be given the SLED portion of my motion for discovery. His explanation was that it was best that I did not have it in the county jail. I found out later that the true reason he would not give me the SLED portion was because it showed that there was no evidence against me and he was deliberately withholding it from me.

The day that I was called to court for my preliminary hearing I was told by the officers at the county jail that my lawyer canceled my preliminary hearing. By doing this, I was kept in the dark about what was going on and left me only with the words of my attorney as to the status of my case by which I made all my decisions. All the while, I thought he was telling me the truth, to only find out otherwise after sentencing.

Somewhere along the way, I became apprehensive of Coopers tactics to where I questioned some of his answers to my questions. Eventually, I tried to fire Cooper and get a new

attorney. When Cooper received the letter stating this he came to the county jail to see me and told me that if I fired him that I would not be able to get a new attorney. He also told me that if I did not have the money to get a paid lawyer that it would be best for me not to fire him. At that time, I did not know what to do and scared I kept Cooper as my attorney. After-the-fact, I have learned that what he told me was not true and that I would of been able to secure a new attorney.

When I was in process for a direct appeal the Clerk of Court sent a letter to my attorney (Jay Cooper, III) requesting I give reasons for why I believed that I should go up for a direct appeal. V. Claire Allen of the Clerk of Court stated in her letter to Cooper that I had twenty (20) days from the date of his letter to give my reasons and to send them back to the Clerk of Court. The date of Cooper's letter to me was September 07, 2011.... I received the letter exactly twenty (20) days later, September 27, 2011. Receiving this letter through Lee Correctional Institution's mailroom, I have the envelope with the stamped date on it that it was received here at Lee C.I. Thereby, Cooper not only did not try to help me prove my innocence but he also did not try to help me when it came time to go for my direct appeal. If Cooper had of acted as my advocate, "[g]uaranteed me by the Sixth and Fourteenth Amendments of the United States Constitution," and told me the truth or given me the SLED portion of my motion for discovery -- I would of had the evidence necessary in proving my innocence before a jury.

ATTACHMENT [B]

Ineffective Conflict of Interest

While in the custody of the county jail, I told my attorney (Jay Cooper, III) that I wanted to go to trial because I knew I was innocent. He would not hear it and whenever he came to visit, which was rare, he continue in coercing me into taking a guilty plea and not taking my case to trial. [He] did so by telling me "If you go to trial you will without a doubt loose and get a life sentence." In addition, Cooper told me that if I took a guilty plea that he would guarantee me thirty five (35) years instead of life in prison. Whenever he did come to speak to me in the county jail, he kept telling me not to go to trial and to plea. In return for my taking a plea verses going to trial he said he would get me a "good deal".

CONCLUSION

Jay Cooper, III did not act as my advocate in that he did not have any interest in what I wanted to do in proving my innocence, he rarely came to visit me during my stay at the county jail, withheld exculpatory evidence from discovery, delayed my notice for getting a direct appeal hearing, knowingly misdirected me into taking an unwanted plea, and exhibited no interest in proving his client's innocence. Most damaging is the fact that my attorney out right lied to me on crucial points that affected my decision making to the point that my guilty plea cannot be considered as knowingly or willingly given, thereby, warranting my being heard at a PCR hearing.... Thank You!

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

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

LANE Jesse R -
00345702,

) 2012CP4006138
)
)
)

) Applicant,
)

) v.
)

) RETURN
)

) State of South Carolina,
)

) Respondent.
)
)

The Respondent, making its Return to the application for post conviction relief (PCR) filed September 13, 2012, would respectfully show this Court:¹

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was indicted at the July 2010 term of the Richland County Grand Jury for Murder and Burglary (2010-GS-40-2525;2524).² He was represented by Jay Cooper, Esquire, on the charge(s). On April 15, 2011, the Applicant appeared before the Honorable G. Thomas Cooper, Jr. where he pled guilty to the charges as indicted and was sentenced to fifty (50) years imprisonment on each charge to run concurrently.

¹<http://www4.rcgov.us/publicindex/PCCaseDetails.aspx?County=40+&Casenum=2012CP4006138&CourtType=G&CaseType=Civil&CourtAgency=40002>

² <https://sword.doc.state.sc.us/scdc-public/inmateDetails.do?id=+00345702>

Direct Appeal

A notice of appeal was filed and an Anders brief submitted on Applicant's behalf. The South Carolina Court of Appeals granted counsel's request to be relieved and dismissed the appeal. The Remittitur was issued December 9, 2011.

The application for post conviction relief (PCR) was filed September 13, 2012.

II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the trial transcript, and the Applicant's applicable direct appeal files.³ The Respondent reserves the right to amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

III.

In his application for post-conviction relief, Applicant alleges he is being held in custody unlawfully based on the following:

Ineffective Assistance of Counsel

My state appointed counsel, Jay Cooper, III, hardly ever came to the county jail to see me to let me know what was going on with my case. Whenever he did come to see me, he kept telling

³ The Respondent will utilize the Record on Appeal if the direct appeal was an Anders appeal.

me that the investigators did not believe me and that I should not take my case to trial ... that without a doubt, if I insisted on going to trial, I would loose because the state had "evidence" that would convict me. I did not find out until after I had excepted a plea that there was not any evidence as told to me by my assigned attorney. He kept telling me that there was blood on my clothes from when I pulled the other person away from the victim and that that was enough to convict me for life, and that the jury would not believe me. My counsel provided ineffective assistance by not truthfully informing me about my case in that the state did not have any evidence necessary to convict me.

When Cooper brought my motion of discovery to me he conveniently failed to give the SLED portion to me. Yet, while I was in the county jail I had specifically requested to Cooper in both letter and in person that I be given the SLED portion of my motion for discovery. His explanation was that it was best that I did not have it in the county jail. I found out later that the true reason he would not give me the SLED portion was because it showed that there was no evidence against me and he was deliberately withholding it from me.

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a guilty plea that he would guarantee me thirty five (35) years instead of life in prison. Whenever he did come to speak to me in the county jail, he kept telling me not to go to trial and to plea. In return for my taking a plea verses going to trial he said he would get me a "good deal".

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IV.

For the purposes of this Return, the Respondent interprets each of the Applicant's allegations to be claims that he received ineffective assistance of counsel. The Respondent contends that the Applicant's trial counsel rendered adequate assistance and provided representation within the range of competence required by attorneys in criminal cases. See Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

In a post-conviction relief proceeding, the Applicant bears the burden of proving the allegations in their application. Id. Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's

conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 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, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). Even 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 (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 cannot be conclusively refuted by the record. **The Respondent requests an evidentiary hearing to fully resolve this issue.** See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied. The Respondent therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held. The Respondent will coordinate with the Applicant's attorney who is, according to the Respondent's file, Michael B. Wren, Esquire regarding when the hearing should be set.⁴

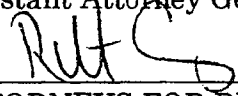
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney
General

ROBERT D. CORNEY
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737
rcorney@scag.gov

November 2, 2012

⁴ The current PCR Roster for the 5th Circuit is available at <http://www.scag.gov/criminal-litigation/postconvictionrelief>

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

**LANE Jesse R -
00345702,**

2012CP4006138

Applicant,

V.

State of South Carolina,

Respondent.

CERTIFICATE OF SERVICE

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 a letter in the above-captioned matter on the following person(s) by routing the same to the United States mail, postage prepaid:

Michael B. Wren, Post Office Box 8568 , Columbia, SC 29202

DATED November 6, 2012.


Jean R. Indriago
Legal Assistant

State of South Carolina)
)
 County of Richland)

In the Court of Common Pleas
 Fifth Judicial Circuit
 2012-CP-40-6138

Jesse R. Lane,)

Applicant,)

vs.)

State of South Carolina,)

Respondent.)

Transcript of Record

October 1, 2013
 Columbia, South Carolina

B E F O R E:

The Honorable James R. Barber, III, Judge

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

Tommy A. Thomas, Esquire
 Attorney for the Applicant

Mary S. Williams, Esquire, Assistant Attorney General
 Attorney for the Respondent

Elizabeth B. Harris, CVR-M
 Circuit Court Reporter

I N D E X

<u>Witness/Description</u>	<u>Page No.</u>
Jesse R. Lane	
Direct Examination by Mr. Thomas	5
Cross-examination by Ms. Williams	19
Shelia Lane	
Direct Examination by Mr. Thomas	21
Cross-examination by Ms. Williams	22
John C. Newton	
Direct Examination by Ms. Williams	23
Cross-examination by Mr. Thomas	27
Redirect Examination by Ms. Williams	30
Certificate Page	32

E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>Page No.</u>
A-1	Sentencing Sheet	17
A-2	Sentencing Sheet	17

1 MS. WILLIAMS: Our first case will be 2012-CP-40-6138.
2 Your Honor, I placed the packet up there, but procedurally,
3 Mr. Lane was charged with murder and burglary in the first
4 degree, and received concurrent sentences of fifty years
5 each on both charges. That was on April 15th of 2011 when
6 he entered his plea. This application was filed
7 thereafter.

8 His counsel at his plea, Mr. Cooper, has since passed
9 away, but John Newton, who did assist the preparation of
10 this case, is here today as well. He's alleged various
11 allegations of ineffective assistance of counsel, and with
12 that I will turn it over to Mr. Thomas.

13 THE COURT: All right.

14 MR. THOMAS: Your Honor, if it please the court,
15 we're ready to proceed. I'll call Mr. Jesse Lane to the
16 stand.

17 THE COURT: All right, Mr. Lane, if you'll come up
18 here, please.

19 JESSE R. LANE, BEING DULY SWORN,
20 TESTIFIES AS FOLLOWS:

21 THE COURT: All right, if you'll have a seat in the
22 witness box, and tell us your full name, please.

23 WITNESS: Jesse Lane.

24 MR. THOMAS: Your Honor, if it please the court?

25 THE COURT: Yes, sir.

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

5

1 DIRECT EXAMINATION BY MR. THOMAS:

2 Q. Mr. Lane, you are currently incarcerated at the South
3 Carolina Department of Corrections?

4 A. Yes, sir.

5 THE COURT: You need to speak up if you would, please,
6 Mr. Lane.

7 A. Yes, sir.

8 Q. All right. Where are you being housed?

9 A. Sir?

10 Q. Where are you being housed?

11 A. Where am I housed? At Lee Correctional.

12 Q. Where?

13 A. Lee Correctional.

14 Q. Lee Correctional, and you were charged with what, Mr.
15 Lane?

16 A. Murder and burglary first.

17 Q. All right, sir, and was this a plea or a trial?

18 A. Plea.

19 Q. Then -- and you received what kind of sentence on
20 those charges?

21 A. Fifty-year sentence.

22 Q. And are they running concurrent?

23 A. Yes, sir.

24 Q. These are day-for-day? Day-for-day?

25 A. Yes, sir.

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

6

1 Q. When do you max out?

2 A. 2060.

3 Q. 2060. How old will you be at that time?

4 A. Sixty-eight.

5 Q. You have asked the court for -- you're asking for the
6 granting of a post-conviction relief action?

7 A. Yes, sir.

8 Q. You and I have discussed this, and you understand that
9 it carries some risk?

10 A. Right.

11 Q. Should the court grant your application?

12 A. Right. Yes, sir.

13 Q. You could be -- that your convictions could be set
14 aside, and that you could go back in the position that you
15 were prior to being sentenced?

16 A. Right.

17 Q. You could go to trial?

18 A. Right.

19 Q. And that you could receive life without parole?

20 A. I understand that.

21 Q. You willing to accept that risk and ---

22 A. Yes, sir.

23 Q. --- go forward today?

24 A. Yes, sir.

25 Q. All right, sir. Now, Jesse, when were you arrested,

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

7

1 just roughly?

2 A. July 2010.

3 Q. And did you make bond?

4 A. No, sir.

5 Q. So, you stayed in the detention center?

6 A. Right.

7 Q. And how long were you in the detention center before
8 you entered into this plea?

9 A. About nine months.

10 Q. During that period of time, did you have an attorney
11 appointed to represent you?

12 A. Yes, sir.

13 Q. And who was that?

14 A. Jay Cooper, III.

15 Q. All right, sir, and how did, how did you, how did you
16 go about preparing for this case?

17 A. I wasn't prepared.

18 Q. Did you talk to your attorney about it?

19 A. Yes, sir.

20 Q. How many times did he come and see you?

21 A. Roughly three or four times.

22 Q. Okay, and did you talk about a trial or a plea?

23 A. I kept telling him I wanted to go to trial.

24 Q. Go to trial?

25 A. Yes, sir.

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

8

1 Q. And why did you want to go to trial in this case?

2 A. Because I knew I was innocent of murder, and try to
3 prove my innocence.

4 Q. All right, it was alleged that you were the individual
5 who actually struck the victim in this case?

6 A. Repeat that.

7 Q. You were the person that -- the state thought that you
8 were the person that, that hit the victim with the pipe?

9 A. Correct.

10 COURT REPORTER: Excuse me, Your Honor. I need the
11 witness to keep his voice up, please.

12 THE COURT: All right, if you'll speak up, please.

13 BY MR. THOMAS:

14 Q. All right, Jesse, and it is your contention that you
15 didn't do this?

16 A. Correct.

17 Q. And that's why you didn't want to plead to it?

18 A. That's correct.

19 Q. Now, you and I have talked about discovery and motion
20 for discovery and that kind of thing. Do you understand
21 what discovery is?

22 A. It -- no.

23 Q. Okay. Did ---

24 A. I'm sorry.

25 Q. Did the state show you the evidence -- your, your

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

9

1 attorney, did they show you the evidence that the state had
2 against you?

3 A. He didn't tell me no evidence. He could have told me
4 that they had evidence, which wasn't -- he kept telling me
5 a lie about the evidence.

6 Q. You felt like that he didn't tell you the truth about
7 what the state ---

8 A. Correct.

9 Q. And did he give you paper?

10 A. He gave me my motion discovery, yes, sir.

11 Q. He gave you motion for discovery. Did he go through
12 that motion with you?

13 A. No. When he handed to me, he just told me to sign
14 that I had gotten it, and that was it.

15 Q. Okay. How about as far as a theory of defense? How
16 was he going to defend you? Did you and he talk about
17 that?

18 A. I don't understand. Sorry, I don't understand what
19 you're asking.

20 Q. Okay. Did he -- if you went to trial, did he -- did
21 you and he discuss how he would defend you?

22 A. No, sir.

23 Q. Okay. Did he tell you that you had a defense?

24 A. That I had defense? What does that mean?

25 Q. Did he tell you that, that he had something he could

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

10

1 argue in your favor?

2 A. No.

3 Q. To the jury?

4 THE COURT: Speak up.

5 A. No.

6 Q. Okay. Now, there were certain pieces of evidence.

7 There was clothing that was recovered?

8 A. Right. He went to my mother's house and got all my
9 clothing.

10 Q. The state?

11 A. The state investigators, yes.

12 Q. The sheriff's department?

13 A. Right.

14 Q. And they did that pursuant to a search warrant?

15 A. Right.

16 Q. And what did your attorney tell you about those
17 clothes?

18 A. He told me that there was DNA blood evidence found on
19 my clothing.

20 Q. That matched the ---

21 A. Right.

22 Q. --- the victim?

23 A. Right.

24 Q. Okay. Now, did he -- did you talk about fingerprint
25 evidence?

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

11

1 A. He told me that there was fingerprints found on the
2 murder weapon.

3 Q. All right. Now, did those turn out to be true?

4 A. No, sir.

5 Q. And when did you find out about that?

6 A. The day that I went to court.

7 Q. Okay, and that was?

8 A. April 2011.

9 Q. April in 2011, and that's when you had entered in --
10 that's when you were entering into your plea?

11 A. That's right.

12 MR. THOMAS: Your Honor, may I approach the witness?

13 THE COURT: You may.

14 MR. THOMAS: Your Honor, we will be looking at page 17
15 of the transcript, lines 4 through 18.

16 BY MR. THOMAS:

17 Q. Jesse, I'm going to let you look at this part of the
18 transcript beginning 4 through 8. Would you read that just
19 to yourself?

20 (A PAUSE.)

21 Q. Is that when you learned about the DNA?

22 A. Yes, sir.

23 Q. Okay, and did they say that there was no DNA evidence?

24 A. No. When -- you talking about when ---

25 Q. This, this says that there is no DNA evidence.

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

12

1 A. Right.

2 Q. All right.

3 MR. THOMAS: And, Your Honor, we're going to refer to
4 page 16, lines 17 through 19.

5 Q. Jesse, I'm going to let you look at lines 17 through
6 19, if you would.

7 (A PAUSE.)

8 Q. Is that talking about the weapon, which was a pipe?

9 A. Yes, sir.

10 Q. And does it say that the weapon was ever found?

11 A. No, sir.

12 Q. So, could there have been any fingerprint evidence?

13 A. Not at all.

14 Q. Because they didn't even have the -- they didn't even
15 have the weapon?

16 A. Right.

17 Q. All right, and when did you learn this piece of
18 information?

19 A. The same time when I had pleaded.

20 Q. All right. Now, you gave a statement? Did you give a
21 statement to the police?

22 A. Yes, sir.

23 Q. All right, sir, and in that statement, did you admit
24 to the police that you had committed this murder?

25 A. No, sir.

1 Q. All right. You denied it?

2 A. Right.

3 Q. And now in the transcript, there is some comment about
4 that, that you did admit to this crime. Did you -- is that
5 true?

6 A. No, sir.

7 Q. All right. Why was that comment made? Do you know?

8 A. I believe the attorney was trying to make it look good
9 for my plea.

10 Q. So the judge would accept your plea? Is that right?

11 A. Right.

12 Q. Okay. Did you ever talk to about an *Alford* plea?

13 A. Yes, sir.

14 Q. And you did, but you did not enter an *Alford* plea, did
15 you?

16 A. No, sir.

17 Q. Okay. There search -- there were four search warrants
18 issued?

19 A. Yes, sir.

20 Q. You and I have talked about this, and that was for
21 Montgomery Lane, Bluff Road, the Ford Taurus, and Woodlawn
22 Avenue?

23 A. Yes, sir.

24 Q. Do you know if any evidence was found pursuant to
25 those search warrants that implicated you in the murder?

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

14

1 A. I wasn't told nothing.

2 Q. All right. Now, you were -- did you talk to your
3 attorney about entering a plea, a plea bargain?

4 A. Yes, sir.

5 Q. And what was your understanding about a plea bargain?

6 A. That if I plead guilty, I'd receive thirty-five years.

7 Q. And who told you that?

8 A. Jay Cooper.

9 Q. Okay.

10 MR. THOMAS: Your Honor, if it please the court? May
11 I approach?

12 THE COURT: You may.

13 MR. THOMAS: I've got the two sentencing sheets which
14 should be included in your packet.

15 THE COURT: All right.

16 BY MR. THOMAS:

17 Q. Jesse, I want to show you these two documents and ask
18 if you can identify those.

19 (A PAUSE.)

20 Q. And what are those?

21 A. They're stating that -- thirty-five years for a plea
22 bargain.

23 Q. Okay. Now, you signed both of these, and one of this
24 -- one of the documents is the sentencing sheet for murder?

25 A. Yes, sir.

1 Q. All right, and then also the other is the sentencing
2 sheet for burglary, burglary first degree after June of
3 1985. Is that correct.

4 A. Yes, sir.

5 Q. All right. Now, you signed where it says defendant?

6 A. Yes, sir.

7 Q. Is that correct?

8 A. Yes, sir.

9 Q. All right, and below where you signed as defendant, is
10 there something written in?

11 A. Yes, sir.

12 Q. And what's written in?

13 A. Thirty-five years' recommendation.

14 Q. Okay. Why is that there?

15 A. Well, by my knowledge at that time, it was put there
16 stating thirty-five years for a plea.

17 Q. Okay. Now, do you see to the left of that where it
18 says recommended sentence?

19 A. Yes, sir.

20 Q. And what does that say?

21 A. It says: Recommendation by the state, life sentence.

22 Q. All right. Now, was that written in when you signed
23 the sentencing sheet?

24 A. No, sir.

25 Q. When did you see the recommendation for life?

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

16

1 A. I noticed that when you sent me the packet in the --
2 at the SCDC.

3 Q. The discovery packet?

4 A. Right.

5 Q. Okay. Now, the solicitor in this case did ask for a
6 life sentence, didn't she?

7 A. When I ---

8 Q. Before -- when ---

9 A. --- when I came into court, yes.

10 Q. When you did the plea?

11 A. Yes, sir.

12 Q. Okay. Now, you heard her say that she was asking for
13 life. What was your understanding that you were going to
14 receive at this plea?

15 A. My understanding was that I was going to receive
16 thirty-five years.

17 MR. THOMAS: Now, Your Honor, if it please the court,
18 I don't know if we need to introduce these as exhibits or
19 if it's already...

20 THE COURT: Any objection?

21 MS. WILLIAMS: They're part of the record. No
22 objection.

23 MR. THOMAS: All right. So, don't -- I don't need to
24 do that, Your Honor?

25 THE COURT: Whatever you want..

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

17

1 MR. THOMAS: I'm going to go ahead and introduce them
2 if I can.

3 THE COURT: All right.

4 MR. THOMAS: I think it might make the record easier.

5 (SENTENCING SHEET MARKED INTO EVIDENCE AS APPLICANT'S
6 EXHIBIT NUMBER 1.)

7 (SENTENCING SHEET MARKED INTO EVIDENCE AS APPLICANT'S
8 EXHIBIT NUMBER 2.)

9 MR. THOMAS: Thank you.

10 BY MR. THOMAS:

11 Q. Jesse, it was your understanding that you were
12 accepting a plea for thirty-five years?

13 A. That's right.

14 Q. All right, sir, and it was your understanding that
15 this plea was going to be thirty-five years? They were
16 going to be running together?

17 A. Right.

18 Q. For a total of thirty-five?

19 A. That's right.

20 Q. Had you known that you were going to receive fifty
21 yeas, would you have entered into this plea?

22 A. No, sir.

23 Q. And why?

24 A. Because like I said before, I know I'm innocent of the
25 murder, and I would try my best to prove my innocence.

J. LANE - DIRECT EXAMINATION BY MR. THOMAS

18

1 Q. All right. You would have elected to go to trial?

2 A. Yes, sir.

3 Q. Okay. Now, do you feel that your plea was freely and
4 voluntarily given?

5 A. No, sir.

6 Q. And why do you feel that it wasn't?

7 A. Because I was coming into the plea thinking that I was
8 going to get thirty-five and not more.

9 Q. All right. Now, do you feel that your plea was
10 knowingly and intelligently given?

11 A. No, sir.

12 Q. And why do you feel that it wasn't?

13 A. I didn't have the facts.

14 Q. And what facts were those?

15 A. The facts of the evidence.

16 Q. The DNA and the ---

17 A. Right.

18 Q. --- and the fingerprints and the blood that we were
19 talking about?

20 A. Right.

21 Q. Jesse, I'll ask you this question because I know that
22 it's been a lot -- you've been waiting a long time to be in
23 court today.

24 A. Yes, sir.

25 Q. Is there anything else that I may have missed or that

J. LANE - CROSS-EXAMINATION BY MS. WILLIAMS

19

1 we have talked about that you feel that it's important that
2 you want to bring to the attention of the court?

3 A. No, sir.

4 MR. THOMAS: All right. Thank you, Your Honor.

5 THE COURT: All right, Ms. Williams.

6 MS. WILLIAMS: May I approach, Your Honor? I'm just
7 going to hand him a copy of the transcript.

8 CROSS-EXAMINATION BY MS. WILLIAMS:

9 Q. Mr. Lane, I'm going to direct you to page 6 of that
10 transcript, lines 5 through 7. What did you tell the court
11 about a sentence being promised to you?

12 A. I said no.

13 Q. And you told this court this morning that your
14 attorneys had never discussed a defense with you. Is that
15 correct?

16 A. Could you repeat that?

17 Q. You're telling this court this morning that your
18 attorneys never discussed defenses with you. Is that
19 correct?

20 A. What do you mean by that?

21 Q. Did they ever discuss any defense you might have at
22 trial?

23 A. No.

24 Q. Can you look at page 6 and lines 19 through 23? Did
25 you tell the plea judge that they had done that for you?

J. LANE - CROSS-EXAMINATION BY MS. WILLIAMS

20

1 A. Yes, ma'am.

2 Q. Okay, and the next page, page 7, lines 19 through 25,
3 the trial judge asked you if you committed a burglary.
4 What did you tell him?

5 A. Yes.

6 Q. And he asked you if you took Mr. Rawls's life. What
7 did you tell him then?

8 A. I told him by the advice of my attorney, and I said
9 yes.

10 Q. So, you would, you would say whatever you had to to
11 get a plea. Is that correct?

12 A. No, ma'am.

13 Q. So, you told the court an untruth. Why?

14 A. Because my attorney advised me to go this route.

15 Q. Okay, and in the statement that you gave to law
16 enforcement, you did admit to being there. Is that
17 correct?

18 A. That's right.

19 Q. You just deny that you were the one that used the pipe
20 on the victim, right?

21 A. Right.

22 MS. WILLIAMS: Okay. That's all the questions I have,
23 Your Honor.

24 MR. THOMAS: Nothing further.

25 THE COURT: All right. Thank you. You may step down.

S. LANE - DIRECT EXAMINATION BY MR. THOMAS

21

1 (THE WITNESS EXITS THE STAND.)

2 MR. THOMAS: Your Honor, I have one witness. I think
3 his mom should be here. May I beg the court's indulgence
4 just for one second, Your Honor?

5 (A PAUSE.)

6 MR. THOMAS: Your Honor, if it please the court? We
7 call his mother to the stand.

8 SHELIA LANE, BEING DULY SWORN,
9 TESTIFIES AS FOLLOWS:

10 THE COURT: Have a seat and tell us your full name,
11 ma'am.

12 WITNESS: Shelia lane.

13 DIRECT EXAMINATION BY MR. THOMAS:

14 Q. Ms. Lane, what relationship are you to Jesse?

15 A. He's my son.

16 Q. You understand that you're here to tell the truth?

17 A. Yes.

18 Q. You're not here to reward him or try to help him out?

19 A. No.

20 Q. Okay. You understand that there are sanctions for not
21 telling the truth?

22 A. Yes.

23 Q. And you intend to tell the truth today?

24 A. Yes.

25 Q. Okay. Ms. Lane, you had an opportunity to talk to

S. LANE - DIRECT EXAMINATION / CROSS-EXAMINATION

22

1 counsel, his attorney ---

2 A. Uh-huh.

3 Q. --- about this plea?

4 A. Right.

5 Q. And you met with him personally?

6 A. Yes.

7 Q. And what was your understanding about Jesse's plea?

8 A. My understanding was that if Jesse plead guilty, that
9 he would get thirty-five years.

10 Q. Okay. So, that's what you thought was going to
11 happen?

12 A. Yeah. I'd even talked with Jesse before. Jesse had
13 told me what he was -- had talked to his lawyer about.
14 We've kind of like worked it out, and we both decided that
15 he would just go for the thirty-five years.

16 Q. Okay. All right.

17 MR. THOMAS: Your Honor, I have no further questions.

18 THE COURT: All right.

19 CROSS-EXAMINATION BY MS. WILLIAMS:

20 Q. Ms. Lane, in your mind, if he had received thirty-five
21 years that day, he would -- we wouldn't be here? He would
22 be fine with the plea that he entered?

23 A. Probably.

24 MS. WILLIAMS: Thank you. That's all. Thank you,
25 ma'am.

J.C. NEWTON - DIRECT EXAMINATION BY MS. WILLIAMS

23

1 MR. THOMAS: Nothing further, Your Honor.

2 THE COURT: Anything from the state?

3 MS. WILLIAMS: Your Honor, the state would call ---

4 THE COURT: Ma'am, you can step down.

5 (THE WITNESS EXITS THE STAND.)

6 MR. THOMAS: Your Honor, if it please the court,
7 that's the applicant's case.

8 THE COURT: All right, Ms. Williams.

9 MS. WILLIAMS: Your Honor, the state would call Mr.
10 John C. Newton.

11 THE COURT: All right, John, come on up here.

12 JOHN C. NEWTON, BEING DULY SWORN,

13 TESTIFIES AS FOLLOWS:

14 THE COURT: Tell us your full name.

15 WITNESS: John Clarke Newton. I go by Clarke.

16 DIRECT EXAMINATION BY MS. WILLIAMS:

17 Q. Mr. Newton, can you tell me briefly about your
18 practice of law? How long have you been practicing and
19 what you -- what areas of law you practice?

20 A. I have been practicing law since 2009. I was a public
21 defender here in Richland County until April of 2013. I
22 currently practice civil and criminal law.

23 Q. And tell me. How did you become involved in Mr.
24 Lane's case?

25 A. Mr. Cooper had asked me to be the second attorney on

J.C. NEWTON - DIRECT EXAMINATION BY MS. WILLIAMS

24

1 the case at the time. It was looking like we were going to
2 have to at least prepare for trial. So, it is the custom
3 in the Richland County public defender's office to assign
4 what they call a second seat to the case, a second
5 attorney, and that was in September of 2010.

6 Q. And so Mr. Cooper worked with you in the public
7 defender's office as well?

8 A. Yes.

9 Q. Is it your understanding he'd since passed away?

10 A. Yes.

11 Q. Early this year?

12 A. Yes.

13 Q. Tell me about your meetings with Mr. Lane. Do you
14 recall how many times you met with him?

15 A. I -- well, I know I met with him when we signed him up
16 to the plea sheets, and I, I believe I met with him once
17 before that time.

18 Q. Tell me about signing him up for the plea sheets. I
19 don't know if you've had a chance to look at them, but I
20 can provide a copy for you to look at.

21 MS. WILLIAMS: May I approach, Your Honor?

22 THE COURT: Well, there are exhibits right here.

23 BY MS. WILLIAMS:

24 Q. Mr. Lane pointed out that that has some, some writing
25 where it says defense recommendation thirty-five years and

1 a sentence -- that says life sentence underneath. It that
2 your recollection?

3 A. Yeah. Yeah. I was, I was with Jay when we did that,
4 when we wrote defense recommendation of thirty-five years.

5 Q. Okay. So, how was that explained to Mr. Lane?

6 A. Well, and I, I -- from my recollection was is that
7 that recommendation of life sentence was already on there
8 because she had already signed this sheet. She had given
9 it to us and signed it up. And so Jay and I just kind of
10 made a point of saying, well, if they're going to recommend
11 life, since this is a straight-up plea, we were going to
12 recommend thirty-five years, and that -- we wanted to have
13 that on the sentencing sheet that we were recommending to
14 the court thirty-five years.

15 Q. And had you discussed that with him, that this was
16 just something you were asking for, or had you told him
17 this was what he was getting?

18 A. No. We told him that this was our recommendation.
19 This is what we'd be asking the court for.

20 Q. Do you recall whether information was provided to him
21 regarding evidence about DNA, any of that?

22 A. That I was not a part of. As the second chair of this
23 case, I was more going to be a part of the case if it was a
24 trial. And the reason why this plea came up was that he
25 was put on the trial docket in front of Judge Cooper, and

J.C. NEWTON - DIRECT EXAMINATION BY MS. WILLIAMS

26

1 we wanted to -- we thought Judge Cooper would be the fair
2 -- at that time with the judges that we had coming up, that
3 Judge Cooper would give us the best chance at a number at
4 thirty-five or around thirty-five. And that's how I got
5 back into the case. I hadn't really had much conversation
6 from September till we did this plea.

7 Q. Okay.

8 MS. WILLIAMS: Beg the court's indulgence for just one
9 more moment.

10 (A PAUSE.)

11 Q. Did you work with Mr. Cooper fairly regularly?

12 A. We -- yeah, we tried some cases together. I mean, he
13 was -- him -- we were very close, and we talked about our
14 cases a lot.

15 Q. Would it be his practice to provide information he had
16 received from the state to his clients, provide copies of
17 that?

18 A. Yes.

19 Q. Okay. So, any reports of DNA, anything like that, if
20 he had it, he would have given it to a client in your
21 opinion?

22 A. If he, if he got it. It -- be honest, at that point,
23 the way the timing of that plea, if there was a DNA, I
24 wouldn't think we would even have it yet because I think
25 all we had was just the original packet of discovery, and

1 they hadn't supplemented anything yet.

2 Q. So, you don't recall any -- you don't recall yourself
3 telling him anything about that evidence existing?

4 A. I don't recall that, no.

5 Q. Okay, and you don't recall the morning of the plea
6 when this was signed up?

7 A. No. I, I don't recall.

8 MS. WILLIAMS: I believe that's all the questions I
9 have.

10 THE COURT: All right, Mr. Thomas.

11 MR. THOMAS: Your Honor, if it please the court?

12 CROSS-EXAMINATION BY MR. THOMAS:

13 Q. Counselor, so you were -- you said you were second
14 chair on this?

15 A. Yes, sir.

16 Q. And you said that it looked like it was going -- that
17 you were going to have to prepare for trial?

18 A. At -- well, when we signed up in September, when he
19 signed me up in September -- you know, when you have a
20 murder case, you know, you usually think that first. You
21 have to start preparing way ahead for that, so.

22 Q. Did, did this case come up quicker than most murders
23 or...

24 A. I, I, I would say so. I was a public defender for
25 almost four years, and to see a case come up less than a

1 year seemed kind of -- it seemed odd.

2 Q. Yeah. I know that you said that you didn't have the
3 supplemental discovery yet. Would that -- I mean, that
4 would have been grounds to ask for a continuance?

5 A. Well, I don't know if that exists. What I'm saying
6 was ---

7 Q. Okay.

8 A. --- is from what I remember, we just had an original
9 packet. We hadn't been supplemented. However, I wasn't in
10 control of the discovery. Mr. Cooper was. I was just
11 given a notebook, if, if I was given a notebook, and I had
12 gone over his file a few times.

13 Q. So, you don't know if there was any, any DNA evidence
14 that was produced?

15 A. No, I don't.

16 Q. Okay, and you weren't present, so you wouldn't have
17 known what conversations Mr. Lane would have had with
18 counsel in regards to, to the forensic evidence?

19 A. No. I wasn't, I wasn't present. I was -- I met with
20 Jesse just, I think, twice. Maybe another time. I
21 actually was more involved with the family, talking with
22 the family.

23 Q. Okay, and -- but you did, you did say that you -- that
24 I guess you and, and the other attorney had written the
25 thirty-five years on the plea sheet?

1 A. Yeah.

2 Q. And you wrote it as a recommendation?

3 A. Yes.

4 Q. All right. Do you think that -- could Jesse have been
5 confused about that?

6 A. I don't think so and, and, and as I've been thinking
7 about this, the state would never have given us a blank
8 copy of this. They would have signed everything in. So,
9 that life sentence was there when we got this because they
10 don't -- you know, they act like they don't trust us, so
11 they want to give us everything signed.

12 Q. Yeah.

13 A. So, she signed it, she put that life sentence on
14 there, and we put that thirty-five there to let him know
15 that we weren't going along with the -- with their
16 recommendation, and we had our own strategy going forward
17 with the plea.

18 Q. All right, and you said that just as the rotation --
19 you had hoped that Judge Cooper would be more inclined to
20 give thirty-five or close to thirty-five?

21 A. Yes.

22 Q. Than maybe other...

23 A. From what we could tell in the situation leading up,
24 looking at the judge roster, yes.

25 Q. So, there really was a legitimate hope for thirty-five

J.C. NEWTON - CROSS-EXAMINATION / REDIRECT EXAMINATION 30.

1 years?

2 A. Absolutely.

3 Q. I mean, it wasn't just like it was completely out of,
4 out of ---

5 A. No, no. Fifty was a gut punch. We didn't -- I
6 didn't, I expect it. I mean, I was there in the plea. I
7 didn't expect that. I really thought we were going to be
8 in that range, but we did not guarantee thirty-five at all,
9 and not, not to anybody. No family members or anything.

10 MR. THOMAS: Your Honor, I have no further questions.

11 THE COURT: All right. Anything else?

12 REDIRECT EXAMINATION BY MS. WILLIAMS:

13 Q. Did you, did you speak to Mr. Lane at all after the
14 plea?

15 A. I feel like we went down there and talked to him. We
16 might have -- you know, they have the side box that we --
17 that they take them out. I know we went and spoke with the
18 family after.

19 Q. Did anybody ask you about the DNA not existing, all
20 that that was -- came out at the plea?

21 A. I, I don't recall.

22 MS. WILLIAMS: Okay. That's all. That's fair. Thank
23 you.

24 THE COURT: All right, thank you, sir. You may step
25 down.

1 (THE WITNESS EXITS THE STAND.)

2 THE COURT: You have any problem with Mr. Newton
3 leaving?

4 MS. WILLIAMS: No. No, Your Honor. That's the
5 state's case.

6 THE COURT: All right, anything further?

7 Mr. Newton, you are free to leave.

8 MR. THOMAS: Nothing further, Your Honor, unless you'd
9 like for us to summarize it.

10 THE COURT: I think I understand it.

11 MR. THOMAS: Sir?

12 THE COURT: I think I understand it. If you want to
13 tell me something, I'll be happy to hear it.

14 MR. THOMAS: I think it's our contention is that the
15 plea wasn't freely and voluntarily, knowingly and
16 intelligently given.

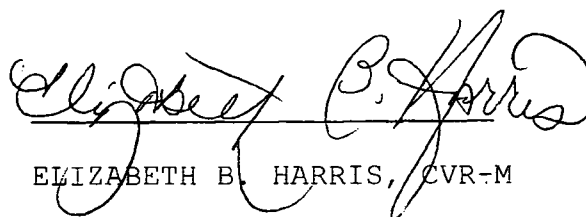
17 THE COURT: All right. Thank you.

18 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON
THE 1ST DAY OF OCTOBER, 2013.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.



ELIZABETH B. HARRIS, CVR-M

COLUMBIA, SOUTH CAROLINA

MARCH 10TH, 2014

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

2012-CP-40-6138

Jesse Ray Lane, #345702,

Applicant,

v.

State of South Carolina,

Respondent.

ORDER OF DISMISSAL

RICHLAND COUNTY
FILED
2013 NOV -5 PM 2:10
JEANETTE W. MORRIS
C.C.P. & G.S.

This matter comes before the Court by way of an Application for Post-Conviction Relief filed September 13, 2012. An evidentiary hearing was convened on October 1, 2013, at the Richland County Courthouse. The Applicant was present at the hearing and was represented by Tommy Thomas, Esquire. The Respondent was represented by Mary S. Williams of the South Carolina Attorney General's Office.

At the hearing, the Applicant testified on his own behalf and presented testimony from his mother, Sheila Lane. Also testifying was John C. Newton, Esquire. This Court had before it the records of the Richland County Clerk of Court, the guilty plea transcript, the appellate records, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was indicted for Murder (2010-GS-40-2525) and Burglary – 1st Degree

(2010-GS-40-2524). James D. Cooper, III, Esquire, and John C. Newton, Esquire, represented him.¹

On April 15, 2011, the Applicant pled guilty before the Honorable G. Thomas Cooper, Jr. Applicant was sentenced to two (2) concurrent terms of fifty (50) years imprisonment.

A notice of appeal was filed. The appeal was dismissed in an order dated November 16, 2011, and the matter was remitted.

In his application for post-conviction relief (PCR), Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel.
2. "Ineffective conflict of interest."

At PCR hearing, Applicant presented the following issues:

1. Ineffective assistance of counsel.
 - a. Applicant believed he would receive a sentence of thirty-five (35) years.
 - b. Counsel misinformed Applicant that DNA evidence connected him to the crime.
 - c. Counsel misinformed Applicant that fingerprint evidence connected him to the crime.

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 at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required

¹ James D. Cooper, III, passed away in March 2013. Cooper was primarily responsible for the case. In accordance with custom in the Public Defender's Office in a murder case with the potential of trial, Newton was assigned as second chair.

RICHLAND COUNTY
 FILED
 2013 NOV -5 PM 2:10
 JENNIFER W. MCBRIDE
 C.C.F. & G.S.

pursuant to S.C. Code Ann. §17-27-80.

Ineffective Assistance of Counsel

The Applicant alleges he received ineffective assistance of counsel. In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). 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, supra). 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). 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).

Sentence

Applicant argues Counsel informed him he would receive a sentence of thirty-five (35) years if he pled guilty. Applicant claimed that when he signed the sentencing sheet the annotation of a recommendation by the state with "life sentence" written in underneath did not appear. In contrast, Newton explained that the notation of "life sentence" was on the plea sheet when he and Applicant signed it. Newton stated that the solicitor would always fill in all items before having the defense sign. Newton expressly recalled notating under Applicant's signature, "Defense Rec. 35 years" so that the judge would know that the defense did not agree with the State's recommendation and was arguing for a lesser sentence. Newton further recalled that they felt that Judge Cooper would be most likely of the judges in circuit around that time to agree with the defense argument for thirty-five (35) years. Newton reflected that fifty (50) years felt like a "gut punch" given their hope for thirty-five (35) years but acknowledged that they had not guaranteed thirty-five (35) years to anyone. Applicant's mother, Sheila Lane, testified she believed Applicant would receive thirty-five (35) years and believed that if a sentence of thirty-five (35) years had been imposed he would not have challenged his plea further.

Applicant was advised by the plea judge that he faced thirty (30) years to life for Murder and fifteen (15) years to life for Burglary – First Degree, and Applicant indicated that he understood. (Tr. p. 3, line 21 – p. 4, line 8.) Applicant further affirmed to the court that no sentence had been

promised. (Tr. p. 6, lines 5-7.)

This Court finds Newton's testimony to be credible. While Applicant certainly hoped for a sentence of thirty-five (35) years, he was not promised any specific sentence. This is supported by Applicant's answers during the plea colloquy in which he understands the potential sentences and denies being promised any particular sentence. Wolfe v. State, 326 S.C. 158, 485 S.E.2d 367 (1997) ("Wishful thinking regarding sentencing does not equal a misapprehension concerning the possible range of sentences and that no promises have been made.")

Evidence

Applicant further claims he was misinformed regarding the evidence against him. Applicant asserts that counsel informed him (1) DNA evidence linked him to the crime and (2) his fingerprints had been found on a pipe purported to be the murder weapon.

In rendering a detailed factual basis for the plea, the solicitor specifically noted that:

- While a witness would say that he saw Applicant throw the pipe used to bludgeon the victim in a wooded area and the group discussed concern over fingerprints on the pipe, the pipe was never recovered. (Tr. p. 15, lines 12-19; p. 16, lines 17-19.)
- While witnesses would say they saw blood spatter on Applicant, there was no DNA evidence recovered from his clothing linking him to the crime. (Tr. p. 15, lines 19-23; p. 17, lines 4-8.)

Other evidence against Applicant as recited by the solicitor included Applicant's statement in which he admitted his presence in the victim's home with intent to rob but claimed a co-defendant actually beat the victim. The others involved in the robbery attempts would also identify Applicant and attest to statements made before and after the murder.

Newton was not privy to conversations between Cooper and Applicant regarding any DNA or

fingerprint evidence (or lack thereof). Nonetheless, I find that Applicant was aware that such evidence did not exist due to the solicitor's detailed factual rendition during his plea if not before. Moreover, this court notes the extensive evidence which would have been presented against Applicant even in the absence of DNA or fingerprint evidence, evidence which surely would tend to make a guilty plea an appealing option for a defendant. This court also notes Applicant's admissions of guilt during his plea both before and after the solicitor's rendition of the facts. (Tr. p. 7, lines 19-25; p. 35, lines 3-7; p. 38, lines 7-11.)

Based on the foregoing, I find that any misapprehension Applicant may have had regarding the evidence against him was cured during the plea colloquy. Holden v. State, 393 S.C. 565, 713 S.E.2d 611 (2011) (alleged deficiency by counsel can be cured by plea colloquy). Moreover, this court also finds dubious Applicant's current claim that had he not been misinformed regarding the non-existence of DNA and fingerprint evidence he would have insisted on a trial given the evidence against him. Stalk v. State, 383 S.C. 559, 681 S.E.2d 592 (2009) (discussing prejudice prong in context of guilty plea). Applicant's PCR testimony proclaiming his innocence is contrary to his plea testimony, also given under oath, and lacks credibility given all the attendant circumstances including substantial evidence of guilt. Therefore, I find that Applicant has failed to meet his burden in this regard.

Other Allegations

No other allegations were raised at the PCR hearing. Therefore, any additional allegations are deemed waived because no evidence was presented.

CONCLUSION

Based on all the foregoing, this Court finds and concludes that the Applicant has not

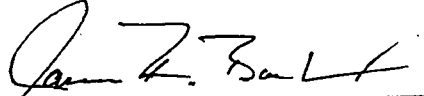
established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief must be denied and dismissed with prejudice.

This Court advises Applicant that he must file a notice of intent to appeal within thirty (30) days from the receipt of this Order to secure the appropriate appellate review. His attention is also directed to Rule 243, SCACR, for appropriate procedures after notice has been timely filed.

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 28 day of OCTOBER, 2018.



JAMES R. BARBER, III
Presiding Judge
Fifth Judicial Circuit

Charleston, South Carolina.