

STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE MARION )

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

Quinton Dewayne Inman, # 298283, )

Case No. 2011-CP-33-00440 )

Applicant, )

v. )

State of South Carolina, )

Respondent. )

ORDER

RECEIVED

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SC Court of Appeals

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This matter comes before the Court by way of an Application for Post-Conviction Relief (PCR) filed on June 17, 2011. Respondent filed a Return on or about September 29, 2011. The Court convened a hearing in Florence County on February 11, 2014, at which time Applicant was present in court and represented by Heather M. Cannon, Esquire. The Respondent was represented by Joshua L. Thomas, Esquire, of the South Carolina Attorney General's Office.

#### BACKGROUND

Quinton Inman, Applicant, was indicted at the August 2006 term of the Marion County Grand Jury for murder. The court appoint Shannon Prosser, Esquire to represent Inman. On August 6, 2006, after a three day jury trial, Inman was convicted as charged and The Honorable Thomas A. Russo sentenced him to life imprisonment without parole. Inman timely appealed his conviction.

On appeal, Inman was represented by Joseph L. Savitz, III, Esquire. On information and belief, the Court of Appeals dismissed the case after appellate counsel submitted a brief pursuant to Anders v. California, 386 U.S. 738 (1967) on or around October 2011.

#### ISSUES PRESENTED

At his PCR hearing, Inman alleged that he is being held in custody unlawfully because of

ineffective assistance of counsel. Inman avers he was deprived effective assistance of counsel for the following reasons:

1. Counsel failed to investigate his past;
2. Counsel failed to play a tape recording of the statement given by a co-defendant;
3. Counsel failed to object to the introduction of photographic evidence that displayed the victim's walker;
4. Counsel failed to effectively handle an objection to DNA testimony and failed to discuss and handle the introduction of an autopsy report; and
5. Counsel failed to object when the trial judge stepped down from the bench and charged the jury by standing next to the jury box.

Additionally, Inman adamantly maintained his innocence and introduced a witness who wished to recant his trial testimony, which implicated Inman of the crime.

#### STANDARD OF REVIEW

The Sixth Amendment of the United States Constitution guarantees a defendant the right to effective assistance of counsel. U.S. Const. amen. VI; Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.E.2d 674 (1984); Holden v. State, 393 S.C. 565, 713 S.E.2d 611 (2011). In a post-conviction relief action, Applicant bears the burden of proving the allegations in their application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relief upon as having product a just result." Strickland, 80 L.E.2d at 692; 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.E.2d 674. Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, *citing* Strickland, 80 L.E.2d 674. 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.

Additionally, granting a new trial because of after-discovered evidence is not favored. State v. Irvin, 270 S.C. 539, 545, 243 S.E.2d 195, 197–98. A recantation of testimony ordinarily is "unreliable and should be subjected to the closest scrutiny when offered as ground for a new trial." State v. Harris, 391 S.C. 539, 544–45, 706 S.E.2d 526, 529 (Ct. App. 2011).

#### SUMMARY OF TESTIMONY

Applicant Quinton Inman testified at his PCR hearing that he met with his trial counsel, Shannon Prosser, Esquire, on multiple occasions prior to trial. During these meetings, Inman and his attorney discussed the charges he faced, the elements of and potential defenses to those charges, and developed Inman's sole defense theory for trial—that he was not present during the commission of the crime.

Inman testified that Prosser failed to investigate his background and social history in preparation for trial. He testified that his attorney would have recognized some mental health issues—dating back to 1994 or 1995—that would have aided in his defense. However, he did not to elaborate on what Prosser would have discovered through an investigation nor did he seek

to introduce any documents, reports, or evidence regarding his past. Furthermore, Prosser testified that Inman never asked him to look into his background and, through all their meetings and discussions, Prosser never doubted that Inman was competent to stand trial.

The Court also heard Inman testify that Prosser should have played a taped statement by his co-defendant. Prosser, however, contends this statement would only frustrate the trial strategy developed by Inman and himself. Inman's attorney noted that the focus at trial was to discredit the sole witness that could place Inman at the scene of the crime, Anthony McCray, his co-defendant. Trial counsel testified that McCray gave several inconsistent statements to police officers in conjunction with this crime, some written others recorded. Prosser agreed that it would be beneficial for Inman if McCray's previous statements were introduced whereby he could impeach the only person that placed his client at the crime scene; however, the taped statement, while it provided some credibility issues regarding McCray, implicated Inman in the crime. Additionally, Prosser believed that the several written statements McCray furnished could accomplish the same degree of impeachment without having to introduce inculpatory evidence of his client.

Inman also alleged that Prosser was also deficient for failing to object to photographic evidence of the victim and her walker, which he believed, was highly prejudicial. Again, Prosser cited trial strategy as his reason for not objecting to this photographic evidence's introduction. Prosser contended that this photograph was helpful to Inman because it was another piece of evidence that did not tie Inman to the crime. Prosser testified that he assumed the State was trying to tie the victim to a carwash and that it did not having anything to do with his client.

In addition, Inman stated that his counsel was deficient in handling the autopsy report and DNA testimony at trial. Inman alleged that Prosser failed to discuss the autopsy report with him

prior to trial. Inman testified that Prosser did not get the autopsy report until the day of his trial and never discussed this evidence with him. The Court heard testimony that prior to trial Inman was represented by another attorney who filed several discovery motion's on Inman's behalf. Prosser testified that when he took over the case, Inman's file did not include any DNA results or an autopsy report. However, he testified that he specifically discussed the DNA and autopsy report with Inman once he received them. Furthermore, Prosser testified that he filed motions in limine in an attempt to exclude any mention of these reports at trial and was overruled. Despite these motions being denied, Prosser testified that he made an objection during testimony regarding the DNA results because he believed the questioning to be cumulative. As for the autopsy report, Prosser stated that there was never any debate concerning how the victim died, and the defense strategy—developed by Inman and himself—did not dispute how the victim died, instead it focused on the admission by a co-defendant to the crime and the lack of credible evidence placing Inman at the scene.

Inman's final complaint on the ground of ineffective assistance of counsel is that his attorney was deficient in failing to object when The Honorable Thomas A. Russo left the bench and charged the jury while standing alongside the jury box. Inman stated that this threatened and pressured the jury into convicting him, Judge Russo's desired outcome. Prosser then testified that he did not object as a matter of preference; he believed that, if anything, it might help his client.

Finally, Inman requested a new trial based on a recantation of evidence by his co-defendant Anthony McCray. McCray, making his fourth sworn statement concerning this crime, testified that he understood a recantation of his trial testimony might lead a perjury charge. When asked if he knew he would be charged with perjury, would he still testify that Inman did

not commit the crime with him, he stated "yes." He testified that someone in his family told him that Inman was contesting his trial and that he should contact Inman's attorney. McCray stated that at the time of Inman's trial he was only sixteen, he was less conscious about his actions in life, and his desire to recant his testimony was voluntary. The Court also heard McCray testify that was coerced by police into giving a statement that implicated Inman. However, the Court also heard McCray state that during his plea hearing he swore to the court that he was never threatened or pressured, told the judge he was being truthful, swore he was telling the truth at Inman's trial on five occasions, and that he believed he had nothing to lose by recanting his testimony.

### ANALYSIS

This Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe witnesses who testified at the hearing and to closely pass upon their credibility, weighing the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

#### **A. Ineffective Assistance of Counsel**

This Court finds Inman and trial counsel, Shannon Prosser—an attorney with nineteen years of trial experience—met on several occasions prior to trial. It was during these meetings that Inman and his attorney discussed at great length the charges he faced, and the elements and potential defenses to those charges. It appears that Inman and Prosser entered into plea negotiations with the State prior to trial but Inman decided to reject all plea offers and maintained his innocence. It also appears that Inman and Prosser collectively developed a trial strategy and defense theory based off the information that Inman gave to his attorney. This

theory centered on Inman's claim that he was not present during the commission of the crime; therefore, the strategy was to discredit the evidence and testimony that placed him at the scene, the DNA results and Anthony McCray's testimony. In addition, Prosser diligently sought discovery that the State had not timely delivered. Furthermore, Prosser and Inman discussed potential witnesses for his trial, Inman never gave his attorney any potential witness, and counsel subpoenaed the only witness the State decided not to call. Prior to trial, Prosser made several motions on Inman's behalf but was unsuccessful in excluding DNA testimony and the autopsy report.

**1. Failure to Investigate Applicant's Background and Social History**

This Court finds Inman's allegation that Prosser was ineffective for failing to investigate his background and social history is without merit. Failure to conduct an independent investigation is not *per se* ineffective assistance of counsel when the allegation is supported only by mere speculation. Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (citing Kibler v. State, 267 S.C. 250, 227 S.E.2d 199 (1976)). Here, Prosser went over the charges, and the elements and potential defenses to those elements with Inman at great length prior to trial. It is uncontroverted that the trial strategy and defense developed through Inman's pre-trial discussions with his attorney focused around his absence from the scene of the crime. Inman presented no testimony regarding what further evidence trial counsel could have uncovered that would have bolstered his defense. On this point, this Court finds very credible trial counsel's testimony that Inman's mental capacity and competency was never an issue. Thus, Inman has failed to meet his burden of proving counsel was ineffective for failing to investigate his past.

**2. Failure to play a recorded statement given by Anthony McCray**

This Court finds Inman's allegation that Prosser was ineffective for failing to play a

recorded statement by his co-defendant, Anthony McCray, is without merit. It is uncontroverted that Anthony McCray furnished several conflicting, sworn statements prior to trial—two written and one recorded. It also appears that the recorded statement Inman alleges his attorney should have played at trial, implicates Inman of the crime.

Where counsel articulates a strategy, it is measured under an objective standard of reasonableness. Ingle v. State, 348 S.C. 467, 560 S.E.2d 401 (2002). Where counsel articulates valid reasons for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel. Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992); Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). As discussed above, the strategy developed by Inman and Prosser was to discredit the statements given by McCray.

It appears Prosser made a strategic decision during the trial to ensure evidence that implicated his client was not introduced, even though it could further discredit McCray. It appears that Prosser made this decision after the conflicting written statements were already in evidence. Furthermore, Inman simply alleges Prosser should have introduced this statement, but failed to demonstrate the prejudicial effect the absence of a sworn, inculpatory, recorded statement made by his co-defendant had on his trial. Therefore, this Court finds that Inman has failed to meet his burden of proving counsel was ineffective for failing to introduce the recorded statement of his co-defendant at trial.

### **3. Failure to object to the introduction of photographic evidence**

This Court finds that Inman's allegation that Prosser was ineffective for failing to object to certain photographic evidence is without merit. It appears that Prosser made a valid strategic decision to withhold any objection to a photograph of a walker because he felt it kept Inman from being linked to the crime, a defense theory developed by Inman and Prosser prior to trial.

Therefore, this Court finds that Inman has failed to meet his burden of proving counsel was ineffective for failing to object to this evidence or how he was prejudiced by its introduction.

#### **4. Failure to effectively object to DNA testimony and Autopsy Report**

This Court finds that Inman's allegation that Prosser was ineffective for failing to effectively handle objections to DNA testimony and the autopsy report are without merit. It appears that Prosser filed motions in limine seeking to exclude both from being discussed during Inman's trial. Additionally, it appears that Prosser made an objection during testimony regarding the DNA evidence. Also, it appears the defense strategy, developed by Inman and his attorney, never sought to deny the cause of death of the victim. Instead, it appears the strategy was simply to deny that Inman was ever present during the commission of the crime. Therefore, this Court finds that Inman has failed to meet his burden of proving counsel was ineffective in handling this evidence.

#### **5. Failure to object to manner in which the judge charged the jury**

This Court finds that Inman's allegation that counsel was ineffective for failing to object to the manner in which The Honorable Thomas Russo charged the jury is without merit. It appears that Prosser made a strategic decision to refrain from challenging how Judge Russo charged the jury. Furthermore, other than simply alleging that this threatened and pressured the jury into agreeing with Judge Russo's opinion on the case, Inman has failed to prove this prejudicial effect or articulate when Judge Russo ever gave an opinion concerning Inman's case. Therefore, Inman has failed to meet his burden of proving counsel was ineffective for failing to object to the manner in which Judge Russo charged the jury.

#### **B. Recantation of Testimony**

This Court finds that Inman's request for a new trial based on the recantation of trial

testimony by a co-defendant is denied.

A new trial on after-discovered evidence may be granted if applicant shows that the evidence is such as would probably change the result if a new trial was had, has been discovered since trial, could not by the exercise of due diligence have been discovered before trial, is material to the issue of guilt or innocence, and is not merely cumulative or impeaching. Clark v. State, 315 S.C. 385, 434 S.E.2d 266 (1993); Hayden v. State, 278 S.C. 610, 299 S.E.2d 854 (1983). "Recantation of testimony ordinarily is unreliable and should be subjected to the closest scrutiny when offered as ground for a new trial." State v. Harris, 391 S.C. 539, 545, 796 S.E.2d 526, 529 (Ct. App. 2011) (quoting State v. Porter, 269 S.C. 618, 621, 239 S.E.2d 641, 643 (1977)).

This Court is in the unique position to hear the testimony of all the witnesses at the PCR hearing, observe their demeanor, and make a determination of their credibility. It appears that Anthony McCray has given no less than six sworn statements in connection with this case and at least three of these statements implicated Inman. It is uncontroverted that during McCray's plea hearing he was sworn, advised of his constitutional rights, and asked if he was telling the truth. It is uncontroverted that during Inman's trial, McCray was asked repeatedly if he was telling the truth, and each time he testified that he was truthful. Furthermore, McCray testified that he did not lie at his plea hearing, only to later correct himself and state that what he said was "for the most part true." This Court also had a chance hear McCray's specious argument that he had "nothing to lose" and that he was a changed man, yet refuse to give a truthful accounting of the events surrounding the victim's death.

For the foregoing reasons, this Court finds the testimony of Anthony McCray to be categorically unreliable. Additionally, this court finds that even assuming *in arguendo*, that

McRay's testimony at the PCR hearing was truthful, it would not change the outcome if Inman was granted a new trial. Therefore, this Court finds Inman has failed to meet *his burden in* establishing the need for a new trial.

### **C. All Other Allegations**

As to any other allegations raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Inman failed to present sufficient evidence regarding such allegations. Accordingly, the Court finds Inman has abandoned any such allegations.

### **CONCLUSION**

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

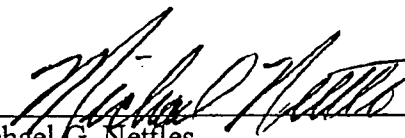
The Court notes that Inman must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. *See* Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), an applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a notice of appeal on the applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

### **IT IS THEREFORE ORDERED THAT:**

1. The Application for Post-Conviction Relief is denied and dismissed with prejudice; and

2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 7 day of March, 2014.

  
\_\_\_\_\_  
Michael G. Nettles  
Presiding Judge

Greenville, South Carolina

STATE OF SOUTH CAROLINA )  
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COUNTY OF MARION )  
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QUINTON D. INMAN, #298283 )  
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vs )  
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STATE OF SOUTH CAROLINA, )  
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Respondent. )  
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IN THE COURT OF COMMON PLEAS

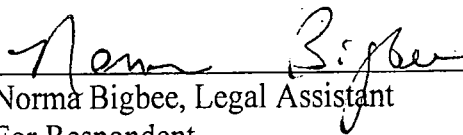
2011-CP-33-440

AFFIDAVIT OF SERVICE BY MAIL

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 filed copy of the Order in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Heather M. Cannon, Esquire**  
1421 Third Ave.  
Conway, SC 29526

DATED this 5<sup>th</sup> day of August, 2014.

  
\_\_\_\_\_  
Norma Bigbee, Legal Assistant  
For Respondent

# Heather M. Cannon, LLC

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## Attorney At Law

Certified Mediator

1421 Third Avenue

Conway, South Carolina 29526

E-mail: [cannonhm@hotmail.com](mailto:cannonhm@hotmail.com)

Telephone: (843) 488-2426 · Facsimile: (843) 488-2428

August 15, 2014

Alan Wilson, Attorney General  
Joshua L. Thomas, Assistant Attorney General  
Post Office Box 11549  
Columbia, SC 29211-1549

**Re: Quinton Dewayne Inman, Petitioner v. State of South Carolina,**  
**Respondent**  
**Civil Action No.: 2011-CP-33-440**

Dear Josh:

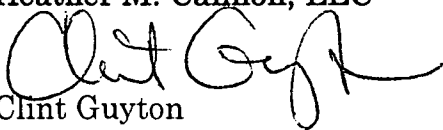
Enclosed please find the following for the above referenced PCR.

1. A copy of the order to be challenged on appeal.
2. Proof of service of notice of appeal on the Respondent and parties as required under the rules.

If you should have any questions or concerns, please do not hesitate to contact me.

With kind regards, I am

Sincerely,  
Heather M. Cannon, LLC

  
Clint Guyton  
For Heather M. Cannon

Enclosures

# Heather M. Cannon, LLC

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## Attorney At Law

Certified Mediator

1421 Third Avenue

Conway, South Carolina 29526

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August 15, 2014

Lee Correctional Institution  
Quinton Dewayne Inman # 298283  
990 Wisacky Hwy  
Bishopville, SC 29010

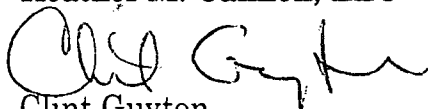
**Re: Quinton Dewayne Inman vs. State of South Carolina**  
**Case No.: 2011-CP-33-440**

Dear Quinton:

I received the Final Order on August 6, 2014. I have mailed your appeal out to be filed today. Enclosed please find a copy of all of the documents that I prepared and filed together with the letters that I wrote and sent with the documents. If your appeal is granted, the Office of Appellate Defense will handle your appeal, not me. It was a pleasure working with you and I wish you the best of luck in the future.

With kind regards, I am

Sincerely,  
Heather M. Cannon, LLC



Clint Guyton  
For Heather M. Cannon

Enclosure

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM MARION COUNTY  
Honorable Michael G. Nettles, Circuit Court Judge

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Case No.: 2011-CP-33-00440

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Quinton Dewayne Inman, # 298283, .....Appellant,

v.

State of South Carolina, .....Respondent

I, Heather M. Cannon, certify that I have this day served the within Notice of Appeal on all parties in the above referenced action by depositing copies of those documents in the United States Mail, postage prepaid, on August 15, 2014, addressed to their respective attorneys of record listed below:

Alan Wilson, Attorney General  
Joshua L. Thomas, Assistant Attorney General  
Post Office Box 11549  
Columbia, SC 29211-1549

Lee Correctional Institution  
Quinton Dewayne Inman # 298283  
990 Wisacky Hwy  
Bishopville, SC 29010

Jenny Abbott Kitchings  
Clerk of Court,  
S.C. Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211



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Heather M. Cannon  
**Heather M. Cannon, LLC**  
1421 Third Avenue  
Conway, SC 29526

August 15, 2014.



ALAN WILSON  
ATTORNEY GENERAL

August 5, 2014

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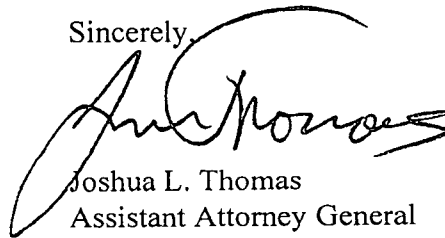
Heather M. Cannon, Esquire  
1421 Third Ave.  
Conway, SC 29526

**Re: Quinton Dewayne Inman, 298283 v. State of South Carolina**  
**2011-CP-33-440**

Dear Ms. Cannon:

Enclosed please find a filed copy of the Order signed by Judge Nettles, in the above-captioned case.

Sincerely,



Joshua L. Thomas  
Assistant Attorney General

JLT/nb

Enclosure

RECEIVED  
AUG 18 2014  
SC Court of Appeals