

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

RECEIVED

Appeal from Williamsburg County

SEP 12 2011

William Jeffrey Young, Family Court Judge

S.C. Supreme Court

JAMEL ALEXANDRETTE,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

COURT OF GENERAL SESSIONS
2007-02-45-073

State of SC,

PLAINTIFF

vs.

TRANSCRIPT OF RECORD

Jamel Alexandrette,

DEFENDANT

April 30, May 1, 2007
Kingstree, South Carolina

B E F O R E:

THE HONORABLE R FERRELL COTHRAN, JR., JUDGE; and
a jury.

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

KIMBERLY BARR, ASSISTANT SOLICITOR
Attorney for the Plaintiff

LEGRAND CARRAWAY, CHIEF PUBLIC DEFENDER
Attorney for the Defendant

Kathleen Richardson, RPR, CRR
Official Court Reporter

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EXHIBITS

no exhibits were marked.

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THE COURT: You may call your first case.

MS. BARR: Thank you, Your Honor. May it please the Court. Judge, at this time State calls indictment number 2006-SS-45-276, the State versus Jamel Alexandrette.

Mr. Alexandrette was indicted by the Williamsburg County Grand Jury on October the fifth of 2006, charged with the offense of murder, possession of a weapon during the commission of a violent crime. He's here with his lawyer, Mr. Carraway, and the State's ready for trial.

THE COURT: Ladies and gentlemen of the jury, we are about to begin the trial of the case of the State of South Carolina versus Jamel Alexandrette -- is that how you pronounce the name?

Is any member of the jury panel related by blood or marriage to the defendant in this case, Mr. Alexandrette; if so, please stand.

Is there any member of the jury panel related by blood or marriage to Eugene Williams; if so, please stand. Is there any member of the jury panel who is close personal friends, social relations with either the defendant in this case or the victim, Mr. Alexandrette or Mr. Williams; if so, please stand.

I'm going to read you a list of 10 witnesses,

1 potential witnesses on behalf of the State. So
2 please pay close attention because I need to know
3 whether you're related by blood or marriage or close
4 personal friends with any of these witnesses.

5 Sergeant Sherrod Timmons, Willy Brown,
6 Investigator Willy Brown, Investigator Justin Whack,
7 Investigator Debra Collins, Deputy Steve Boston,
8 Lieutenant Jeffrey Scott, Chief Brian Todd,
9 Lieutenant AB Powell, Dr. Cynthia Scrandal -- how do
10 you pronounce, Shandell -- I'm sorry, Medical
11 University.

12 Dr. Drake Branch, Dr. Jamie Carlo Demonovic, Dan
13 Defreese from SLED, John Roberts from SLED, Don
14 Williams, Leslie Tanner, Catherine Carmichael, James
15 Canty, Donna Lee Williams, and Louis Rogers.

16 If so -- anybody connected by blood or marriage
17 or close personal friends with any of those
18 witnesses; if so, please stand. Yes, sir.

19 *JUROR:* Mr. Clarence, 21. I knew him -- cousin,
20 Williams family.

21 *THE COURT:* The Williams family is your cousin?

22 *JUROR:* Yeah, on my aunt side.

23 *THE COURT:* All right. How close of cousins are
24 they?

25 *JUROR:* Might be like third, fourth, something

1 like that.

2 THE COURT: Okay. The fact that you're related
3 to them, would that affect your ability to give both
4 the State and the defense a fair and impartial trial?

5 JUROR: Yes. I want to get off this one. This
6 one kind of made it to neck (sic).

7 THE COURT: I...

8 JUROR: I say I wouldn't be able to do justice
9 on both sides.

10 THE COURT: Okay. Thank you, sir. I will stand
11 you aside for this trial.

12 JUROR: Yes, sir.

13 THE COURT: What was your number again, 21?

14 JUROR: Twenty-one.

15 THE COURT: Anyone else? Yes, sir.

16 JUROR: I grew up about a mile from Chief Todd
17 and I work with him on a daily basis.

18 THE COURT: What's your name and number?

19 JUROR: Buxton Davis, number 35.

20 THE COURT: All right, Mr. Davis. And you work
21 with Chief Todd?

22 JUROR: Yes, sir. He walks -- he comes through
23 the school all the time where I work. And like I
24 said, I grew up about a mile from him, I live about a
25 mile from him. I know him very well all my life.

1 THE COURT: All right. The fact that you know
2 him, could -- would that affect your ability to give
3 both the State and the defense a fair and impartial
4 trial in this case?

5 Could you listen to the evidence from both sides
6 and give both sides a fair and impartial trial based
7 on what you hear from this courtroom?

8 JUROR: Well, knowing them all my life and
9 knowing his family and what they are, I think I --
10 I'd trust his word before, you know... I'm not sure
11 that I'd be impartial if something is said.

12 THE COURT: All right, sir. Then I'm going to
13 excuse you for this trial. Anyone else? Is -- the
14 State is being represented in this case by --
15 Mr. Sabb, you prosecuting this as well?

16 MR. SABB: Actually Judge, I'm just here for
17 purposes of jury selection. Ms. Barr will actually
18 be the prosecutor on the case.

19 THE COURT: Okay. The State is represented in
20 this case by Kimberly Barr. Is there any member of
21 the jury panel related by blood or marriage or close
22 personal friends or a client of Ms. Barr's; if so,
23 please stand.

24 The defense is represented by Legrand Carraway.
25 Is there any member of the jury panel who is close

1 personal friends, related by blood or marriage or
2 clients of Mr. Carraway's; if so, please stand.

3 Is there any member of the jury panel formed or
4 expressed an opinion about the issues or matters
5 involved in this case; if so, please stand.

6 Is there any member of the jury panel aware of
7 any bias or prejudice either against the State of
8 South Carolina or for -- or the defendant in this
9 case; if so, please stand.

10 Is there any member of this jury panel who was
11 on the Grand Jury when this case came before the
12 Grand Jury of Williamsburg County; if so, please
13 stand.

14 Is there any member of the jury panel know of
15 any reason whatsoever why they should not serve as a
16 juror on this case and give both the State and the
17 defense a fair and impartial trial; if so, please
18 stand. Any further questions from the State?

19 MS. BARR: No, Your Honor.

20 THE COURT: From the defense?

21 MR. CARRAWAY: None, Your Honor.

22 THE COURT: Okay. Madam Clerk, you can give us
23 a jury.

24 THE CLERK: Members of the petit jury--

25 MR. CARRAWAY: Excuse me. Strikes are...

1 THE COURT: Ten and five.

2 THE CLERK: Members of the petit jury, as I call
3 your name and your number, will you please come to
4 the front of my desk, turn around, face counsel, and
5 await further instructions. Ladies, as your names
6 are called, please bring your personal belongings
7 with you.

8 THE CLERK: Juror number 89, Thomas Kinard
9 (white male).

10 MS. BARR: Please seat Mr. Kinard.

11 MR. CARRAWAY: Please seat Mr. Kinard.

12 THE CLERK: Number 131, John Pope, junior (white
13 male).

14 MS. BARR: Present Mr. Pope.

15 MR. CARRAWAY: Please excuse Mr. Pope for the
16 trial of this case.

17 THE CLERK: You may return to your seat,
18 Mr. Pope. Number 56, Edward Gamble.

19 MS. BARR: Present Mr. Gamble.

20 MR. CARRAWAY: Please seat Mr. Gamble.

21 THE CLERK: Have a seat to my right in the petit
22 jury box, Mr. Gamble. Number 22, Evelyn Cloy (white
23 female.)

24 MS. BARR: Present Mrs. Cloy.

25 MR. CARRAWAY: Please excuse Mrs. Cloy from the

1 trial of just this case.

2 THE CLERK: You may return to your seat. Number
3 16, Jeannie Davis (white female).

4 MS. BARR: Present Mrs. Davis.

5 MR. CARRAWAY: Please excuse Mrs. Davis.

6 THE CLERK: You may return to your seat,
7 Mrs. Davis. Number 162, Ben Washington (black male).

8 MS. BARR: Present Mr. Washington.

9 MR. CARRAWAY: Please seat Mr. Washington.

10 THE CLERK: Have a seat to my right in the petit
11 jury box, Mr. Washington. Number 30, Christopher
12 Creel (white male).

13 MS. BARR: Present Mr. Creel.

14 MR. CARRAWAY: Please seat Mr. Creel.

15 THE CLERK: Have a seat to my right in the petit
16 jury box. Number 159, Branson Tisdale, junior.
17 (white male.)

18 MS. BARR: Present Mr. Tisdale.

19 MR. CARRAWAY: Please seat Mr. Tisdale.

20 THE CLERK: Have a seat to my right in the petit
21 jury box. Number 130, Elise Pompey (black female.)

22 MS. BARR: Present Mrs. Pompey.

23 MR. CARRAWAY: Please excuse Mrs. Pompey.

24 THE CLERK: You may return to your seat,
25 Mrs. Pompey. Number 161, David Ward (white male.)

1 MS. BARR: Present Mr. Ward.

2 MR. CARRAWAY: Please seat Mr. Ward.

3 THE CLERK: Have a seat to my right in the petit
4 jury box. Number 128, Desiree Peterkin (black
5 female.)

6 MS. BARR: Present Mrs. Peterkin.

7 MR. CARRAWAY: Please seat Mrs. Peterkin.

8 THE CLERK: Have a seat to my right in the petit
9 jury box, Mrs. Peterkin. Number 104, Cynthia
10 McClorin (black female.)

11 MS. BARR: Present Mrs. McClorin.

12 MR. CARRAWAY: Please excuse Mrs. McClorin.

13 THE CLERK: You may return to your seat, Mrs.
14 McClorin. Number 101, Barbara McBride. (black
15 female.)

16 MS. BARR: Present Mrs. McBride.

17 MR. CARRAWAY: Please seat Mrs. McBride.

18 THE CLERK: Have a seat to my right in the petit
19 jury box. Number 111, Donna McFadden (black female.)

20 MS. BARR: Please excuse Mrs. McFadden from just
21 this trial.

22 THE CLERK: You may return to your seat, Mrs.
23 McFadden. Number 99, Larry Matthews (white male.)

24 MS. BARR: Present Mr. Matthews.

25 MR. CARRAWAY: Please excuse Mr. Matthews.

1 THE CLERK: You may return to your seat. Number
2 133, James Ravanel (black male.)

3 MS. BARR: Please excuse Mr. Ravanel.

4 THE CLERK: You may return to your seat,
5 Mr. Ravanel. 133, Melonese Snowden or Snowden (black
6 female.)

7 MS. BARR: Present Mrs. Snowden.

8 MR. CARRAWAY: Please excuse Mrs. Snowden.

9 THE CLERK: You may return to your seat. 127,
10 Jimmy Owens (white male.)

11 MS. BARR: Present Mr. Owens.

12 MR. CARRAWAY: Please excuse Mr. Owens.

13 THE CLERK: You may return to your seat.

14 JUROR: Thank you.

15 THE CLERK: Seventy-seven, Lun Houston (black
16 male.)

17 MS. BARR: Please excuse Mr. Houston.

18 THE CLERK: You may return to your seat,
19 Mr. Houston. Sixty-five, Randy Graham (black male.)

20 MS. BARR: Present the juror.

21 MR. CARRAWAY: Please seat Mr. Graham.

22 THE CLERK: Have a seat to my right in the petit
23 jury box. Number seven, Bennie Benbow (black male).

24 MS. BARR: Present Mr. Benbow.

25 MR. CARRAWAY: Please seat Mr. Benbow.

1 THE CLERK: Have a seat to my right in the petit
2 jury box. 114, Robert McKensie (white male.)

3 MS. BARR: Present the juror.

4 MR. CARRAWAY: Please seat Mr. McKensie.

5 THE CLERK: Have a seat in the petit jury box.
6 176, Kenneth Sabb (black male.)

7 MS. BARR: Present Mr. Sabb.

8 MR. CARRAWAY: Please seat Mr. Sabb.

9 THE CLERK: Have a seat in the petit jury box.

10 THE COURT: We need two alternates or one?

11 MS. BARR: Judge, one should be sufficient.

12 THE COURT: What do you say? All right. The
13 strikes are two and one.

14 THE CLERK: Number 79, Noveline Jackson (white
15 female.)

16 MS. BARR: Present Mrs. Jackson.

17 MR. CARRAWAY: Please excuse Mrs. Jackson.

18 THE CLERK: You may return to your seat,
19 Mrs. Jackson. 151, Lee Shaw (black female.)

20 MS. BARR: Present the juror.

21 MR. CARRAWAY: Please excuse Mrs. Shaw.

22 THE CLERK: Number 48, Isiah Felder (black
23 male.)

24 MS. BARR: Present Mr. Felder.

25 MR. CARRAWAY: Seat Mr. Felder.

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THE CLERK: Have a seat in the grand jury box.

JUROR: Man.

THE COURT: Are there any matters of law concerning selection of this jury by the State?

MS. BARR: None from the State, Your Honor.

THE COURT: From the defense?

MR. CARRAWAY: None from the defense, Your Honor.

THE COURT: Okay. Can y'all approach just a minute?

(Whereupon a bench conference was held.)

THE COURT: Ladies and gentlemen who were not selected to serve us on this case, I'm going to excuse you to go and you -- you should have a telephone number.

If you don't have one, you need to get it before you leave the building. But it's a call back system. And if you will call that number after 6:00 today, it will tell you when I need you to report back.

If -- so wait to call till sometime after six. If you don't get through the first time keep calling till you get through where you can get the instructions of when I need you to report back.

When you get through to that number, you will not be talking to a live person. It will be an

1 answering machine. So you can't argue with it. It's
2 just going to simply tell you when to be back.

3 So if you will do that and call back after 6:00
4 tonight, it will let you know when we need you back.
5 Thank you and you're excused. Everybody else remain
6 seated.

7 (Remaining jury panel left the courtroom.)

8 *THE COURT:* Ladies and gentlemen, those of you
9 who have been selected to serve on this case, I have
10 been informed by the attorneys that it doesn't look
11 like we're going to be able to start the testimony in
12 this case this afternoon.

13 There's certain legal matters that we need to
14 address concerning this case and certain matters I
15 need to rule on. So instead of having you locked up
16 back in the jury room while we deal with these
17 matters, I was going to let you go home.

18 And I don't know whether we will finish them
19 this afternoon or whether it will take us into in the
20 morning. So because of that, now... as your -- if I
21 get them to call back, was your system capable of
22 telling them a different message than the one that we
23 have coming back?

24 *THE CLERK:* Well, we can identify them as being
25 I guess jury panel number one.

1 THE CLERK: Okay. So you will have a message
2 for jury panel number one. And that will -- they can
3 call that back?

4 THE CLERK: Call that same number.

5 THE COURT: If you will call the same number.
6 You're jury panel number one. You're the only jury
7 panel we got right now. The rest are just the
8 general group.

9 But I want to try to minimize your
10 inconvenience. And if you don't have to be here
11 first thing in the morning, you can call back and it
12 will tell you what time I need you tomorrow where we
13 can try to deal with as many matters as we can where
14 when I get you here we can start straight in with the
15 testimony.

16 So if you will call back after six tonight.
17 You're panel number one. And it will tell you when I
18 need you.

19 Now, understand this. You have been selected to
20 serve in this case. You don't know anything about it
21 yet. And what you know about this case you need to
22 learn from this witness stand, what's happening here
23 in the courtroom.

24 So it's very important that you not discuss this
25 case with anybody overnight. Now, I don't know

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whether it's going to be on the radio or TV or the newspaper, but if it is, you can't listen to it and you can't read it.

When you go home, your spouse may ask you what you have been doing all day, and you tell them, and the first thing they are going to do is want to talk about it with you.

You can't talk to them either because they are going to give you an opinion. They don't know what's going to happen. They may have heard about it. They may have just general opinions, but they are going to tell you what they think.

And my wife does that to me every night when I come home. She wants to know what I've been doing and what I tell them, then she tells me what I did wrong all day.

So it's important though that you keep a clear and open mind and decide this case based on what you hear on this witness stand and the law that I give you. So I don't want you to talk about it with anybody.

And when you get back in the jury room throughout this trial I'm going to ask you -- you can't talk about it among yourselves because during the trial you may hear from one witness, we take a

1 break and then you go back there and start talking
2 about what you think this case is doing or what this
3 witness says and you're going to start forming
4 opinions.

5 And then later in the trial you're going to want
6 to defend those opinions. And it's very important
7 that you not discuss this and start forming opinions
8 until you have heard everything, until you have heard
9 all of the evidence, you have heard the law that I
10 have given you, and then I will allow you to start
11 discussing this case where you will have a decision
12 that will be fair and impartial to both sides.

13 So I'm going to send you home for the evening.
14 You will call back after six, but please keep --
15 don't discuss this case with anybody because I want
16 you to have a clear, open mind to listen to the facts
17 that happen in this courtroom where you can give both
18 sides a fair and impartial trial, because that's what
19 you oath -- when we come back tomorrow I will have
20 the Clerk swear you in.

21 And when you do that, you have done what you --
22 we have asked you to do and you have done what's
23 right and what our system demands of you. Thank you
24 for being here. Call back after six and I will see
25 you sometime tomorrow.

1 Jury left the courtroom at 4:13 pm.)

2 THE COURT: All jurors out of the courtroom?

3 Okay.

4 MS. BARR: Judge, I think probation has some
5 matters, and Mr. Carraway wants to take
6 Mr. Alexandrette back. Is Jason Burgess here? Jason
7 Burgess?

8 THE COURT: Okay. We will be in recess on this
9 case and start whatever matters probation has.

10 (Whereupon this case was recessed for the day.)

11 ***** May 1, 2007 *****

12 MS. BARR: Judge, May it please the Court. Your
13 Honor, we are back on the record under indictment
14 number 2006-GS-45-278, state versus Jamel L
15 Alexandrette who is indicted by the Grand Jury for
16 murder and possession of a weapon during a violent
17 crime during commission of a violent crime.

18 Your Honor, he's here now with his lawyer. It's
19 my understanding he wishes to change his plea from
20 not guilty to guilty under count one, which is the
21 murder, count -- State is going to dismiss count two
22 in consideration of his pleading.

23 After consultation with the victim's family
24 there is a recommendation with regard to sentence,
25 Your Honor.

1 THE COURT: Okay. Mr. Carraway, you represent
2 Mr. Alexandrette?

3 MR. CARRAWAY: I do, Your Honor.

4 THE COURT: And you have explained the nature of
5 the charges he's facing and the possible punishment
6 he can receive and his constitutional rights?

7 MR. CARRAWAY: I have, Your Honor.

8 THE COURT: He tell you he wants to plead
9 guilty?

10 MR. CARRAWAY: He tells me he wants to plead
11 guilty.

12 THE COURT: Do you concur with that decision?

13 MR. CARRAWAY: I do concur with that decision.

14 THE COURT: Do you feel if this case went to
15 trial it would be a probability he could be convicted
16 on these charges?

17 MR. CARRAWAY: It would be a probability he'd be
18 convicted of one of the two charges, of one of the
19 two.

20 THE COURT: All right. Mr. Alexandrette, your
21 lawyer tells me you want to plead guilty. Is that
22 right, sir?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: You had enough time to talk to him
25 about your decision?

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THE DEFENDANT: Yes, sir.

THE COURT: You satisfied with his representation?

THE DEFENDANT: Yes, sir.

THE COURT: Has he done everything for you you think he should have done or could have done?

THE DEFENDANT: Yes, sir.

THE COURT: So you are happy with what he's done?

THE DEFENDANT: Yes, sir.

THE COURT: Excuse me. How old are you, sir?

THE DEFENDANT: Thirty-three.

THE COURT: Thirty-three?

THE DEFENDANT: Yes, sir.

THE COURT: How far did you go in school?

THE DEFENDANT: Got a GED diploma.

THE COURT: How much?

THE DEFENDANT: I have a high school diploma, GED.

THE COURT: You have a high school diploma?

THE DEFENDANT: Yes, sir.

THE COURT: Are you today under the influence of any alcohol or drugs?

THE DEFENDANT: No, sir.

THE COURT: Do you have any physical or mental

1 infirmities that keep you from understanding what's
2 happening here today?

3 THE DEFENDANT: No, sir.

4 THE COURT: Okay. Has anybody promised you
5 anything or threatened you in any way to get you to
6 plead guilty?

7 THE DEFENDANT: No, sir.

8 THE COURT: You pleading guilty freely and
9 voluntarily?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Have you -- you realize that I can
12 give you up to life imprisonment for this crime?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And you still want to plead guilty?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You realize by pleading guilty
19 you're giving up certain constitutional rights. You
20 have the right to remain silent and not incriminate
21 yourself.

22 But if you plead guilty, you are giving that
23 right up because you're sitting here this morning
24 telling me you're guilty. Do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You also have a right to a jury
2 trial. We already selected a jury in your case.
3 They are sitting back there in that room.

4 And in that trial you have a right to confront
5 the witnesses against you, your lawyer can
6 cross-examine those witnesses, he can subpoena
7 witnesses to testify in your own behalf. If you
8 plead guilty, you give that up. Do you understand
9 that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Any appeal that you would have as a
12 result of that trial you're also giving up. Do you
13 understand that?

14 Because you wouldn't have a trial and therefore
15 any legal issues that may arise as a result of that
16 trial, you wouldn't be able to appeal for them
17 because you wouldn't have a trial to appeal from. Do
18 you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Now, if you want to appeal this
21 guilty plea, you have got to do so within 10 days by
22 filing with the Clerk's office either yourself or
23 your lawyer. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And I see that the Solicitor's

1 Judge is going to recommend a sentence for me. Do
2 you understand I -- it is only a recommendation. I
3 do not have to follow that recommendation. And I can
4 give you up to life imprisonment?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And life means life. Do you
7 understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. How about listen to the
10 facts that the Solicitor's going to tell me about.
11 I'm going to come back and ask you about those facts.
12 She's going to tell me about the facts of this case
13 as well as any prior record you have. Okay?

14 THE DEFENDANT: Yes, sir.

15 MS. BARR: Your Honor, may it please the Court.
16 The incident occurred on June 12th, 2006 at the
17 Southside Grocery located in Hemingway in
18 Williamsburg County.

19 The victim in this case is Eugene Williams.
20 Friends call him Gene Williams. He was 47 years old
21 at the time of this incident occurred.

22 According to the witnesses in the case who are
23 under subpoena, who are prepared to testify, the
24 defendant came in Southside Grocery Store with a
25 gentleman by the name of Lewis Rogers.

1 Mr. Rogers was taking him to Georgetown earlier
2 in the day to pay a cable bill. Mr. Rogers indicates
3 that on the route back from Georgetown the defendant
4 got a call from someone he assumed was his wife on
5 his cellphone, that the -- following that
6 conversation the defendant made a comment, I'm not
7 going to have anybody come to my house when I'm not
8 there, but I will take care of that.

9 At some point when they arrived at the Southside
10 Grocery Store Mr. Alexandrette asked Mr. Rogers to go
11 in the store and make a purchase for him.

12 Mr. Rogers indicates that as he was going into
13 the store he saw the defendant go over to the victim,
14 Gene Williams. He reports that he got about two
15 steps inside the store and heard gunshot, and turned
16 around and saw Mr. Alexandrette leaving saying that
17 he had to get out of there.

18 Two of the other witnesses who just happened to
19 be at the store that day indicates that they saw Mr.
20 Alexandrette get out of -- out of Mr. Rogers'
21 vehicle.

22 They went over to the victim in the case,
23 mumbled something to the victim, then punched the
24 victim in the face. The victim then says, you know,
25 man, what are you doing and hits him back.

1 And at that point the witnesses -- two of them
2 will testify -- that the defendant then took a gun
3 either out of his pants pocket or his belt area or
4 someplace along his person and then shot the victim.

5 Once the victim was shot, he turned around and
6 at some point fell on the ground and at some point in
7 the actual shooting initial shots, fall on the
8 ground, he shot the victim three more times for a
9 total of about five shots to the victim. The victim
10 died as a result of the injuries that he sustained.

11 Judge, in addition, Mr. Alexandrette has
12 convictions in 1999 for assault slash breach of
13 peace. He had a conviction for the sale of illegal
14 drugs -- believe this was back in New London,
15 Connecticut, in 1993, I believe. He received three
16 years to three years probation -- received a 10 year
17 jail sentence suspended to three years, three years
18 probation.

19 THE COURT: That's on the drugs?

20 MS. BARR: Yes, sir.

21 THE COURT: Okay.

22 MS. BARR: He also has a conviction in 2004 here
23 in Williamsburg County. Looks like he was originally
24 charged with assault with intent to kill. He pled to
25 assault of a high and aggravated nature. He received

1 eight years suspended to two years probation.

2 He also had a conviction for criminal domestic
3 violence around that same time. He got a 30 day
4 sentence.

5 And Your Honor, for the record, we have
6 consulted with the victim's mother and his brother in
7 this case. They have been actively involved in plea
8 negotiations and discussions.

9 And based on all of the facts and circumstances
10 of this case the State is recommending imposition of
11 a 30 year sentence.

12 *THE COURT:* Okay. Are those facts correct, Mr.
13 Alexandrette?

14 *THE DEFENDANT:* Yes, sir. Yes, sir.

15 *THE COURT:* That's what you did? You went to
16 that store that day and shot him?

17 *THE DEFENDANT:* Yes, sir.

18 *THE COURT:* And he died as a result of your
19 gunshot wound?

20 *THE DEFENDANT:* Yes, sir.

21 *THE COURT:* Okay. Is that your record? The
22 record she gave me, is that your record?

23 *THE DEFENDANT:* Yes, sir.

24 *THE COURT:* Okay. I find there's a substantial
25 factual basis for your plea. I find it's freely and

1 voluntarily made and that you had advice and consent
 2 or competent counsel whom you tell me you're
 3 satisfied with, and I will take your plea. Mr.
 4 Carraway?

5 MR. CARRAWAY: Your Honor, Mr. Alexandrette, as
 6 he said, has told you that he's 33 years old. He
 7 said that -- he told you that he has a GED. He is
 8 from Brooklyn, New York, and he moved down to the
 9 Hemingway area. I think he has relatives down there.
 10 He moved down there in 1999.

11 He tells me he has worked at Tupperware. He
 12 worked at Myrtle Beach for -- on the Grand Strand at
 13 Sand Castle South. He said he worked at the Pawleys
 14 Island Hammock shop also.

15 This is a particularly tragic set of
 16 circumstances because it's so senseless here. His
 17 sister, Shanda is with him here today. And he was
 18 married 13 days before this.

19 Mr. Williams, the victim in this case, was at
 20 the reception, attended the wedding. Mr. Williams
 21 was there. He had never had any problem with
 22 Mr. Williams before at all.

23 As a matter of fact, earlier this day
 24 Mr. Williams -- he had talked to Mr. Williams about
 25 raking his yard or whatever, and he told

1 Mr. Williams, I'm going to Georgetown to pay a cable
2 bill, and when I get back, I will get together with
3 you and you can rake the yard.

4 He -- also one of the witnesses at Southside
5 Grocery was a Mr. Canteen who I think picked up trash
6 and garbage for various people in the Hemingway area,
7 and he had picked up garbage and trash from this
8 man's house, or whatever, and he was going to -- on
9 this day he -- he had talked to him about -- I wasn't
10 able to either the day before or yesterday to come by
11 because I had problems I think with my truck, or
12 whatever.

13 Any way, but he was -- he was -- as a matter of
14 fact, he came around -- when he saw him, he was -- he
15 approached him before this shooting, or whatever,
16 to -- to say something to him about that. So then
17 that's when he viewed this.

18 He tells me what happened is he got a phonecall
19 on the way there and his wife told him that
20 Mr. Williams had -- was trying to get into the window
21 is what he says.

22 Now, there are different accounts to where
23 she -- she told law enforcement that Mr. Williams was
24 peeping in the window, or whatever, and I called out
25 his name and left.

1 Mr. Alexandrette says that his wife told him --
2 his recollection is that Mr. Williams was trying to
3 get in the window at my house, or whatever, and she
4 called him. She didn't wait for him to get back.
5 She called him on the phone right after it happened,
6 or whatever.

7 So to him this sounded like something serious,
8 or whatever. And I think Mr. Lewis is who he was
9 driving with. I think Mr. Lewis will say that he
10 told Mr. Lewis, he said, I'm going to talk to this
11 guy.

12 He said, I'm going to talk to this guy, and
13 perhaps something to the effect that, nobody is going
14 to my house when I'm not there, or whatever.

15 But Mr. Lewis would not have testified, as I
16 understand, that he threatened Mr -- the victim in
17 this case at all. Didn't threaten him. He said, I'm
18 going to talk to this guy about this. And he went
19 there.

20 And also Mr. Lewis will say he did not see Mr.
21 Alexandrette with a gun. He said, I didn't see a
22 gun, I didn't see one.

23 Mr. Alexandrette then says when he got there, he
24 went over to -- he went over -- he was angry. He
25 went over, and he said, I went over and asked him

1 what are you doing at my house, or whatever, what
2 were you doing trying to get in my house?

3 And he said as he got close on him, or whatever,
4 you know, you know, the victim challenged him about
5 this, or whatever, and he swung at him, the victim
6 swung back. He says that the victim pulled a gun and
7 he took the gun from the victim.

8 He said he pulled a gun and I took the gun from
9 him. And then he said -- in -- in his statement he
10 says, I just -- at that point I just went crazy is
11 what happened -- he said in his statement. He said,
12 I just went crazy at that point.

13 Now, it's important to know about these
14 gunshots. One of the gunshots was in the arm.
15 Arguably that was the first gunshot. I believe the
16 second gunshot was the fatal one.

17 Well, the fatal one was a gunshot to the back,
18 and I believe that was the second shot. That would
19 be our position, that it was the second shot, because
20 the -- the witnesses say that he turned, or whatever,
21 and said something like, man, this -- this doesn't --
22 we don't have to do this, or whatever, or why are you
23 doing this, and turned.

24 And we believe that the second shot, which was
25 the fatal shot, was the one to the back, and that was

1 the second shot. Then some -- he was shot three more
2 times, but the other two shots were to the leg. Two
3 of the shots were to the leg and one of the shots was
4 to the butt.

5 So I want the Court to understand this is not a
6 case of a man being down on the ground just wounded
7 in the arm and wounded in the foot, or whatever, and
8 somebody going and putting a gun to his head or to
9 his chest, or whatever. We don't think that's what
10 it was.

11 We think it's as he stated here, was -- and as
12 has been stated, that I just went crazy and was just
13 firing. And I didn't go up and actually execute him
14 after he was on the ground, or whatever.

15 So we think the second shot as he turned away
16 was the fatal shot. I think the autopsy report
17 indicates that the other four shot -- that that was
18 the fatal shot. The other four shots were not fatal.

19 He felt like that -- that, you know, he'd just
20 gotten married and this is what upset him, or
21 whatever. His wife had called and said, this man is
22 trying to get into the house, or whatever, is what he
23 says, and he went up there.

24 And it's a -- and he as he says, just lost it
25 when he got up there and got with this guy and they

1 started swinging, or whatever. How this gun came
2 out, even giving him the best of it, he says, I took
3 the gun from him and then I shot him.

4 He didn't say they were arguing with the gun.
5 That's what he says in his statement, or whatever.
6 That's what Mr. Alexandrette statement was at that
7 time, that the man had the gun, I took the gun from
8 him and then this happened here.

9 But just married 13 days and, you know, his wife
10 called him, or whatever. And I would suggest to you
11 she was frantic about this. That -- whatever
12 Mr. Williams was trying to do -- this is the way she
13 perceived it any way.

14 I don't know whether he was trying to do
15 anything more than to come by and to set up and to
16 see whether, you know, he could start raking the
17 leaves, or whatever. I don't know.

18 But that's not what she seemed to communicate
19 because she thought it was serious enough to call him
20 on his cellphone or whatever, and left it at that.
21 And he felt like she's asking me to do something
22 about this, or whatever.

23 And he -- and he says, I didn't go up there
24 intending to do anything to this guy. I went up
25 there -- as a matter of fact, we started out -- if I

1 was going up there to shoot him, I'd have just walked
2 up and started shooting, or whatever.

3 He said I didn't -- these witnesses actually
4 were a little around the building. One of them just
5 sort of came around at that point and another witness
6 I think after he heard some commotion came around.

7 So it's not like they were a bunch of guys
8 standing around there for him to like set up a fight
9 or something like that. I don't think that was the
10 case.

11 It was only Mr. Canteen (sic) and another fellow
12 who was sort of around the building. And I don't
13 think any of these people -- I don't think there was
14 really anybody out there that was -- that was evident
15 that they were watching, or whatever, any witnesses
16 here.

17 But this is what happened here, Your Honor. And
18 it -- and this is -- this is just a senseless -- this
19 is terrible that this happened to Mr. Williams
20 because perhaps Mr. Williams wasn't trying to do
21 anything other than go by and see if he could rake
22 the leaves.

23 But he believed from his wife that this man was
24 trying to break into his house, or whatever. He --
25 she is -- she is a relative -- Mr. Williams is a

1 relative of his wife as I understand it. He doesn't
2 know him all that well. He doesn't know him from
3 years and years ago, or whatever.

4 They came to their reception. He was there.
5 But you know, and he had -- I think the man that --
6 had done some yard work for him before. But that's
7 what he believed here any way.

8 That doesn't excuse any of this, or whatever,
9 but it does -- this is how this happened, or
10 whatever, Your Honor.

11 And I would ask that you consider all these
12 things and accept the recommendation of the
13 Solicitor's office here. He's told me all along, he
14 said, man, he said if I could ever change anything in
15 my life about this, or whatever, he said this was
16 just -- this is just a nightmare.

17 He went down to the Sheriff's -- to Hemingway
18 Police Department on that day, and he walked in and
19 he told Burt Powell, he said, y'all are looking for
20 me. And they said, who are you? And he said -- and
21 he said, we're not looking for you. He said, yes,
22 you are.

23 He said, I'm the man -- I shot a man down at
24 Southside Grocery and y'all are looking for me. And
25 he said, well, go sit over there then. So he turned

1 himself in there. And he's always been straight up
2 to me.

3 The victims -- the witnesses -- one of the
4 witnesses not sure where this gun came from and I'm
5 not sure about the other -- but any way, that's not
6 all that important where it came from because his
7 statement afterwards was, I took the gun from him and
8 I had the gun and then the shots were fired, or
9 whatever.

10 So that's just -- as far as being certain about
11 that, who had the gun, I don't know. But any way,
12 that's how all this came about.

13 He's been straight up with me. He's been a man
14 about all of this all along here. He's just asked,
15 do what you can for me. His sister says he was just
16 sort of turning his life around here and this
17 marriage was the first step in doing that.

18 She said she -- she was very pleased with, you
19 know, how he had -- how he had done and the life he
20 was leading in Hemingway or whatever. She -- she's a
21 very nice lady.

22 And I would just ask that you accept the
23 recommendation of the Solicitor's office and that --
24 and that the family is -- apparently has no problem
25 with it, Your Honor, and I would ask that you accept

1 the 30 year sentence.

2 His sister Shonda may have something to say and
3 Jamal may have something to say.

4 THE COURT: Yes, ma'am. Either one of y'all
5 want to tell me anything?

6 SISTER OF DEFENDANT: Not much, just, you know,
7 I told him, you know, God move thing, you know. I'm
8 quite sure he didn't mean to do it. But, you know,
9 something for him -- God want him something in his
10 life for him to happen.

11 THE COURT: Yes, sir. You want to say anything?

12 THE DEFENDANT: I just want to apologize to his
13 family and everything, I didn't mean to do that.
14 Didn't mean that. Hope they find it in their heart
15 to forgive me because God did and I will beg them
16 forgive me because I didn't have no intentions for
17 those. That's it.

18 THE COURT: Anything else?

19 MS. BARR: Your Honor, the victim's mother and
20 his brother are here, and I'd ask that they be given
21 an opportunity to address the Court if they choose.

22 THE COURT: Yes, ma'am. Do y'all want to say
23 anything?

24 MOTHER OF VICTIM: Well, whatever he say, he
25 ain't doing nothing but lying, standing up in this

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courtroom lying.

THE COURT: You need to talk to me.

MS. BARR: Right here. Right here. Judge, this is Mrs. Early Williams.

THE COURT: You need to tell me anything, Mrs. Williams?

MOTHER OF VICTIM: Yes. All he doing is lying, standing up in this courthouse lying.

THE COURT: Well, he's -- the only thing he's told me is that he did it. He's admitted to doing it. And when you were coming up here, he wanted to apologize to you and--

MOTHER OF VICTIM: Yeah. He shoot him in the back.

THE COURT: And that's what they told me, he shot him in the back. That's the bullet that ultimately killed your son. And I'm very sorry about that.

I mean, it's so unfortunate that he made a split second decision that day that ruined so many people's lives, you know, and he took your son's life and created a void in y'all's life that would affect you for the rest of your life.

He's ruined his life. I mean, he's going to be in prison for, you know, for a very long time. And

1 so it's very unfortunate. He didn't think this thing
2 through. He let his temper get away from him or
3 whatever.

4 But your son didn't deserve to die this way, and
5 I -- you know, I wish I could -- there's nothing I
6 can do.

7 *MOTHER OF VICTIM:* My son gone, and I'm... he
8 couldn't get -- he had no business killing my son.
9 But he will pay for it. He pay for it, too. He will
10 pay for killing my son.

11 *THE COURT:* Anything else?

12 *MS. BARR:* No, Your Honor.

13 *THE COURT:* All right. I'll follow the
14 recommendation of the State. Sentence is the
15 defendant is committed the State Department of
16 Corrections for a term of 30 years. Good luck to
17 you, sir.

18 *MR. CARRAWAY:* Thank you, Your Honor.

19 (End of requested transcript of record.)
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CERTIFICATE OF REPORTER

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STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

I, KATHLEEN RICHARDSON, RPR, CRR, Official Court Reporter for the third Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Williamsburg County, South Carolina, on the first day of May, 2007.

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

May 13, 2008



KATHLEEN RICHARDSON, RPR, CRR

FORM 5

STATE OF SOUTH CAROLINA)
)
County of WILLIAMSBURG)

IN THE COURT OF COMMON PLEAS

321631

08 CP 45 095

JAMEL L. ALEXANDRETTE)

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

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

200845000095
Filed for Record in
WILLIAMSBURG COUNTY SC
CAROLYN WILLIAMS
02-26-2008 At 02:15 pm.
COMM FILE NF .00

INSTRUCTIONS - READ CAREFULLY

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

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

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

1. Place of detention Lieber Correctional Inst.
P O BOX 205, Ridgeville, SC 29472

2. Name and location of Court which imposed sentence Williamsburg County
General Sessions Court

3. Name(s) of co-defendant(s) (if any) N/A

4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:

(a) 2006-GS-45-0278; offense : Murder

- (b) _____
- (c) _____

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

- (a) Sentence date May 1, 07
- (b) _____
- (c) _____

200845000095
 Filed for Record in
 WILLIAMSBURG COUNTY SC
 CAROLYN WILLIAMS
 02-26-2008 At 02:15 PM
 COMM PLE HF .00

6. Check whether a finding of guilty was made:

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

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

NO

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

- (a) the name of each Court to which you appealed:
 - i. N/A
 - ii. _____
 - iii. _____
- (b) the result in each such Court to which you appealed:
 - i. N/A
 - ii. _____
 - iii. _____
- (c) the date of each such result:
 - i. N/A
 - ii. _____
 - iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
 - i. N/A
 - ii. _____
 - iii. _____

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

- (a) Counsel did not follow my request

- (b) _____
- (c) _____

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

- (a) Ineffective assistance of counsel prevant applicant from
- (b) entering a knowing and voluntary plea.
- (c) Breach of attorney client privileged

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

- (a) fail to advise me a possible defense, such as self
- (b) defense. failure to inform me of lesser offence,
- (c) and failure to protect attorney client privileged .

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

- (a) any petition in a State Court under South Carolina Law? no
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? _____

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

- (a) the specific nature thereof:
 - i. no
 - ii. _____
 - iii. _____
 - iv. _____

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 02-26-2008 At 02:15 pm
 COMM FLE HF .00

- (b) the name and location of the Court in which each was filed:
 - i. _____
 - ii. _____
 - iii. _____

iv. _____ n/a

(c) the disposition thereof:

i. _____ n/a

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____ n/a

ii. _____

iii. _____

iv. _____

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

i. _____

ii. _____

iii. _____

iv. _____

20084500095
Filed for Record in
WILLIAMSBURG COUNTY SC
CAROLYN WILLIAMS
02-26-2008 AT 02:15 p.m.
COMM PLE NF .00

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

no

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

(a) which grounds have been presented:

i. _____ n/a

ii. _____

iii. _____

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

i. _____ n/a

ii. _____

iii. _____

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

- (a) n/a
- (b) _____
- (c) _____

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

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

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

- (a) the name and address of each attorney who represented you:
 - i. William Legrand Carraway, 10 Courthouse Square
Kingstree S.C. 29556
 - ii. _____
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. at Plea
 - ii. _____
 - iii. _____

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

withdrawal of guilty plea, and new trial

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

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)
County of Ridgeville)

VERIFICATION

I, JAMEL ALEXANDRETTE, 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.

Jamel Alexandrette #321631

SWORN to and subscribed before me this 25 day of February, 08.

[Signature] (L.S.)
Notary Public

My Commission Expires: 8/20/2016

200845000095
Filed for Record in
WILLIAMSBURG COUNTY SC
CAROLYN WILLIAMS
02-26-2008 At 02:15 pm.
COMM FLE HF .00

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

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

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

Jamel Alexandrette #3216
Applicant

SWORN or affirmed to and subscribed before me this 25 day of February 08.

Mutaw Blr
Notary Public

My Commission Expires: 8/20/2016

200845000095
Filed for Record in
WILLIAMSBURG COUNTY SC
CAROLYN WILLIAMS
02-26-2008 At 02:15 pm.
COMM PLE NF .00

The Honorable Carolyn Williams
Clerk of Court, Williamsburg County
125 W. Main St.
Kingstree SC 29556

RE: Post Conviction Application

Dear Clerk,

Enclosed are post conviction application with attached sheets and Motion to Withdrawal guilty plea, please file the PCR application with attached sheets and Motion and return stamp file copy to me....

FILED
08 FEB 26 PM 1:33
CAROLYN E. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

James Alexander # 321631

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
 FAMILY COURT

Jamel L. Alexanderette, 321631
 Plaintiff

CASE NO.

08 CP 45 095

v.

STATE OF SOUTH CAROLINA
 Defendant

MOTION INFORMATION FORM
AND COVER SHEET

check box above indicating submitting party

name, S.C. Bar no. and address of plaintiff's attorney Jamel Alexanderette #321631-pro-se P O BOX 205, Ridgeville, SC 29472 telephone: _____ fax: _____ e-mail: _____ other: _____	name, S.C. Bar no. and address of defendant's attorney Henry McMaster, Attorney Gen. State of S.C., P O BOX 11549, Columbia SC telephone: _____ fax: _____ e-mail: _____ other: _____
--	---

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

SECTION I: Hearing Information
Nature of Motion: Withdrawal of guilty plea
Estimated Time Needed: 30 min. Court Reporter Needed: YES / NO

SECTION II: Motion Type
 Written motion attached
 Form Motion --
I hereby move for relief or action by the court as set forth in the attached proposed order.
Jamel Alexanderette 2-21-08
Signature of Attorney for Plaintiff / Defendant Date submitted

SECTION III: Motion Fee
 PAID - AMOUNT: \$0.00
 EXEMPT: (check reason)
 Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION
 Motion Fee to be paid upon filing of the attached order.
 Other: _____
JUDGE: _____
CODE: _____ Date: _____

CLERK'S VERIFICATION
Collected by: M. Moni
(print name)
DATE FILED: 2/26/2008
 MOTION FEE COLLECTED: _____
 CONTESTED - AMOUNT DUE: _____

08 FEB 26 PM 1:33
CAROLYN E. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

FILED

CERTIFICATE OF SERVICE

The undersigned hereby certify that he cause to be mail the foregoing Post Conviction Application to the Williamsburg County Clerk Clerk of Court for filing this 21 day of February 2008.

Jamel Alexanderette #321631
Jamel Alexanderette #321631

FILED
08 FEB 26 PM 1:33
CAROLYN F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

STATE OF SOUTH CAROLINA

COUNTY OF WILLIAMSBURG

#321631

Jamel L. Alexanderette
Applicants

vs

STATE OF SOUTH CAROLINA
Respondents

IN THE COURT OF COMMON P

Case NO; :

08 CP 45 095

Notice and Motion To
Withdraw Guilty Plea.

Applicant, Jamel L. Alexanderette, moves this Court for an Order that would allow withdrawal of plea of guilty to the charge of murder, indictment no; 2006-GS-45-0278, to not guilty base on coercion. Applicant pled guilty to the offense of murder and was sentence May 1, 2007, to a term of 30 years.

Wherefore applicant pray this Court will grant this motion.

I so move.....

2-21-08 2008

x *Jamel Alexanderette* x
Jamel L. Alexanderette #321631

FILED
08 FEB 26 PM 1:34
CANDACE F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

ATTACHED SHEETS

1. Applicant contends that his guilty plea was involuntary and unintelligent made because counsel and the state agents such as the prosecutor, and the investigator for the state used coercive tactics to induce the guilty plea.

2. Applicant contends that his plea is involuntary and unintelligent because counsel failed to advise me of the law in relation to the facts and the many defenses available, and the free choice was mind to make.

3. Counsel was ineffective for failing to suppress statement made at the police station in violation of of Miranda. and counsel failed to file a direct appeal after being instructed to file a direct appeal.

MEMORANDUM OF LAW

The Strickland test still applies to counsel's conduct during the pleading. See Hill vs Lockhart, 474 U.S. 52, 57 106 S.S.Ct. 366, 88 L. Ed. 2d 203 (1985); Carter vs State, 329 S..C. 355, 360, 495 S.E. 2d 773, 775 (1998). In the context of guilty please challenged on the grounds of ineffective assistance of counsel, the first part of the strickland analysis is the same,

The prejudice requirement is altered requiring the defendant to establish: but for counsel errors, he would not have pleaded guilty and would have insisted on going to trial. Hill, 474 U.S. at 58, 59, 106 S.Ct. 366 (emphasis added). Yet a lawyer need not advise his client of every defense or argument or tactic that while theoretically possible possible is hopeless as a practical matter *Evan v. Meger*, 742 F2d 371, 374 (7th Cir. 1984).

DISCUSSIONS

The plea discussions began with counsel and ended with counsel myself, and an investigator for the prosecution. Counsel never told me I had a right to attorney client privilege during pleas discussions with the investigator present, and counsel never asked the investigator to leave. The investigator and counsel induced me to plead guilty.

Federal Rules of Criminal Procedure provides that the Court may permit the plea to be withdrawn if the defendant shows any fair and just reason. Fed. R. Crimp. (32) (e). Coercion is a fair and just reason, to withdraw a plea since a coerced plea is not voluntary.

Moreover, the attorney-client privilege is the oldest of the privileges for confidential communications known to the common law. *Upjohn Co. v United States*, 449 U. S. 383 (1981) Its purpose is to encourage full and frank communication between attorneys and their clients and thereby promote broader public interest in the observance of law and administration of justice. The privilege recognize that sound legal advice or advocacy serves public ends and that such advice or advocacy depends upon the lawyer's being informed by the client....The layer-client privileges rest on the need for the advocate and counselor to know all that relates to the client's reasons for seeking representation if the professional mission is to be carried out. *Upjohn* at 389.

In order to protect a communication on the ground of attorney-client privilege it must appear that the attorney was acting, at the time as a legal advisor..*Marshall v. Marshall*, 282 S.C. 534, 539, 320 S.E.2d 44, 47 (Ct. App. 1984)(citing *Branden & Nether v Gowing*, 7 Rich. 459 (S.C. 1854).

In determing whether the attorney-client privilege extends to communications between a client and a non-lawyer, a Court must balance two factor: (1) the need of the attorney for the assistance of the non-lawyer to effectively represent his client, and (2) the increased potential for inaccuracy in the search

for truth as the trier of fact is deprived of valuable witnesses. However, before reaching this test, a court must ascertain whether the communication is confidential in nature.

The question rather a communication is confidential in nature is answered in *State v. Quattlebaum*, 527 S.E. 2d 108, (S.C. 2001), where the Court agreed, "that proof of deliberate eavesdropping upon attorney-client communications automatically invalidate a conviction." See *Black v United States*, 385 U.S. 26, 87 S.Ct. 190 (1966).

In *Quattlebaum*, the court ruled; " because a deputy solicitor of the Eleventh Circuit Solicitor's Office eavesdropped on a privileged conversation between appellant and his attorney, we reverse appellant's conviction and disqualify the Eleventh Circuit Solicitor's office from prosecuting appellant at his new trial! Here the solicitor eavesdropped at open door.

A guilty plea must be voluntary expression of the defendant's own choice. *Brady v. United States*, 397 U.S. 742, 748, 90 S.Ct. 1463-1486-69. The agents of the state may not produce a plea by actual or threatened physical harm or by mental coercion overbearing the will of the defendants." *Brady*, at 750

The determine voluntariness of this plea, applicant request an hearing pursuant to §17-27-80, of the South Carolina Code

A defendant's plea of guilty must be made knowingly, intelligently and voluntarily, with an understanding of the nature of the charges, the direct consequences of the plea and the trial rights being surrendered. McCarthy v. United State, 394 U.S. 459, 466, 89 S.Ct. 1166, 1170-71 (1969); Boykins v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969) A defendant is said to have an understanding of the nature of the charges when he possess an understanding of the law in relation to the facts. McCarthy, 394 U.S. at 466, 89 S.Ct. at 1171. In determining the voluntariness of a plea, a court must examine the totality of the circumstances to determine, whether the substance of the charge was conveyed to the accused. Henderson v. Morgan, 426 U.S. 637, 96 S.Ct. 2253 (1976). It may ordinary be presumed that counsel has explained the charges to her client. Morgan at 644, 647, 96 S.Ct. at 2257, 2258-59. In that case, based on Morgan's low intelligence and on an express trial court finding that the charges were never explained to Morgan, the Court reversed Morgan's conviction. In this case the nature of the crime of murder wasn't explained to applicant, before the plea, and applicant depended on his counsel to do the explaining to the court. The question of intent was never fully explained by counsel or the court.....

DEFINITION OF INTENT

1. The intent, without justification or excuse, to commit a wrongful act. 2. Reckless disregard of the law or of a person's legal right; malice aforethought: The requisite mental state for common-law murder, encompassing any one of the following; (1) the intent to kill, (2) the intent to inflict grievous bodily harm.....

That Jamel Alexandrette did Feloniously, willfully and malice aforethought, kill one Eugene Williams by means of shooting the victim several times with a handgun, causing his death.

Where neither defense counsel nor trial court explained that intent to cause death of his victim is an element of murder in South Carolina, and applicant never made any statements that he had such intent his plea can not be voluntary. *Henderson v Morgan*, 426 U.S. 645. Since a plea of self defense was projected his statement, his state of mind may have landed him a verdict for manslaughter.

Applicant request a hearing on the claim of intent to kill wasn't fully explained before the plea.

MIRANDA VIOLATION

Applicant contends that he was moved from the police station coerced into a confession by police officer. The Supreme Court emphasized that coercion by state actor is a necessary element in the test for fact finding. To determine whether a defendant statement was the product of coercion the commonly consider the following factors; (1) the location of the questioning, (2) whether Miranda warning were given, and (3) whether the accused initiated contact with law enforcement officials. Also, was there a promises of leniency or misleading statement by an interrogator....ect.

Applicant request a hearing to determine if the if his statement was obtained in violation of Miranda or clearly established federal law.

FAILURE TO FILE A DIRECT APPEAL

Applicant contends that he told his counsel to faile a direct appeal. The remedy for failure to file a direct appeal after being told to by his client is *Roe v Flores-Ortega*, 528 U.S. at 484 *Hudson v. Hunt* 235 F.3d 892 (4th Cir. 2000) A old belated appeal of 1974 in *White v State* is not proper when counsel

violated clearly established federal law by not perfecting a timely at his client's request.

Applicant request a hearing on the claim of counsel failed to file a direct appeal after being instructed to do so by his client.

Submitted this 21 day of February 2008.

x Jamel Alexanderette #321631
Jamel Alexanderette #321631

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG)	
)	
)	2008-CP-45-095
)	
Jamel L. Alexander. #321631.)	
)	
Applicant.)	
)	
v.)	RETURN
)	
State of South Carolina,)	
)	
Respondent.)	
_____)		

The Respondent, making its Return to the application for post conviction relief (PCR) filed February 26, 2008 would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was indicted at the October 2006 term of the Williamsburg County Grand Jury for Murder. He was represented by Legrand Carraway, Esquire. On May 1, 2007, the Applicant pled guilty to the charge. He was sentenced by the Honorable R. Ferrell Cothran, Jr. to confinement for a period of thirty (30) years. The Applicant did not appeal his guilty plea or sentence.

Attached herewith and incorporated herein are the records of the Williamsburg County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, and the guilty plea transcript. Any of the above not so attached will be forwarded upon receipt. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

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

1. Ineffective assistance of counsel
 - a. "Fail to advise me a (sic) defense, such as self defense."
 - b. "Failure to inform of lesser offense."
 - c. "Failure to protect attorney client privilege."
2. Involuntary guilty plea.

III.

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

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

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under

professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. With respect to guilty plea counsel, the Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed. 2d 203 (1985).

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

IV.

Respondent submits that the Applicant's allegation that his guilty plea was involuntary is without merit. In PCR cases, a defendant asserting a constitutional violation must frame the issue as one of ineffective assistance of counsel. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (1999). A defendant who pleads guilty on the advice of counsel may collaterally attack the plea only by showing that (1) counsel was ineffective and (2) there is a reasonable probability that but for counsel's errors, the defendant would not have pled guilty and would have insisted on going to trial. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). A defendant alleging that his guilty plea was induced by ineffective assistance of counsel must prove that counsel's advice was not "within the competence demanded of attorneys in criminal cases." Hill v. Lockhart, 474 U.S. 52, 56, 106 S. Ct.

366, 369 (1985). A guilty plea is a solemn, judicial admission of the truth of the charges against the defendant. Statements made during the plea should be considered conclusive unless the defendant presents reasons why he should be allowed to depart from the truth of those statements. Crawford v. U.S., 519 F.2d 347 (4th Cir. 1975); Edmonds v. Lewis, 546 F.2d 566 (4th Cir. 1976).

Respondent submits that the record fully supports the knowing and voluntary nature of the Applicant's plea. However, allegations regarding ineffective assistance of counsel and the voluntariness of the plea may raise a question of fact which is not conclusively refuted by the record. Accordingly, Respondent requests an evidentiary hearing on this allegation. Sharper v. State, 305 S.E.2d 247.

V.

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

VI.

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

Respectfully submitted,

HENRY DARGAN McMASTER
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

LANCE S. BOOZER
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

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


July 2, 2008.

STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG)	
)	
)	2008-CP-45-095
)	
JAMEL L. ALEXANDER, 321631,)	
)	
Applicant,)	
)	
vs)	AFFIDAVIT OF SERVICE BY MAIL
)	
STATE OF SOUTH CAROLINA,)	
)	
Respondent.)	

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

William C. Boyd, Esquire
Haynsworth Sinkler Boyd, PA
P.O. Box 11889
Columbia , SC 29211

DATED this 2nd day of July, 2008.


Molly A. Flowers, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

COURT OF COMMON PLEAS
08-CP-45-0095

JAMEL ALEXANDRETTE

-vs-

STATE OF SOUTH CAROLINA

:
:
: TRANSCRIPT OF RECORD
:
:

TUESDAY, OCTOBER 26, 2010
SUMTER, SOUTH CAROLINA

B E F O R E:

HONORABLE W. JEFFREY YOUNG, JUDGE.

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

CHARLES T. BROOKS, III, ESQUIRE
ATTORNEY FOR THE PLAINTIFF

MARY S. WILLIAMS, ASSISTANT ATTORNEY GENERAL
ATTORNEY FOR THE STATE

DIANNE A. RUTLEDGE
CIRCUIT COURT REPORTER

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I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
JAMEL ALEXANDRETTE				
MR. BROOKS	3			
MS. WILLIAMS		10		
LEGRAND CARRAWAY				
MR. BROOKS	14		22	
MS. WILLIAMS		20		
CERTIFICATE OF COURT REPORTER		24		

E-X-H-I-B-I-T-S

(NO EXHIBITS WERE INTRODUCED DURING THE HEARING.)

1 THE COURT: ALL RIGHT. THIS IS JAMEL L. ALEXANDER ---

2 MR. BROOKS: ALEXANDRETTE, JUDGE. I'M SORRY.

3 THE COURT: OKAY. ALEXANDRETTE, NO. 321631, VERSUS
4 THE STATE OF SOUTH CAROLINA UNDER DOCKET NO. 2008-CP-45-95.
5 PRESENT APPEARING IS THE PLAINTIFF, JAMEL L. ALEXANDRETTE,
6 WITH HIS ATTORNEY, MR. CHARLES T. BROOKS. THE STATE IS
7 REPRESENTED BY MS. MARY S. WILLIAMS.

8 ARE WE READY TO PROCEED?

9 MR. BROOKS: YES, SIR.

10 THE COURT: CALL YOUR FIRST WITNESS.

11 MR. BROOKS: WE'LL CALL MR. ALEXANDRETTE TO THE STAND.

12 JAMEL ALEXANDRETTE, BEING
13 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

14 CLERK: STATE YOUR NAME AND SPELL YOUR LAST NAME FOR
15 THE RECORD PLEASE, SIR.

16 MR. ALEXANDRETTE: JAMEL ALEXANDRETTE. LAST NAME,
17 A-L-E-X-A-N-D-R-E-T-T-E.

18 DIRECT EXAMINATION BY MR. BROOKS:

19 Q NOW, JAMEL, YOU BROUGHT THIS APPLICATION TODAY; IS
20 THAT CORRECT?

21 A YES, SIR.

22 Q YOU'RE LOOKING FOR A NEW TRIAL; IS THAT CORRECT?

23 A YES, SIR.

24 Q MR. CARRAWAY WAS YOUR LAWYER?

25 A YES, SIR.

1 Q HE WAS COURT APPOINTED; IS THAT CORRECT?

2 A YES, SIR.

3 Q AND YOU ENDED UP PLEADING GUILTY; IS THAT CORRECT?

4 A YES, SIR.

5 Q NOW, YOU BROUGHT THIS APPLICATION SAYING THAT MR.

6 CARRAWAY WAS INEFFECTIVE?

7 A YES, SIR.

8 Q CAN YOU -- HOW DID YOU END UP PLEADING GUILTY?

9 A WELL, BECAUSE I WAS BASICALLY FORCED TO PLEAD GUILTY.

10 I WANTED TO GO TO TRIAL BUT MR. CARRAWAY STATED THAT HE WAS

11 NOT GOING TO REPRESENT ME. I WAS ON MY OWN IF I WENT IN

12 THERE. I HAD NO WAY OF WINNING IF I WENT TO TRIAL. HE

13 SAID THEY WOULDN'T BELIEVE NOTHING I SAID OUT OF MY MOUTH.

14 Q OKAY. AND MR. CARRAWAY TOLD YOU THAT?

15 A YES, SIR.

16 Q DO YOU REMEMBER HOW LONG YOU HAD HIM ON YOUR CASE?

17 A NOT THAT LONG AT ALL. HE WASN'T ON MY CASE THAT LONG.

18 I SEEN HIM ABOUT TWO WEEKS BEFORE MY TRIAL. AND THEY HAD

19 INFORMED ME THAT HE WAS MY ATTORNEY. BUT I ASKED HIM AND

20 HE SAID HE WASN'T. AND THEN ABOUT A COUPLE DAYS BEFORE MY

21 TRIAL, HE CAME TO VISIT ME, TALKED TO ME FOR ABOUT 10

22 MINUTES, AND SAID I WAS LOOKING AT BETWEEN 10 AND 12 YEARS

23 AND DON'T WORRY ABOUT NOTHING, AND HE LEFT.

24 Q OKAY. NOW, WHEN YOU WERE GOING THROUGH THE GUILTY

25 PLEA, WHEN YOU'RE GETTING QUESTIONS FROM JUDGE COTHRAN, DID

1 JUDGE COTHRAN TELL YOU WHAT YOU WERE FACING?

2 A YEAH, HE WAS EXPLAINING STUFF TO ME. BUT, I'M NOT
3 GOING TO LIE TO YOU, YOU KNOW. I HAVE NO REASON TO LIE.
4 I WAS JUST LIKE IN THE ZONE WHEN HE WAS SAYING THIS STUFF.
5 I JUST KEPT SAYING YES, YES, YES TO EVERYTHING HE ASKED ME.

6 Q HOW OLD ARE YOU, JAMEL?

7 A I'M 36 YEARS OLD NOW.

8 Q OKAY. AND YOU SAY YOU WERE IN THE ZONE.

9 A YEAH.

10 Q WERE YOU SCARED?

11 A YEAH, I WAS BECAUSE I COULDN'T UNDERSTAND WHY HE
12 WOULDN'T GO WITH ME TO TRIAL, WHY HE WOULDN'T, YOU KNOW,
13 TAKE ME TO TRIAL. AND HE ALSO SAID THAT HE TALKED TO THE
14 JUDGE PERSONALLY -- WHICH I HAVE A WITNESS OF THAT -- AND
15 THE JUDGE TOLD HIM HE WASN'T GOING TO GIVE ME NOTHING UNDER
16 27 TO 30 YEARS IN PRISON, SO IT WASN'T NO USE OF GOING TO
17 TRIAL.

18 Q OKAY. AND WHAT DID YOU END UP GETTING, 30 YEARS?

19 A YES, SIR, WHICH I REALLY WANTED TO GO TO TRIAL. I
20 DIDN'T -- I DIDN'T WANT TO PLEAD GUILTY. I KEPT SAYING,
21 NO, I DON'T WANT TO PLEAD GUILTY. I DON'T WANT TO PLEAD
22 GUILTY. AND I ASKED HIM IF I COULD HAVE ONE OF MY FAMILY
23 MEMBERS IN THERE TO HEAR WHAT HE WAS SAYING BECAUSE THE
24 STATE INVESTIGATOR -- DI, I THINK HER NAME IS. SHE STAYED
25 IN THERE THE WHOLE TIME.

1 AND SHE EVEN SAID, YOU'RE STUPID IF YOU GO TO TRIAL.
2 SHE SAID IT JUST LIKE THAT; THAT I WAS STUPID IF I WENT TO
3 TRIAL.

4 AND I INSISTED ON GOING TO TRIAL.

5 Q LET ME ASK YOU THIS.

6 A YES, SIR.

7 Q YOU'RE SAYING THAT MR. CARRAWAY COERCED YOU IN TO
8 PLEADING GUILTY?

9 A YES, SIR. HE KEPT GOING OUT AND COMING BACK IN. AND
10 THE SOLICITOR CAME IN AND WHISPERED SOMETHING TO HIM, AND
11 SHE WENT BACK OUT.

12 AND WHEN I FINALLY SAID, ALL RIGHT. I'LL SIGN IT, SHE
13 MUST HAVE BEEN RIGHT AT THE DOOR BECAUSE SHE WALKS STRAIGHT
14 IN THERE AND JUST PASSED THE PAPER. AND I SIGNED IT. I
15 HAD TEARS COMING OUT OF MY EYES WHEN I DID SIGN, BECAUSE I
16 DIDN'T REALLY WANT TO DO THAT.

17 Q ALL RIGHT. NOW, OBVIOUSLY, YOU UNDERSTAND FROM MY
18 DISCUSSIONS IF YOU'RE SUCCESSFUL ON YOUR PCR, YOU'LL GET A
19 NEW TRIAL BY WHICH YOU COULD FACE THE LIFE SENTENCE?

20 A I UNDERSTAND THAT FULLY NOW.

21 Q OKAY.

22 A I UNDERSTAND THAT.

23 Q AND YOU'RE WILLING TO UNDERGO THAT RISK; IS THAT
24 CORRECT?

25 A YES, SIR, I'M VERY WILLING TO.

1 Q OKAY. ALL RIGHT. IS THERE ANYTHING ELSE YOU WANT TO
2 TELL THE COURT TO CONSIDER IN TERMS OF GRANTING YOUR PCR?

3 A I JUST -- I BEG THE COURT IN THE NAME OF JESUS TO
4 PLEASE GIVE ME ANOTHER TRIAL, FAIR TRIAL, WHERE I CAN STATE
5 MY PLEA TO THE STATE, BECAUSE IT WAS WRONG HOW IT WAS DONE.
6 AND, YOU KNOW, IT'S A LOT MORE THINGS, YOU KNOW, THAT MR.
7 CARRAWAY DIDN'T DO, YOU KNOW, FOR ME BUT ---

8 Q WELL, LET ME SAY THIS. LET ME SAY THIS, JAMEL. TELL
9 THE JUDGE WHAT OTHER THINGS MR. CARRAWAY DIDN'T DO? NOW IS
10 THE TIME TO TRY TO GET THIS PCR.

11 A WELL, HE -- WELL, YOU KNOW, HE DISCOURAGED ME IN A LOT
12 OF WAYS. AND BY HIM TELLING ME, YOU KNOW, HE TALKED TO THE
13 JUDGE. AND THERE'S NO WAY I'M GOING TO WIN. AND NO ONE
14 WILL BELIEVE WHAT I SAY BECAUSE OF MY CHARGES I ALREADY HAD
15 IN THE PAST, YOU KNOW. AND, YOU KNOW, HE -- HE BASICALLY
16 JUST TOLD ME HE NOT GOING TO REPRESENT ME AT ALL. HE SAY
17 IF I GO TO THIS TRIAL, I'M ON MY OWN. WHEN THEY WAS
18 PICKING THE JURY, I INFORMED -- I SAID, YOU KNOW, I DIDN'T
19 REALLY WANT THIS PERSON. I SEEN THE PERSON THAT'S GOING TO
20 THE VICTIM HOUSE AND HE STOOD UP IN THE COURTROOM AND ACT
21 LIKE THEY DIDN'T KNOW THE VICTIM, BUT THEN THEY WAS ON THE
22 JURY PANEL AS WELL.

23 AND, YOU KNOW, I FEEL HE DIDN'T STUDY MY CASE LONG
24 BECAUSE HE JUST GOT IT IN HIS HAND. WHEN THEY DID TOLD ME
25 HE WAS MY LAWYER -- MY ATTORNEY, I WROTE HIM, YOU KNOW, FOR

1 THE TRANSCRIPT OR WHATEVER. HE NEVER SENT IT TO ME.

2 AND HE DIDN'T REALLY, REALLY TALK TO ME LONG ENOUGH.

3 HE DIDN'T -- HE DIDN'T -- HE DIDN'T TALK -- HE DIDN'T

4 EXPLAIN TO ME THE -- THE -- THE -- YOU KNOW, WHAT IS

5 MURDER. HE DIDN'T EXPLAIN THAT, YOU KNOW. HE DIDN'T

6 EXPLAIN TO ME ABOUT LAWYER-CLIENT PRIVILEGE. HE DIDN'T

7 EXPLAIN NONE OF THESE THINGS TO ME.

8 HE DIDN'T EXPLAIN TO ME THE MERITS OF MURDER, PERIOD.

9 HE DIDN'T -- ALL HE SAID WAS YOU'RE GOING -- YOU'RE

10 GOING TO SIGN THIS, 30 YEARS, MURDER; AND THAT'S THE WAY HE

11 PRESENTED IT TO ME.

12 Q HE DIDN'T DO LIKE I DID TO YOU AND EXPLAINED ---

13 A EXACTLY.

14 Q --- EVERYTHING TO YOU?

15 A EXPLAIN IT TO ME, RIGHT.

16 Q AND KIND OF WALK YOU THROUGH STEP BY STEP?

17 A RIGHT. HE DIDN'T DO THAT. WHAT HE DID WALK -- WHEN I

18 CAME IN FRONT OF THE JUDGE, JUST ANSWER THE QUESTIONS, YOU

19 KNOW. AND THAT I DID -- I DID. YOU KNOW, IT WAS FOOLISH

20 OF ME, BUT I DID DO IT. I'M NOT GOING TO LIE. I -- I -- I

21 DID IT. IT'S ON RECORD. I DID IT.

22 Q IN TERMS OF THE GUILTY PLEA?

23 A YES, SIR. BUT IT'S SOMETHING I REALLY DIDN'T WANT TO

24 DO AT ALL. AND HE ALSO STATED SOMETHING IN THE COURTROOM,

25 WHICH I DIDN'T EVEN TELL HIM. YOU KNOW, HE SAID SOME

1 THINGS WHICH I DIDN'T SAY TO HIM BUT HE SAID I SAID THAT,
2 WHICH I DID NOT SAY.

3 Q LIKE WHAT?

4 A HE -- HE SAID, YOU KNOW, ABOUT THE INCIDENT. HE SAID,
5 YOU KNOW, I SAID I CAME BACK AND I WENT LOOKING FOR THE
6 GUY; THAT'S A LIE. I DIDN'T NEVER -- I NEVER STATED THAT
7 OUT OF MY MOUTH AT ALL. AND I ASKED HIM TO CALL MY SISTER
8 IN THE ROOM SO SHE COULD LISTEN TO THIS. AND HE KEPT, YOU
9 KNOW, GOING TALKING TO THEM, COMING BACK, SAYING HE TALKED
10 TO THE JUDGE HIMSELF AND ALL THAT; SO THAT'S WHAT MADE ME
11 CAVE IN; THAT'S WHAT MADE ME TO DO IT. YOU KNOW, I'M --
12 I'M LIKE -- I'M IN THE LOSING SITUATION. I CAN'T EVEN
13 EXPLAIN THE TRUTH, WHAT HAPPEN. AND I GOT TO PLEAD GUILTY.

14 I GOT THREE SMALL CHILDREN. I WAS ONLY MARRIED FOR 13
15 DAYS WHEN THE INCIDENT OCCURRED. YOU UNDERSTAND, I'M NOT
16 GOING TO RISK ALL OF THAT, YOU UNDERSTAND. I JUST WANTED
17 THEM TO KNOW THE TRUTH. I WAS A MAN. I WALKED TO THE
18 POLICE STATION AND WENT TO THEM. THEY DIDN'T HAVE TO LOOK
19 FOR ME AT ALL. I WENT TO THEM.

20 I WANTED TO TELL THE TRUTH, EVERYTHING THAT HAPPENED.
21 BUT I WASN'T -- THEY DIDN'T GIVE ME A CHANCE TO -- GIVE ME
22 A CHANCE TO.

23 MR. BROOKS: ALL RIGHT. ANSWER ANY QUESTIONS OF MS.
24 WILLIAMS.

25 THE COURT: MS. WILLIAMS, DO YOU HAVE ANY QUESTIONS?

1 MS. WILLIAMS: I THOUGHT YOU WERE ASKING ME A
2 QUESTION. THANK YOU, YOUR HONOR.

3 CROSS EXAMINATION BY MS. WILLIAMS:

4 Q MR. ALEXANDRETTE, YOU HEARD A RECITATION OF FACTS THAT
5 WERE GIVEN BY THE SOLICITOR IN THIS CASE; IS THAT CORRECT?

6 A WHAT SOLICITOR?

7 Q DURING YOUR PLEA, THE SOLICITOR STATED SOME FACTS.
8 SHE SAID THINGS LIKE MR. ROGERS WAS GOING TO PAY A CABLE
9 BILL. ON THE WAY BACK YOU GOT A CALL FROM YOUR WIFE, NOT
10 GOING TO HAVE ANYBODY COME INTO MY HOUSE. DO YOU RECALL
11 THAT?

12 A NO.

13 Q YOU DON'T RECALL ANYTHING ABOUT THIS PLEA?

14 A NO, MA'AM.

15 Q YOU JUST DON'T REMEMBER IT?

16 A NO, MA'AM.

17 Q YOU BLACKED OUT?

18 A NO, BUT HE WASN'T THERE. NOBODY TESTIFIED THAT IT WAS
19 A GUILTY PLEA.

20 Q DID THE SOLICITOR SAY THINGS TO THE JUDGE?

21 A I DIDN'T HEAR HIM SAY THAT, MA'AM. I'M NOT GOING TO
22 LIE TO YOU. IF SHE SAID IT, I DIDN'T HEAR IT. IF I HEARD
23 IT, I WOULD HAVE TOLD YOU. YES, MA'AM.

24 Q OKAY. SO YOU DO ACKNOWLEDGE THE PRIOR RECORD, THERE
25 WERE THINGS, YOU KNOW. IN 2004 IT LOOKS LIKE AN ASSAULT

1 AND BATTERY OF A HIGH AND AGGRAVATED NATURE?

2 A I REMEMBER THAT, MA'AM.

3 Q OKAY. AND DO YOU RECALL THE JUDGE ASKING YOU IF THE
4 FACTS STATED BY THE SOLICITOR WERE CORRECT?

5 A YES, MA'AM, I DID REMEMBER THAT.

6 Q AND YOU SAID, YES ON PAGE 26?

7 A YES. I JUST AGREED TO IT BECAUSE WHAT WAS SAID TO ME
8 THAT IF I DIDN'T AGREE TO IT, I NEVER GET OUT OF PRISON.
9 SO I SAID -- I JUST SAY YES. I LIED. I SAID YES, WHICH I
10 SHOULDN'T HAVE SAID. I SHOULDN'T HAVE SAID YES, AND I
11 SHOULDN'T HAVE PLEADED GUILTY. THAT WAS BECAUSE I WAS
12 SCARED.

13 Q WHAT WERE YOU SCARED OF?

14 A BECAUSE I WANT TO SEE MY CHILDREN AGAIN. I WANT TO BE
15 BACK WITH MY CHILDREN. FOREVER IN PRISON IS NOT -- I NEVER
16 CAN SEE THEM AGAIN OR EMBRACE THEM.

17 Q SO YOU WEREN'T CONCERNED ABOUT BEING CONVICTED OF THIS
18 OFFENSE IF YOU WENT TO TRIAL?

19 A NO. IF I WENT TO TRIAL I WASN'T. BUT IF I HAVE AN
20 ATTORNEY THAT'S NOT GOING TO REPRESENT ME, THAT I WAS
21 AFRAID OF; THAT'S WHAT I WAS AFRAID OF. I WANTED MY
22 ATTORNEY TO REPRESENT ME PROPERLY. YOU KNOW, I UNDERSTAND
23 THAT I DIDN'T -- I DIDN'T -- I DIDN'T PAY FOR HIM, BUT THE
24 STATE PAID HIM. BUT THIS IS MY LIFE. PLEASE HELP ME;
25 THAT'S ALL I WANTED WAS GENUINE HELP.

1 Q NOW, WHEN HE WAS BACK THERE TALKING TO YOU, WHAT KIND
2 OF EVIDENCE WAS HE TALKING ABOUT?

3 A NOTHING. HE JUST KEPT PUSHING IT ON ME TO PLEAD
4 GUILTY. HE KEPT SAYING, YOU KNOW, YOU MIGHT AS WELL GO
5 AHEAD AND PLEAD GUILTY BECAUSE HE SAID -- OH, HE ALSO SAID
6 -- STATED THAT THAT'S WHAT THE FAMILY WANTED AS WELL. AND
7 THE COURT IS GOING TO GO WITH WHAT THE FAMILY WANTED;
8 THAT'S WHAT HE WAS SAYING ALL THOSE KIND OF DISCOURAGING
9 THINGS TO ME.

10 Q SO HE WAS TELLING YOU ABOUT WHAT THE SENTENCE WOULD
11 BE?

12 A HE JUST TOLD ME, SIGN THAT 30 YEARS OR ELSE I'M GOING
13 TO GET LIFE; THAT'S ALL HE KEPT SAYING.

14 Q IF YOU WERE CONVICTED, RIGHT?

15 A NO. HE JUST KEPT SAYING I WAS -- HE SAY I WASN'T
16 GOING TO GET NOTHING UNDER 27 TO 30, WHICH THE JUDGE SAID
17 TO HIM EVEN IF I WENT TO TRIAL, SO IT WASN'T NO USE TO GO;
18 THAT'S WHAT HE SAID.

19 Q SO YOU KNEW THAT THE JURY WOULD STILL HAVE TO FIND YOU
20 GUILTY, RIGHT? YOU JUST ASSUMED YOU'D BE CONVICTED AT
21 TRIAL?

22 A I DON'T THINK I WOULD HAVE BEEN CONVICTED OF MURDER,
23 MA'AM.

24 Q OKAY. BUT YOU DIDN'T WANT TO TAKE THAT RISK, WOULD
25 THAT BE ACCURATE?

1 A I WANTED TO TAKE THE RISK BUT NOT ALONE. I NEEDED A
2 ATTORNEY WITH ME.

3 Q NOW, WHEN THE JUDGE ASKED YOU ABOUT YOUR ATTORNEY,
4 HAVING TIME WITH HIM, DID YOU TELL HIM YOU'D HAD ENOUGH
5 TIME WITH HIM?

6 A I DON'T REMEMBER HIM ASKING ME IF I HAD TIME WITH HIM.
7 I KNOW HE -- HE JUST -- HE DID ASK ME WAS I SATISFIED WITH
8 HIM. I STARTED TO SAY, NO. BUT I JUST SAID YES TO JUST
9 GET THROUGH WITH IT.

10 Q SO YOU LIED AGAIN TO GET YOUR PLEA, RIGHT?

11 A I SAID YES JUST TO GET THROUGH WITH IT.

12 Q SO YOU KIND OF LIE TO GET WHATEVER YOU NEEDED TO GET,
13 RIGHT?

14 A NO. I AIN'T -- I DON'T LIE. I'M JUST HERE TO TELL
15 THE TRUTH NOW.

16 Q BUT WERE YOU TELLING THE TRUTH IN THIS PLEA TO JUDGE
17 COTHRAN?

18 A I LIED IN THERE. I SAID I AGREED. I SAID EARLIER
19 THAT I SAID YES, WHICH I DID NOT WANT TO SAY, YES, MA'AM.

20 Q AND THEY HAD A JURY SELECTED, SO YOU KNEW YOU COULD
21 KEEP GOING, RIGHT?

22 A YEAH. WELL, MY ATTORNEY DIDN'T WANT TO REPRESENT ME.
23 MS. WILLIAMS: ALL RIGHT. I THINK THAT'S ALL. THANK
24 YOU.

25 THE COURT: THANK YOU. ANY REDIRECT?

1 MR. BROOKS: NO, SIR, YOUR HONOR.

2 THE COURT: THANK YOU. YOU MAY STEP DOWN.

3 (THE WITNESS LEAVES THE WITNESS STAND.)

4 MR. BROOKS: WE CALL MR. CARRAWAY TO THE STAND.

5 LEGRAND CARRAWAY, BEING

6 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 CLERK: STATE YOUR NAME AND SPELL YOUR LAST NAME FOR
8 THE RECORD PLEASE.

9 MR. CARRAWAY: LEGRAND CARRAWAY, C-A-R-R-A-W-A-Y.

10 DIRECT EXAMINATION BY MR. BROOKS:

11 Q MR. CARRAWAY.

12 A YES, SIR.

13 Q HOW ARE YOU TODAY?

14 A I'M GOOD.

15 Q DID YOU REPRESENT JAMEL?

16 A YES, I WAS.

17 Q YOU WERE COURT APPOINTED; IS THAT CORRECT?

18 A I WAS.

19 Q NOW, IN THIS CASE DID YOU GO OVER THE FACTS OF THE
20 CASE WITH JAMEL?

21 A YES, I DID.

22 Q AND THE WHOLE THING ABOUT THE VICTIM AND PEEPING IN
23 THE WINDOW AND ---

24 A ABSOLUTELY.

25 Q YOU ALL WENT THROUGH ALL THAT?

1 A YES, WE DID.

2 Q DID YOU TALK TO HIM ABOUT GOING TO TRIAL AND USING
3 THIS AS MITIGATING CIRCUMSTANCES MAYBE FOR A LESSER-
4 INCLUDED OFFENSE?

5 A YES, SIR.

6 Q YOU WENT THROUGH ALL THAT WITH HIM?

7 A YES, WE DID.

8 Q AND HE ENDED UP GETTING A 30-YEAR SENTENCE?

9 A THAT'S RIGHT.

10 Q AND DID YOU ALL TALK ABOUT GOING TO TRIAL?

11 A YES, WE DID.

12 Q AND WHAT THE STATE WOULD HAVE TO PRESENT?

13 A YES, WE DID.

14 Q CAN YOU SURMISE WHAT THE STATE'S CASE WOULD HAVE BEEN?

15 A THE STATE'S CASE WAS THIS -- THE STATE'S CASE WAS
16 THIS: WHAT HE SAID -- AND FROM TALKING TO HIM, THIS IS THE
17 SCENARIO. HE'D JUST BEEN MARRIED 13 DAYS. A GUY CAME BY
18 AND WANTED TO DO SOME WORK IN HIS HOUSE. HE TOLD THE GUY,
19 I'VE GOT TO GO PAY A BILL IN GEORGETOWN OR WHATEVER. YOU
20 COME BACK -- WHENEVER I GET BACK HERE, YOU COME BACK HERE
21 IN TWO HOURS HERE AND I'LL BE BACK HERE. HE TOLD HIM TO
22 COME BACK AT A CERTAIN TIME.

23 WHEN HE WAS SOMEWHERE ALONG HERE -- SOMETHING TO THAT
24 EFFECT ANYWAY. THE GUY WAS SUPPOSED TO COME BACK. HE GOT
25 A CELL PHONE CALL FROM HIS WIFE SAYING THAT THIS GUY WAS

1 LOOKING IN THE WINDOW AT THEIR HOUSE THERE.

2 NOW, I DON'T KNOW -- THE GUY EITHER WAS GOING TO RAKE
3 THE YARD OR DO SOME WORK AROUND THERE. AND APPARENTLY, THE
4 GUY CAME BACK A LITTLE EARLY AND MAY HAVE JUST GONE UP TO
5 THE HOUSE AND LOOKED IN THE WINDOW -- LOOKED TO THE DOOR
6 AND LOOKED IN.

7 WHAT CAUSED ALL THIS WAS HIS WIFE GETTING HYSTERICAL
8 ABOUT THIS THING AND CLAIMING THAT THIS GUY WAS LOOKING IN
9 THE HOUSE OR WHATEVER THERE. AND THEY'D ONLY BEEN MARRIED
10 13 DAYS.

11 AND I TALKED TO MR. ALEXANDRETTE. WE TALKED ABOUT
12 THIS MANY, MANY TIMES. HE IS A GOOD FELLOW, BUT HIS WIFE
13 CALLING INDICATING TO HIM THAT SOMEBODY WAS PEEPING INTO
14 THIS HOUSE IS WHAT CAUSED THIS WHOLE THING OR WHATEVER
15 HERE.

16 I DON'T KNOW THAT THAT'S WHAT THE GUY WAS DOING OR
17 WHATEVER. WHATEVER HAPPENED THERE, SHE SHOULD HAVE
18 UNDERSTOOD THAT YOU DON'T CALL AND TELL YOUR HUSBAND -- AND
19 -- AND INCITE HIM INTO THIS OR WHATEVER. I DON'T THINK
20 THAT'S WHAT THE GUY WAS DOING OR WHATEVER.

21 BUT, ANYWAY, SHE CALLED HIM. HE GOES. WHEN HE GETS
22 BACK, HE GOES TO BUD'S SOUTHSIDE GROCERY.

23 AND THEIR STORY WOULD HAVE BEEN THEY HAD TWO WITNESSES
24 THERE THAT WERE GOING TO SAY THAT HE WENT UP TO THIS
25 FELLOW, PUNCHED THIS GUY. THE GUY GOT UP AND PUNCHED HIM

1 BACK. AND HE PULLED OUT A GUN AND SHOT HIM FIVE TIMES IS
2 WHAT HAPPENED.

3 THEY CLAIM THAT THE FATAL SHOT ---

4 Q THAT'S WHAT THE STATE'S CASE IS?

5 A THAT'S WHAT THE STATE'S CASE WAS.

6 Q AND DID THE AUTOPSY BEAR OUT FIVE SHOTS?

7 A EITHER FOUR OR FIVE SHOTS.

8 Q OKAY.

9 A THEIR STORY WAS THIS THAT MADE IT EVEN WORSE. THEY
10 WERE GOING TO SAY THAT THE FATAL SHOT WAS TO THE BACK.
11 THEY'RE GOING TO SAY HE SHOT HIM EITHER ONCE OR TWICE. AND
12 AFTER THE GUY WAS ON THE GROUND LYING ON HIS STOMACH, THAT
13 HE THEN WALKED UP AND SHOT HIM THREE MORE TIMES.

14 OUR POINT WAS FROM WHAT WE HAD HEARD HERE, WAS THIS
15 WAS EITHER THE FIRST OR SECOND SHOT TO THE BACK OR
16 WHATEVER, THAT HE DIDN'T -- THAT'S WHAT THEIR CONTENTION
17 WAS AND THEY -- AND THEY HAD TWO WITNESSES THAT WERE
18 PREPARED TO TESTIFY THAT HE WAS LYING THERE, AND HE WAS
19 MOVING OR WHATEVER; AND THEN THAT HE WALKED UP TO HIM AND
20 SHOT HIM THREE MORE TIMES, ONE BEING IN THE BACK -- IS WHAT
21 THEY WERE GOING TO TESTIFY TO.

22 HIS WHOLE DEAL WAS, WHAT HE'D ALWAYS TOLD -- WHAT HE'D
23 ALWAYS STATED WAS, I JUST WENT CRAZY AND STARTED FIRING;
24 THAT'S WHAT HE HAD SAID.

25 Q DID YOU EVER TALK WITH HIS WIFE?

1 A I NEVER TALKED TO HIS WIFE. BUT THAT'S WHAT HE SAID
2 SHE CALLED TO SAY. HE SAID, I JUST WENT UP THERE TO TALK
3 TO THIS GUY; THAT'S WHAT HE SAID.

4 BUT -- AND, OF COURSE, IT MAY HAVE STARTED OUT THAT
5 WAY. BUT IT UNFORTUNATELY DIDN'T END UP THAT WAY. AND
6 THAT MAY HAVE BEEN WHAT HE WENT UP THERE TO TALK TO HIM
7 ABOUT.

8 Q DID YOU TALK TO THE TWO WITNESSES?

9 A I SAW -- I HEARD WHAT THE WITNESSES WERE GOING TO SAY.
10 I MET WITH THEM AT THE SOLICITOR'S OFFICE.

11 Q AND YOU RELAYED THAT TO JAMEL?

12 A I RELAYED THAT TO JAMEL. HE KNEW ALL OF THAT. HE AND
13 I TALKED NUMEROUS TIMES ABOUT THIS. HE WAS ALWAYS OVER AT
14 THE JAIL. AND I ALWAYS COMMISERATED WITH HIM BECAUSE I
15 KNOW HOW THIS CAME ABOUT OR WHATEVER HERE. I CAN IMAGINE
16 HOW IT CAME ABOUT. HE HAD JUST GOTTEN MARRIED AND SHE
17 CALLS AND SAYS -- AS IF YOU'RE SUPPOSED TO BE PROTECTING ME
18 HERE, AND THIS GUY COMES UP TO THE HOUSE HERE AND THERE'S A
19 GUY LOOKING INTO THE HOUSE HERE. AND THAT'S WHAT -- THAT'S
20 WHAT HE GOT ANGRY ABOUT.

21 AND LIKE I TALKED TO HIM. HE SAID, I JUST WENT UP TO
22 TALK TO THAT GUY OR WHATEVER.

23 I SAID, I KNOW. I KNOW. I KNOW. BUT IT DIDN'T TURN
24 OUT THAT WAY. THAT'S WHAT HIS PROBLEM WAS. FIVE GUNSHOTS.

25 THESE GUYS ARE GOING TO SAY HE PUNCHED THE VICTIM

1 FIRST, THEN THE VICTIM PUNCHED HIM BACK. AND THEN THEY GOT
2 SOME DISTANCE AND HE PULLED OUT A GUN AND SHOT HIM TWICE
3 AND THEN SHOT HIM THREE MORE TIMES WHEN HE WAS ON THE
4 GROUND -- IS WHAT THEIR PEOPLE WERE GOING TO SAY. AND I
5 THINK THE AUTOPSY SHOWED FOUR GUNSHOTS. I THINK SOME OF
6 THEM WERE IN THE LEGS, TOO.

7 BUT THE FATAL SHOT, I THINK, WAS TO THE BACK OR
8 WHATEVER. AND THE STATE WAS TRYING TO SAY -- THEIR
9 POSITION WAS, HE WAS ALREADY DOWN. HE WAS LYING THERE.
10 AND WHATEVER HAPPENED ABOUT BEING ANGRY UP TO THAT POINT OR
11 WHATEVER, THEN HE WALKS UP AND THEY CLAIM THAT ONE OF THE
12 LAST THREE SHOTS WAS IN THE BACK AND WAS THE FATAL SHOT;
13 THAT'S THEIR THEORY OR WHATEVER AND WHAT THE WITNESSES WERE
14 GOING TO SAY ABOUT HIM WALKING BACK UP.

15 Q DID JAMEL EVER TALK TO YOU ABOUT ANY WITNESSES HE HAD
16 THAT WOULD HAVE GIVEN A DIFFERENT LIGHT ON THIS SITUATION?

17 A HIS WITNESSES WERE GOING TO SAY -- AND THE GUY THAT
18 DROVE HIM UP THERE, I THINK WAS GOING TO SAY, THAT HE'D
19 ALREADY GONE IN THE STORE AND CAME BACK OUT.

20 HE SAID THAT HE ONLY WENT UP THERE TO TALK TO HIM.
21 AND THAT THAT'S ALL THAT JAMEL SAID, WAS, I'M JUST -- I
22 JUST WANT TO TO THIS GUY. I WANT TO FIND OUT ABOUT THIS OR
23 WHATEVER. AND WE NEVER QUESTIONED -- EVEN WITH THAT GOING
24 UP THERE JUST TO TALK TO HIM, IT ESCALATED INTO SOMETHING
25 ELSE.

1 Q DID YOU -- DID YOU TELL JAMEL THAT HE WAS GOING TO BE
2 ON HIS OWN, THAT YOU WEREN'T GOING TO REPRESENT HIM?

3 A NO. NO. NO. I MEAN, HOW IS THAT GOING TO HAPPEN?
4 I'M REPRESENTING HIM. WHATEVER HAPPENED WOULD HAVE
5 HAPPENED OR WHATEVER. BUT THAT'S WHAT THESE WITNESSES WERE
6 GOING TO SAY.

7 MR. BROOKS: BEG THE COURT'S INDULGENCE.

8 THE COURT: CERTAINLY.

9 (PAUSE.)

10 MR. BROOKS: NO OTHER QUESTIONS, MR. CARRAWAY.

11 THE COURT: MS. WILLIAMS, WOULD YOU LIKE TO ASK HIM
12 ANY QUESTIONS?

13 MS. WILLIAMS: THANK YOU, YOUR HONOR.

14 CROSS EXAMINATION BY MS. WILLIAMS:

15 Q DID YOU ALL TALK ABOUT POTENTIAL SENTENCES HE COULD
16 FACE IF HE WAS CONVICTED AT THIS TRIAL?

17 A WELL, WE CERTAINLY WANTED VOLUNTARY MANSLAUGHTER, IN
18 THE HEAT OF PASSION, OR WHATEVER. BUT THE STATE WAS
19 ADAMANT ABOUT, YOU KNOW, AS FAR AS A PLEA -- AND WE WANTED
20 THAT. BUT WHEN THE FACTS GO ON FROM ONE SHOT, TWO SHOTS,
21 THREE, FOUR, AND FIVE, YOU KNOW -- I JUST FELT LIKE -- AND
22 IT IS NOT HARD TO GET 50 YEARS FOR A MURDER. WE'VE HAD
23 THREE IN THE LAST TWO TERMS OF COURT WHERE 50 AND 55 CAME
24 UP OR WHATEVER HERE.

25 AND, YOU KNOW, I BELIEVE HE WOULD HAVE BEEN FOUND

1 GUILTY OF MURDER. AND COULD HAVE POSSIBLY GOTTEN MORE TIME
2 THAN THAT, BECAUSE IT SEEMED -- THEY WERE JUST GOING TO SAY
3 THE GUY JUST WENT BACK TO KNOCK ON THE DOOR WAS GOING TO BE
4 THEIR STORY. BUT IT REALLY DIDN'T -- BUT -- BUT, YOU KNOW,
5 SHE DIDN'T WANT ANYBODY COMING UP ON THE PORCH OR LOOKING
6 TO SEE IF ANYBODY WAS THERE. I DON'T KNOW WHAT HE DID.
7 AND HE WAS COMPLETELY INNOCENT. AND HE COMES UP TO THE
8 STORE AND THEN THIS HAPPENS OR WHATEVER, AND SHOT ALL THESE
9 TIMES.

10 AND THEN THEY HAD THE FAMILY COMING IN WITH ALL THIS
11 STUFF OR WHATEVER. AND, YOU KNOW, HIS FAMILY ABOUT WHAT A
12 GOOD GUY HE WAS AND ALL THIS.

13 SO THAT'S WHY WE DID WHAT WE DID.

14 Q SO THERE WAS NO SELF-DEFENSE OR ANYTHING LIKE THAT
15 THERE THAT WAS IN YOUR MIND?

16 A NOT FROM WHAT THE WITNESSES WERE GOING TO SAY; THAT'S
17 IT. NOT -- NOT THAT WOULD HAVE GIVEN HIM A LEGAL
18 JUSTIFICATION TO SHOOT THIS GUY FIVE TIMES.

19 Q YOU ACTUALLY HEARD THESE WITNESSES TALKING PRIOR TO
20 THE TRIAL?

21 A I DID HEAR THEM. I HEARD THEM, BECAUSE I ALWAYS WANT
22 TO LISTEN TO SAY, I KNOW WHAT YOU ALL ARE SAYING. I WANT
23 TO HEAR WHAT THEY'RE GOING TO SAY. LET ME SIT OVER HERE
24 AND HEAR WHAT THESE GUYS ARE GOING TO SAY HERE. YOU ALL
25 ASK THEM WHAT THEY'RE GOING TO SAY ABOUT THIS.

1 Q SO THIS WAS A PRACTICE WITH THE SOLICITOR THAT YOU'LL
2 GO IN?

3 A YES.

4 Q OKAY.

5 A AND I SIT OFF TO THE SIDE AND JUST HEAR WHAT THEY'RE
6 GOING TO SAY.

7 MS. WILLIAMS: THANK YOU, MR. CARRAWAY.

8 MR. CARRAWAY: ALL RIGHT.

9 THE COURT: ANY REDIRECT?

10 REDIRECT EXAMINATION BY MR. BROOKS:

11 Q MR. CARRAWAY, ABOUT THE GUN. ISN'T IT A FACT THAT THE
12 VICTIM HAD THE GUN AND MR. ALEXANDRETTE TOOK IT FROM HIM?

13 A THAT'S NOT WHAT THEY TESTIFIED TO.

14 Q OKAY.

15 A THAT'S NOT WHAT THEY WERE GOING TO SAY. THEY WERE
16 GOING TO SAY ---

17 Q THAT'S WHAT HE TOLD -- THAT'S WHAT JAMEL TOLD YOU?

18 A THAT'S WHAT HE TOLD ME, BUT THAT'S NOT WHAT THEY SAID.

19 Q THEY SAID ---

20 A THAT'S NOT WHAT -- THAT'S NOT WHAT -- THEY SAID ---

21 Q THEY BEING THE WITNESSES?

22 A THE WITNESSES SAID HE PULLED IT OUT OF HIS PANTS OR
23 POCKET OR WHATEVER THERE. THAT'S WHAT THEY WERE GOING TO
24 SAY.

25 Q WELL, NOW, ONE OF THEM REALLY WASN'T SURE ABOUT WHERE

1 THE GUN CAME FROM; IS THAT RIGHT?

2 A THAT'S RIGHT. THAT'S RIGHT.

3 MR. BROOKS: NO OTHER QUESTIONS.

4 THE COURT: ALL RIGHT. ANY RECROSS BASED ON HIS
5 REDIRECT?

6 MS. WILLIAMS: NOTHING FURTHER, YOUR HONOR. THANK
7 YOU.

8 THE COURT: THANK YOU. YOU MAY STEP DOWN.

9 (THE WITNESS LEAVES THE WITNESS STAND.)

10 MR. BROOKS: JUDGE, THAT'S THE APPLICANT'S CASE. WE
11 RESPECTFULLY ASK THE COURT TO GRANT MR. ALEXANDRETTE'S POST
12 CONVICTION RELIEF AND GIVE HIM A NEW TRIAL.

13 THE COURT: THANK YOU. I WILL TAKE THE MATTER UNDER
14 ADVISEMENT, AND I'LL GIVE YOU MY RULING WHEN I MAKE IT.
15 THANK YOU.

16 --- END OF TRANSCRIPT OF RECORD ---

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1 I, THE UNDERSIGNED DIANNE A. RUTLEDGE, OFFICIAL COURT
2 REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF
3 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
4 TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THE RECORD OF THE
5 PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF
6 THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT
7 COURT FOR WILLIAMSBURG COUNTY, SOUTH CAROLINA ON THE 26TH
8 DAY OF OCTOBER 2010.

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

11

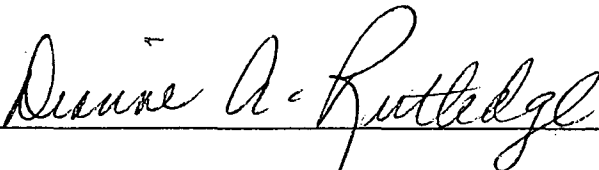
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APRIL 9, 2011

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COURT REPORTER

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STATE OF SOUTH CAROLINA)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG)	
)	2008-CP-45-0095
Jamel Alexandrette, #321631,)	
)	
Applicant,)	
)	
v.)	ORDER OF DISMISSAL
)	
State of South Carolina,)	
)	
Respondent.)	
_____)	

This matter comes before the Court by way of an Application for Post-Conviction Relief filed February 26, 2008. The Respondent made its Return on July 2, 2008. An evidentiary hearing into the matter was convened on October 26, 2010, at the Sumter County Courthouse. The Applicant was present at the hearing and was represented by Charles T. Brooks, III, 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. Also testifying was Legrand Carraway, Esquire ("Counsel"). This Court had before it the records of the Williamsburg County Clerk of Court, the guilty plea transcript, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was

indicted at the October 2006 term of the Williamsburg County Grand Jury for Murder. He was represented by Legrand Carraway, Esquire. On May 1, 2007, the Applicant pled guilty to the charge. He was sentenced by the Honorable R. Ferrell Cothran, Jr. to the recommended sentence of thirty (30) years. The Applicant did not appeal his guilty plea or sentence.

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

1. Ineffective assistance of counsel
 - a. "Fail to advise me a (sic) defense, such as self defense."
 - b. "Failure to inform me of lesser offense."
 - c. "Failure to protect attorney client privilege."
2. Involuntary guilty plea.

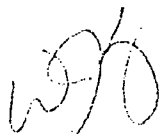
At hearing on April 2, 2009, Applicant also alleged that counsel failed to perform sufficient investigation of the charges.

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 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).

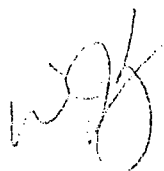
First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland, supra). Second, counsel's deficient performance must have prejudiced 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).

At PCR hearing, Applicant testified that he felt forced to plead because his attorney told him that he would not likely be acquitted at trial. Applicant testified that he was just saying “yes, yes, yes” to all questions asked during the plea. Applicant also said that he lied to Judge Cothran during his plea but that he was telling the truth at PCR hearing.

Counsel testified that he and Applicant went through the facts of the case. They discussed potential lesser-included offenses of murder. Counsel said that they talked about going to trial and summarized the evidence against Applicant. (See also Tr. p. 23, line 15 – p. 26, line 20.) Counsel testified that he met with the State’s witnesses at the solicitor’s office and told Applicant about these meetings. Counsel recalled speaking to Applicant several times at the jail. Counsel reported that Applicant maintained that he had only intended to talk to the victim when he arrived at the grocery store. While Applicant said that he got the gun from the victim, the witnesses to the shooting would testify that Applicant had the gun on his person. Counsel tried to negotiate a plea to voluntary manslaughter, but the solicitor would not agree to the plea. Counsel denied Applicant’s claim that Counsel told Applicant he was “on his own” at trial.

The plea transcript reflects that Applicant entered his plea after jury selection. Applicant stated that he was satisfied with his attorney. (Tr. p. 20, lines 2-10.) Applicant was informed of the potential sentence of life imprisonment, and Applicant denied any threats or promises had been made. (Tr. p. 21, lines 4-17.) Applicant acknowledged understanding his right to remain silent and his right to a jury trial. (Tr. p. 21, line 18 – p. 22, line 10.) Applicant admitted his guilt, affirming that the facts stated by the solicitor were correct. (Tr. p. 23, line 15 – p. 26, line 20.)



I find that counsel's performance was not deficient under these circumstances. Applicant had candidly admitted his guilt and freely sought to pursue an advantageous plea offer that would minimize his sentence exposure. I further find that Applicant has failed to produce any credible evidence that would have affected his decision to plead guilty. See Moorehead v. State, 329 S.C. 329, 496 S.E.2d 415 (1998) (no prejudice where claim of failure to investigate is supported only by mere speculation as to the result). For these reasons, I find that counsel was not ineffective with regard to his investigation.

Other Allegations

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

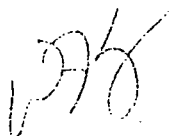
CONCLUSION

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 South Carolina Appellate Court Rule 243 for appropriate procedures after notice has been timely filed.

IT IS THEREFORE ORDERED:

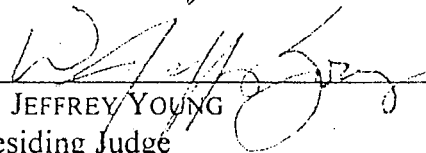
1. That the Application for Post-Conviction Relief must be DENIED



AND DISMISSED WITH PREJUDICE; and

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

AND IT IS SO ORDERED this 25 day of Jan, 20 11.



W. JEFFREY YOUNG
Presiding Judge
Third Judicial Circuit

Durham, South Carolina.

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

INDICTMENT FOR
MURDER AND POSSESSION OF A WEAPON
DURING VIOLENT CRIME

At a Court of General Sessions, convened on October 9, 2006, the Grand Jurors of WILLIAMSBURG County present upon their oath:

COUNT ONE – MURDER

That JAMEL ALEXANDRETTE did in Williamsburg County on or about June 12, 2006, feloniously, wilfully and with malice aforethought, kill one Eugene Williams by means of shooting the victim several times with a handgun, causing his death.

COUNT TWO – POSSESSION OF A WEAPON DURING VIOLENT CRIME

That JAMEL ALEXANDRETTE did in Williamsburg County on or about June 12, 2006, possess or visibly display a firearm during the commission or attempted commission of a violent crime, in violation of Code Section 16-23-490, Code of Laws of South Carolina (1976), as amended.

FILED
06 OCT -5 PM 1:06
CAROLYN F. WILLIAMS
CLERK OF COURT
KINGSTREE, S.C.

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

C. Kelly Jacobson
SOLICITOR