

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

L. Casey Manning, Circuit Court Judge

RECEIVED

JUN 04 2013

S.C. Supreme Court

ROBERT L. DICKERSON,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213661

APPENDIX

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STATE OF SOUTH CAROLINA)		COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND .	)	2009-GS-40-05430
	)	
	)	
THE STATE,	)	
Plaintiff	)	
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
ROBERT L. DICKERSON,	)	
	)	
Defendant	)	
August 31, 2010		
Columbia, South Carolina		
<u>BEFORE:</u>		
The Honorable G. Thomas Cooper, Judge		
<u>APPEARANCES:</u>		
Kathryn Luck Campbell, Asst. Solicitor		
Nicole Simpson, Asst. Solicitor		
Joanna McDuffie, Asst. Solicitor		
Attorneys for the State		
J. Rhodes Bailey, Esq.		
Jay Cooper, Esq.		
Attorneys for the Defendant		
KAREN AMBROZIAK		
Official Court Reporter		

CONTENTSWITNESSES:

(There were no witnesses called.)

EXHIBITS:

(There were no State's exhibits introduced.)

(There were no Defense exhibits introduced.)

COURT'S EXHIBITS:

<u>No.</u>	<u>Description</u>	<u>ID</u>	<u>EV</u>
1	Competency Report	3	
2	McNaughton/Criminal Responsibility Report	3	

CERTIFICATE OF REPORTER

35

1 MS. McDUFFIE: The State calls Robert
2 Dickerson, Your Honor.

3 (WHEREUPON, Robert Dickerson was duly sworn.)

4 (WHEREUPON, Court's Exhibits 1 and 2 were marked for
5 identification.)

6 THE COURT: Just for the record, there is a -- I have
7 three indictments: Murder, amended murder, and armed
8 robbery.

9 MS. McDUFFIE: Your Honor, we're going forward on
10 the amended murder charge and the armed robbery. The
11 other murder should be superseded by the murder.

12 THE COURT: I understand that. I want it on the
13 record.

14 MS. McDUFFIE: May it please the Court, Your Honor.
15 Standing before you before you is Robert Dickerson with
16 his attorney, Rhodes Bailey and Jay Cooper of the
17 Public Defender's Office.

18 Mr. Dickerson was scheduled to go to trial. The
19 State was prepared to pick a jury to begin the trial on
20 Mr. Dickerson.

21 Through his attorneys, he has indicated that he
22 would like to plead guilty to both charges as indicted
23 to murder and armed robbery, one count of each, Your
24 Honor.

25 Your Honor, before we begin the plea, Mr. Dickerson

1 has been evaluated both for competency and criminal
2 responsibility. We have made both of those evaluations
3 a Court's Exhibit and I believe we've handed them up to
4 Your Honor.

5 Before -- last week before this trial, Your Honor,
6 the defense did notice us with an insanity defense. We
7 would just like that preserved on this record. Both
8 evaluations show that he was competent and he was
9 criminally responsible.

10 THE COURT: Okay. I have reviewed Court's Exhibit
11 Number 1, the report of Dr. Michael Gadsden (phonetic)
12 on dated April 5th, 2010.

13 With regard to Mr. Dickerson's competency finding
14 that he can stand trial, and Dr. Gadsden finds that it
15 is the opinion of the examiners, that would be both
16 Dr. Gadsden, Dr. Wright and Carol David (phonetic), that
17 the -- in the opinion of the examiners, he has the
18 capacity to understand the proceedings against him and
19 to assist his attorney in his own defense.

20 Given this information and this entire report, it
21 is the opinion of these examiners, he has the capacity
22 to understand the proceedings against him and to assist
23 in his attorney's own defense.

24 So that -- I have reviewed that report, and I have
25 also reviewed the report of Dr. Jeffery Musick with the

1 Department of Mental Health as to the defendant's
2 criminal responsibility and capacity to conform.

3 Those evaluations were conducted by the Department
4 of Mental Health on April 21st of 2010 with an alternate
5 finding by Dr. Gadsden again on April 21st. It does not
6 appear that Mr. Dickerson was suffering from a mental
7 disease or defect that would have caused him to lack
8 sufficient capacity to conform his conduct to the
9 requirements of the law. Therefore, I find that the
10 defendant is competent to enter into this plea based on
11 that.

12 All right. Mr. Bailey, Mr. Cooper, you represent
13 Robert Dickerson? Do you represent Robert Dickerson?

14 MR. BAILEY: Yes, Your Honor.

15 MR. COOPER: We do.

16 THE COURT: Have you advised your client of the
17 charges contained in these indictments and his right
18 to a trial by jury?

19 MR. COOPER: Yes, Your Honor.

20 THE COURT: All right. How has your client
21 indicated he wishes to plead?

22 MR. BAILEY: Guilty, sir.

23 THE COURT: Mr. Dickerson, I have two indictments in
24 front of me. The first is a charge of murder. That
25 charge carries a penalty of from 30 years to life

1 imprisonment. Do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: How do you plead to that charge, guilty
4 or not guilty?

5 THE DEFENDANT: Guilty.

6 THE COURT: I also have a charge -- an indictment in
7 front of me charging you with armed robbery. That charge
8 carries a penalty of from ten to 30 years in jail. Do
9 you understand that?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: How do you plead to those charges?

12 THE DEFENDANT: Guilty.

13 THE COURT: Do you understand by pleading guilty
14 you're giving up your right to remain silent?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you understand by pleading guilty,
17 you're giving up your right to a trial by jury?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: If you requested or demanded a trial
20 by jury, the State would give you a trial. Do you
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: At that trial, you'd have the right to
24 confront and cross-examine all witnesses against you.
25 You'd have the right to present any witnesses and/or

1 evidence in your own defense.

2 You'd have a right to testify in your own defense,
3 if you wished to do so, but no one could make you testify
4 at your own trial.

5 If you decided to go to trial and not testify, the
6 judge would tell the jury they could not hold your
7 failure to testify against you. In fact, the jury could
8 not even consider your failure to testify in their
9 deliberations on your guilt or innocence.

10 You'd be presumed innocent throughout your
11 trial. The State would have to prove you guilty beyond
12 a reasonable doubt to a jury of 12 people, and all 12
13 people would have to unanimously agree that you were
14 guilty in order for you to be convicted.

15 Even if you were convicted, you'd still have the right
16 to appeal that conviction. Do you understand your rights
17 with regard to a trial by jury?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Understanding those rights, do you still
20 want to plead guilty?

21 THE DEFENDANT: Yes, sir.

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

25 THE DEFENDANT: No, sir.

1 THE COURT: Are you satisfied with the manner in
2 which your attorneys have advised and represented you in
3 this case?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Have you and your attorneys fully
6 discussed the charges against you?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Have they done everything you asked them
9 to do in preparation for this plea?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you need more time to talk to them
12 about this plea?

13 THE DEFENDANT: No, sir.

14 THE COURT: Are you satisfied with their advice?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Are you under the influence of any
17 alcoholic beverages, drugs or prescription medications
18 at this time?

19 THE DEFENDANT: No, sir.

20 THE COURT: Have you taken any kind of over -- I mean,
21 prescription medications?

22 THE DEFENDANT: Insulin.

23 THE COURT: Just insulin?

24 (Nods in the affirmative.)

25 All right. Do you know of any mental condition that

1 would keep you from understanding what you're doing
2 here today?

3 THE DEFENDANT: No, sir.

4 THE COURT: The doctors say that you're just fine.
5 Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. Are you pleading guilty today of
8 your own free will and accord?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Now, the solicitor is going
11 to tell me what happened in this case, and I'm going to
12 ask you after that if that is true. Do you understand?
13 So you listen carefully to what they say.

14 MR. BAILEY: Your Honor, if I may interject just for
15 one moment. I hate to do this. I just wouldn't be doing
16 my job, if not.

17 I was told by the State that Ms. Simpson would be
18 rehearsing her opening statement from what she would
19 have said at trial. Respectfully to her and respectfully
20 to the Court, I -- you know, this is probably the
21 most -- this man is here to plead guilty to murder.

22 We don't really think it's the appropriate time for
23 a practice run on that.

24 THE COURT: All right. Well, we'll just do it this
25 way.

1 MR. BAILEY: Yes, sir.

2 THE COURT: We just want to state the facts.

3 Mr. Dickerson, on or about June 5th, 2009, did
4 you kill Charles Dickerson by means of blunt force trauma
5 to the head?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And on June 5th, 2009, did you commit
8 an armed robbery by taking -- it looks like money from
9 either Charles Dickerson or the body of Charles
10 Dickerson while being armed with some weapon. Did you
11 do that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. How is that?

14 MR. BAILEY: Great. Thank you, Your Honor.

15 THE COURT: Now I'll be glad to hear from the State.

16 MS. SIMPSON: Thank you, Your Honor. May it please
17 the Court. For the record, the State will limit it to
18 the facts for purposes of this plea.

19 This incident occurred on June 5th, 2009, at the
20 victim, Charles Dickerson's home, located at
21 Drive in Richland County.

22 Earlier that day, Your Honor, the defendant had
23 called his father to see if he wanted to drink and hang
24 out. His father said that he did, and the defendant went
25 to his father's home.

1 When he arrived, you know, his father asked him, you
2 know, do you have money. He said that he had some, but
3 his father went to the closet --

4 THE COURT: He asked his father if he had money?

5 MS. SIMPSON: No. His father asked him whether he
6 had money.

7 THE COURT: Whether he had money, okay.

8 MS. SIMPSON: So that he could go get some beer and
9 something that they could drink on in the afternoon. He
10 said that he had some, but his father went to a closet
11 where he had a safe and removed a bag and took some
12 money out of it and gave it to the defendant for
13 purposes of going to the store to get the beer.

14 Now, when he gave the defendant this money, he
15 informed him, he said, "Just don't do what you did last
16 time."

17 And, Your Honor, what he was referring to is in
18 relationship to the defendant's extensive drug habit
19 and history, there was an occasion, by his own
20 admission, where the defendant had taken his father's
21 vehicle and gone and bought crack, smoked it and stayed
22 gone for three days. His father just said don't do it
23 again.

24 Well, the defendant knew -- and by his own
25 admission -- that he just needed a van -- the van and the

1 money so that he could hang out. He had no intentions
2 of spending that time with his father.

3 So he took the van and went to Eastway Park to buy
4 some drugs. He smoked some crack, but it wasn't enough.
5 He wanted more, and he knew that his father had some
6 money.

7 So he went to a friend's home by the name of Alfonso
8 Baker, who you would have heard from, to borrow a hammer.
9 According to Mr. Baker, he stayed in the car, just drove
10 up and asked to borrow a hammer.

11 Mr. Baker thought that was kind of odd because the
12 defendant actually lives next to -- or did at one time,
13 next to the defendant's -- or next to the defendant, but
14 didn't think much about it, gave the defendant the
15 hammer.

16 So the defendant never indicated what he needed it
17 for. He just left. Well, the defendant then went back
18 to his father's home. He walked through the front door
19 but didn't see his father in the front room. The T.V.
20 was on in the back bedroom.

21 He went to the back bedroom and found his father
22 sleeping crossways on the bed.

23 THE COURT: Was it daytime?

24 MS.: SIMPSON: Yes, Your Honor. This would have
25 been the early afternoon hours, sometime between one,

1 2:30, two o'clock.

2 So his father was napping on the bed. He came back,
3 and he says at that time he saw his father, and he began
4 hitting him.

5 According to him, he started thinking about his
6 mother, how his father used to treat his mother, and how
7 he used to beat him. Although, the State submits there
8 was no evidence to really support that, at least from
9 our case.

10 So he hit the victim, and then he stated that he
11 would step back and hit the victim again, not one, not
12 two, not three, four, five, but 14 times in the head, Your
13 Honor, repeatedly.

14 At some point, the defendant -- the victim suffered
15 two defensive wounds to his hand where he apparently
16 tried to stop it, and the defendant stated that the
17 victim tried to get up during this but couldn't, and, Your
18 Honor, the sheets, which you will see photographs of, were
19 soaked with blood where the victim bled out.

20 He ultimately fell to his death on the floor face
21 up in a pool of blood and was not found until Sunday
22 morning, which I will eventually get to that.

23 Your Honor, after beating his father about the
24 head, the defendant walked out, went and washed his hands
25 and cleaned off the hammer, thought he cleaned it off

1 pretty well.

2 Then he walked out, and the bag from earlier, his
3 father had left it out of the safe. He checked the
4 closet, but the bag was actually still sitting out, so
5 he took the money, locked the door and walked out and took
6 the van.

7 According to the defendant, the victim was still
8 alive when he left. So the defendant at some point
9 returned the hammer to Mr. Baker. He put it back in his
10 truck. Investigators were able to recover this hammer
11 from Mr. Baker, and I'll go further into that
12 momentarily, as well.

13 After returning the hammer, the defendant ends up
14 at Reese's Pool Hall and encounters a friend of his by
15 the name of Roscoe Reese.

16 He goes to the pool hall and asks Roscoe whether he
17 can get any drugs and if he knew if there was a girl that
18 he could get high and have sex with.

19 Roscoe -- he then gave Roscoe some money. Roscoe
20 went and got the crack. They smoked for a while, and then
21 Roscoe went and found a woman by the name of Cynthia
22 Fair, also known as "Bow Legs", who you would have heard
23 from, as well.

24 They smoked together, partied at the pool hall for
25 a while until finally they wanted a hotel room. Now, the

1 defendant had parked his van beside the pool hall by an
2 old beat up truck, by his own admission so that no one
3 could see it from the road.

4 And Roscoe actually drove into the Country Town
5 Inn and Suites located on Garners Ferry. We do have
6 hotel surveillance from the defendant's stay to
7 corroborate what happened.

8 During that time, Ms. Fair would have stated that
9 they smoked crack, hung out. The defendant seemed
10 extremely nervous, and according to her was just smoking
11 like a freight train, but he wouldn't -- he would never
12 indicate to her why he was so nervous.

13 She didn't notice anything out of the ordinary
14 except for the fact that he was nervous and smoking a
15 whole lot. Even when they had crack, he still wanted more,
16 buy more, more, more.

17 Well, Ms. Fair indicated to him that she would have
18 to leave by 3:30 that morning to get to work. Well, he
19 still wanted more drugs as well as another girl.

20 So throughout this process, you would have heard
21 potentially from one of the drug dealers who came to the
22 hotel and brought the defendant more crack, and also
23 other females were in and out.

24 The defendant would eventually take a cab and find
25 another girl by the name of Shay. We don't know her real

1 name, but one of her friends -- they would get some crack
2 and actually go to his home, a Lemuel Scott, where they
3 smoked for a while.

4 Again, nothing out of the ordinary. They just
5 smoked crack, and then they went back to the hotel.

6 Your Honor, this is pretty much the story for the
7 weekend, smoking crack and lots of girls who he tried to
8 have sex with.

9 Eventually, Your Honor, the defendant would check
10 out of the hotel and decide to return the van home during
11 the early Sunday morning hours of June 7th.

12 So he would drop the van off, leave the keys in the
13 car. He claims that he went to the front door and knocked
14 on it. However, after that, he left.

15 He wasn't finished smoking. He still had some crack
16 in his pocket, but it being Sunday, he decided to go to
17 the bootlegger's house down the road where he smoked the
18 crack and drank some more and then went home.

19 Well, Your Honor, Trent Dickerson, who is unable to
20 be here today, he is actually a truck driver who is
21 driving through North Carolina as we speak and could not
22 be here for the plea today, but he would have been here
23 for the trial.

24 THE COURT: Who is he?

25 MS. SIMPSON: He is Charles Dickerson, the

1 victim's son, as well as the defendant's brother who found
2 the body.

3 He would have told you, Your Honor, how on Friday,
4 he and his wife were out of town. They received a call
5 from their son. He had car issues and needed help.

6 Mr. Dickerson would tell his son, "Well, just go to
7 dad's house. You know, see if he can help you."

8 "Well, I tried reaching him by phone, couldn't get
9 in touch with him." So Trent Dickerson attempted to
10 call his father, cell phone, house phone, numerous times
11 but to no avail.

12 This would have been some time after six p.m. on
13 Friday, so the evening hours. They came back into the
14 town, Your Honor, Saturday morning and decided to go by
15 his father's house.

16 They knocked on the door, which was locked from when
17 the defendant had left. They received no answer, so they
18 even went to the windows, knocking on the windows.

19 They heard the T.V., but still, they just assumed
20 that maybe he had gone somewhere with the church.
21 Mr. Dickerson actually called another sister of his,
22 said, "Oh, he goes places with the church. Perhaps he's
23 just gone."

24 But -- so they leave, Your Honor. They end up
25 watching some movies with some friends later on that

1 evening. They returned from their friend's home about
2 12:00 p.m., and they drive past on Saturday evening.

3 The van is not outside at this point. The defendant
4 had not returned it, so they still didn't see the van,
5 thought maybe he's still out of town.

6 So they go home. The next morning, they're getting
7 ready for church. Whatever it was, a feeling, they
8 tried calling his father again. Still no answer.
9 Something is not right, so he asked his wife, Michelle
10 Dickerson, and they decided to stop by his father's
11 home.

12 Well, at that point, Your Honor, the van is in the
13 driveway, as well as another truck that the victim owned.

14 They go by. The house is still locked. No one comes
15 to the door. He calls his sister. She says, "Well, just
16 check the van."

17 They get the keys that the defendant had left in the
18 van and unlocked the door. At that time, they walked
19 into the room. They hear the T.V. They walk back, and
20 there is his father dead in a pool of blood face up.

21 They immediately call 9-1-1, and the dispatch gives
22 them -- they don't know what happened, but they did
23 learn that throughout the weekend that the defendant had
24 the van.

25 Your Honor, they also called the defendant to tell

1 him that he needed to come over to his father's house.
2 Well, the defendant received a call from his daughter,
3 I believe, and eventually comes over to the house
4 where he encounters investigators. Police officers are
5 there.

6 Investigators end up speaking with Mr. Dickerson
7 on that day. He actually gives a statement on that day
8 denying any involvement.

9 He does admit that he had the van throughout the
10 weekend, but that he just returned it and didn't know
11 anything about what happened.

12 Well, he's allowed to go home. A further
13 investigation is done, and the defendant comes back in
14 the next day, Your Honor, and gives a statement
15 confessing to the crime and about how it was a hammer that
16 was used.

17 He indicated to law enforcement where to get that
18 hammer, which they did recover.

19 Your Honor, on that hammer, our forensic -- or our
20 crime scene investigators were able to recover some of
21 the victim's D.N.A., as well as D.N.A. on the defendant's
22 clothing from the victim in this case.

23 Your Honor, as well as the confession, we have
24 jail phone calls from the defendant to his wife,
25 Katherine Dickerson, confessing to this crime. He says

1 essentially that everything was perfect, just perfect,
2 but he killed him.

3 Your Honor, that is essentially the facts of
4 that -- well, let me back up. Through that conversation,
5 they learned about more money that I believe is in a
6 tackle box.

7 The defendant asked his wife, says, "Get the money
8 from the tackle box and bring it to me." So investigators
9 go, and they are able to recover that money, as the
10 defendant indicated.

11 With respect to money, Ms. Cynthia Fair, it was
12 actually \$5,000 that the defendant took from the father.
13 Cynthia Fair would have confirmed that, because during
14 their time at the hotel, he actually counted all that
15 money out in front of her. However, he just claimed that,
16 "Oh, I got it from back taxes."

17 I believe that's the extent of the facts.
18 Ms. McDuffie will go into some of the investigation, as
19 well as offer some of the evidence in this case.

20 MS. McDUFFIE: Your Honor, when investigators
21 went to Mr. Charles Dickerson's home on Drive, it
22 was an incredibly bloody crime scene.

23 Your Honor, they were able, through blood pattern
24 analysis, to determine that Mr. Dickerson was
25 predominantly struck in two locations in the room.

1 If I may approach and hand up these photos, Your
2 Honor.

3 THE COURT: Has the defense seen them?

4 MS. McDUFFIE: Yes. Yes, Your Honor.

5 MR. BAILEY: Yes, Your Honor.

6 MS. McDUFFIE: Your Honor, we believe that the first
7 location -- or one of the locations he was struck was
8 when he was laying -- where his head would have been on
9 the pillow, and he was laying in bed. He was struck
10 numerous times there.

11 In both forensically, I believe, and through the
12 defendant's at the same time, he -- I'm sorry, the victim
13 then sat up and changed positions so his head was
14 towards the front of the bed, where he was then struck
15 numerous other times with the hammer.

16 He ultimately falls on to the floor, Your Honor,
17 which is where he is found when law enforcement are
18 summoned to the home.

19 If I may approach, showing a picture of the victim's
20 final position on the --

21 THE COURT: Has the defense seen this?

22 MS. McDUFFIE: Yes, Your Honor.

23 Next to where the victim was lying on the floor,
24 there are blood marks and smears and fingerprints on the
25 wall. It is believed -- forensic investigators believe

1 that where the victim was trying to get up, in his last
2 moments of life, was trying to get help for himself and
3 could not muster the strength to get up, Your Honor,
4 but you can see the fingerprints or the smears on this
5 wall from where they believe he was trying to get up, Your
6 Honor.

7 Finally, Your Honor, the testimony would show
8 through Dr. Clay Nichols that the victim was struck 14
9 times in the head and two times --

10 THE COURT: Have they seen this?

11 MS. McDUFFIE: Yes, sir. They have seen that.

12 MS. McDUFFIE: Two times in the head --

13 MR. BAILEY: Yes, Your Honor, we've seen it.

14 THE COURT: All right.

15 MS. McDUFFIE: And those were believed to be
16 defensive wounds. The cause of death was blunt force
17 trauma, which, Your Honor, then led to his death. He bled
18 out on the floor of the house.

19 Your Honor, he has a cracked skull in several
20 locations, and that's what one of those pictures
21 depicts. The other one is of his hands where the
22 defensive wounds he received were on.

23 The defendant's prior record is a 1982 armed robbery
24 from which he pled to strong armed robberies and
25 received 11 years.

1 1995, accessory after the fact of burglary second,
2 two counts. He received two years suspended.

3 THE COURT: Two?

4 MS. McDUFFIE: Two years suspended to seven months
5 and two years probation. Finally, 2004, shoplifting.

6 Your Honor, the victim, Ms. Diane Smith, is present
7 in the courtroom and I believe would like to address Your
8 Honor.

9 Mr. Trent Dickerson, one of the other sons, is
10 driving from North Carolina, was on his way here, was
11 trying to get here so he could be here for the plea.

12 Ms. Simpson and I talked to him as late -- well,
13 about if the defendant wanted to plea. It was Friday
14 afternoon. He wanted the Court to know how horrible it
15 was for him to have to find his father, to walk into the
16 house and see this.

17 He asked the State not to seek the death penalty,
18 but would ask that the defendant receive a sentence of
19 life in prison. He feels that's appropriate for his
20 brother for killing his father, and he would -- he did
21 request that we relay that to the Court for him.

22 THE COURT: All right.

23 MS. McDUFFIE: Your Honor, also standing with us
24 are Investigators Lindler and Unger of the sheriff's
25 department, and I believe at the appropriate time, they

1 would like to address Your Honor.

2 THE COURT: Well, based on the defendant's admission
3 and summation of the facts presented by the State, I find
4 the decision of the defendant, Robert L. Dickerson, to
5 plead guilty, to be freely and voluntarily and
6 intelligently made. He's had the representation of a
7 competent counsel in the person of Mr. Bailey and
8 Mr. Cooper.

9 I find a factual basis for his plea. Therefore, I
10 will would accept his plea.

11 Mr. Dickerson, if you disagree with the sentence I
12 give you or the procedure we just completed, you have ten
13 days from today's date within which to file Notice of
14 Intent to appeal. Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: All right. Anything further from the
17 State?

18 MS. McDUFFIE: Your Honor, I believe that
19 Ms. Diane Smith, one of the victim's daughters and
20 also another one of the victim's children, Mr. Charles
21 Dickerson are here.

22 I believe Ms. Smith would like to address the court,
23 and I believe law enforcement would, as well, Your Honor,
24 at the appropriate time.

25 THE COURT: At your convenience, she can come

1 around.

2 MS. CAMPBELL: She can come around.

3 MS. McDUFFIE: She can come around.

4 THE COURT: I said come around. There's a lot of
5 people in here.

6 She is at the podium right now. That's fine.

7 Yes, ma'am. I need your name, please.

8 THE VICTIM: Diane -- Louise, Diane Smith.

9 THE COURT: Ms. Smith?

10 THE VICTIM: Yes, Smith. What the family would
11 like to see happen to Lawrence, Robert Lawrence
12 Dickerson, is life imprisonment without parole. You
13 know, it's been a struggle for my family.

14 THE COURT: Now, how is -- how are you related to this
15 gentleman?

16 THE VICTIM: He's my brother.

17 THE COURT: He's your brother?

18 THE VICTIM: Yes.

19 THE COURT: Okay.

20 THE VICTIM: As a family, we are still working
21 through a lot of things, but at the same time, Lawrence
22 is our brother. I know that for me personally, I have
23 to have mercy for him, show mercy.

24 THE COURT: Now, you call this gentleman Lawrence?

25 THE VICTIM: His name is Robert Lawrence but --

1 THE COURT: Okay. Because all I had was Robert.

2 THE VICTIM: Okay. I'm sorry.

3 THE COURT: That's okay.

4 THE VICTIM: Like I'm Diane, but then Louise.

5 You know, I have to show mercy to Lawrence, because
6 I would want mercy from the God I serve. You know, I
7 love him. I hate what he's done, but the law is the law,
8 and he has to pay the consequences of the law.

9 We don't want to see him get the death penalty, but
10 I know the law is still in place. Speaking for the
11 family, we decided this is better. We want to see
12 Lawrence get life in prison.

13 THE COURT: Thank you, ma'am.

14 MS. McDUFFIE: And I believe the investigator would
15 like to speak.

16 THE COURT: Yes, sir.

17 INVESTIGATOR: Your Honor.

18 THE COURT: Name.

19 INVESTIGATOR: Chris Lindler. I'm an investigator
20 with the sheriff's department. I've been with the
21 sheriff's department a little over 12, 12-and-a-half
22 years.

23 In the last six years, I've worked on several murder
24 and death scenes. I can honestly tell you this is
25 probably the bloodiest and most heinous death scene

1 that I have encountered at my time with the sheriff's
2 department.

3 I mean, we walked into that room. There was blood
4 from one end of that bedroom to the other, and
5 Mr. Dickerson was, of course, laying on the floor.

6 That was probably one of the worst death scenes that
7 I've seen in my 12-and-a-half years in law enforcement,
8 at the sheriff's department.

9 We would just ask Your Honor, from the sheriff's
10 department and the investigators involved in this case,
11 that you decide appropriately what sentence you give
12 Mr. Robert Dickerson to beat your father to death with
13 a hammer is not only very extremely personal, it's
14 just -- it's brutal. It was very, very brutal.

15 THE COURT: Thank you very much.

16 Anything else?

17 MS. McDUFFIE: Your Honor, that's all we have at
18 this time.

19 THE COURT: All right. Mr. Bailey, Mr. Cooper?

20 MR. BAILEY: Thank you, Your Honor. First, I'd like
21 to say like just everybody else in this courtroom, it's
22 sad just to be here today.

23 Obviously, this is a tragedy all the way around.
24 Mr. Dickerson doesn't dispute most of the things that
25 were said.

1 In fact, as long as I've known him, he never did.
2 He always took responsibility for it. I think that the
3 State's facts which were generally correct, and one reason
4 they got such a detailed account of the way things
5 happened was because Mr. Dickerson gave a step-by-step
6 account of what happened to the police early on.

7 You know, in my three years in this office, I've
8 had a lot of clients, but I can honestly say that I've
9 never -- I've never encountered such a remorseful man
10 when it comes to a crime like this.

11 He always called him his daddy, even though
12 Mr. Dickerson wasn't his biological father, and he
13 always thought of him as his father.

14 You know, he had told me -- and this is what the
15 police are essentially saying, and in jail phone calls.
16 He talks about that he loved his father, although his
17 father had -- beyond him, his older brother Floyd, now
18 deceased, when he was a child, he also said that his
19 mother, who eventually died of diabetes, and who, for a
20 while, Mr. Dickerson had taken care of, that he had
21 beaten her, too.

22 Now, I want to say that this in no way excuses what
23 he did. It doesn't excuse the fact that he killed his
24 father, but I think that -- I think that in the moment -- I
25 do think these things were going through his mind.

1 Clearly, he has as severe a drug problem as you could
2 possibly have. Mr. Dickerson is also diabetic.

3 We spoke with Dr. Thomas Martin about this at
4 length. He said that it would not surprise him at all,
5 that it was very likely this would not only -- you know,
6 this would alter your state of mind.

7 Not just being extremely high on crack, but also
8 being diabetic and being bad about taking your medicine.

9 I say this because I do believe that although he has
10 been found competent, I think that Mr. Dickerson was not
11 just out of character, but in some way somewhat out of
12 his mind. He understood what he did when it was over,
13 I think he wasn't entirely clear.

14 I think it took a while for -- at first, Robert
15 said that he was almost afraid that when he went back,
16 he was going to get in trouble with his dad. He wasn't
17 even sure that his dad was dead.

18 You know, I want to say that, you know, he was -- he
19 said several times that he immediately regretted it. He
20 regretted it. He wished he could take it back; that he
21 loved -- that he still loved his dad, even though they
22 had kind of a rough past. He still loved him.

23 Every time I met with him, he was crying. It wasn't
24 just -- it was -- it was genuine remorse. I think
25 Mr. Dickerson has always understood that he's facing at

1 the very least, you know, decades, decades in prison.

2 You know, I don't think -- he's never tried to
3 snake his way out of this or anything like that. I do
4 think there were mental health issues, not enough to find
5 him incompetent, but you know, I do think that -- I do
6 think that Mr. Dickerson is not the man that was
7 painted as this ruthless, cold-blooded killer that was
8 on the news and as the State has presumed.

9 I've gotten to know Mr. Dickerson as a human being
10 over the last year, and I definitely believe this was
11 strongly out of character.

12 Still, as long as I've been with him and numerous
13 things, when he was on the jail phone calls talking with
14 his wife, he said, "You know, something was telling me
15 to do it. I was angry at my father at that moment. It
16 was wrong. You know, it was wrong. I wish I could take
17 it back. Something was telling me to do it. I felt like
18 my mom was telling me to do it."

19 I think he was out of his mind at the time, but I
20 believe that he -- he is responsible, Your Honor. I
21 think he -- and he has never said I'm not responsible.
22 I've heard a lot.

23 I'm sure you've heard a lot, but he's never said,
24 "This is why it isn't my fault. This is why I did it."

25 This was only through discussion that we realized

1 that -- we thought that he had some limited capacity.

2 Additionally -- additionally, he was found to
3 be -- a pretty low functioning I.Q., and he also has been
4 illiterate. He spent all his time in -- he spent all his
5 time in special ed. classes when he was young.

6 They only passed him up to other grades because he
7 could play football. I think he's a man of
8 limited -- limited intellectual means, and you know,
9 this is the first type of crime on his record where
10 somebody has been, you know, hurt like this.

11 I think that he does want to speak. I'd like
12 Mr. Cooper -- I mean, Mr. Cooper is going to speak a
13 little bit in case I missed something.

14 MR. COOPER: Just very briefly, Your Honor, I'd just
15 like to say that, in my judgment, whatever that is
16 worth, I think that Mr. Dickerson's remorse is real.

17 I don't think his remorse is in any way
18 manufactured, and also, I'd like to say that, you know,
19 we were on the eve of trial, which sometimes happens, in
20 these situations, but I went down and talked to
21 Mr. Dickerson earlier this morning.

22 Basically, put it to him like this, you know, you
23 have a very slim to no -- no chance at all of walking out
24 of the Department of Corrections.

25 There's two ways you can do that. You can either go

1 up there and admit what happened and apologize for it
2 and take responsibility for it, or you know, we can put
3 everybody through a trial, and you can go that way.

4 His immediate reaction was, "No. I want to go in
5 there, and I want to apologize. I want to take
6 responsibility today."

7 So I just wanted to inform the Court of that. On that
8 note, as Mr. Bailey said, I do think that Mr. Dickerson
9 would like to address the court.

10 So Robert, if you have anything to say?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Yes, sir, I'll be glad to hear from you.

13 THE DEFENDANT: Yes, sir.

14 Your Honor, I love my daddy, and I'm sorry for what
15 I did to him. I'm sorry to my brother and sisters. I'm
16 sorry that that happened to my daddy.

17 My daddy he would do anything for me. Anything I asked
18 him for, he would do it for me. I was smoking the drugs.
19 I lost my mind. I ain't meaning to kill my daddy. You
20 know, I loved my daddy.

21 I'm sorry for everything that happened. I hope my
22 brother and sister can forgive me for that incident
23 happening. I didn't mean to do it.

24 THE COURT: All right. Thank you. Anything
25 further?

1 MR. BAILEY: Your Honor, I don't really have much
2 else. We would just ask Your Honor -- we would ask Your
3 Honor to consider sentencing Mr. Dickerson to 35 years
4 for this offense.

5 THE COURT: Well, his family has asked for life.

6 MR. BAILEY: Yes, sir.

7 THE COURT: Does he understand that?

8 MR. BAILEY: Yes, sir. He understands that there
9 are people that want life. We actually -- I mean, we
10 would believe, considering his age, his health issues,
11 that no matter what the sentence will be, we doubt that
12 he's going to -- he'll walk out of the Department of
13 Corrections alive.

14 THE COURT: Well, his family needs to know that
15 whatever sentence I impose is a day-for-day sentence.
16 There's no parole.

17 MR. BAILEY: Yes, sir.

18 THE COURT: And I'm sure you've advised him there is
19 no parole on a murder, on a murder conviction or a
20 plea.

21 They understand that, don't they?

22 MS. McDUFFIE: Yes, Your Honor.

23 MS. SIMPSON: Yes, Your Honor.

24 THE COURT: Okay. All right. Anything further?

25 MS. McDUFFIE: Not from the State, Your Honor.

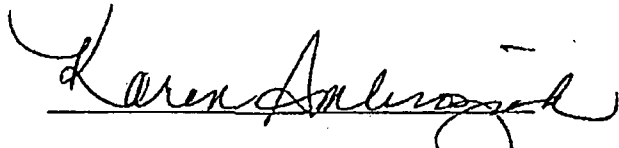
CERTIFICATE OF REPORTER:

STATE OF SOUTH CAROLINA)
)
COUNTY OF)

I, Karen Ambroziak, Official Court Reporter for the
5th 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 General Sessions Court for
Richland County, South Carolina, on the 31st day of August,
2010.

Signed

June 28, 2011

A handwritten signature in cursive script, appearing to read "Karen Ambroziak", written over a horizontal line.

Karen Ambroziak, Court Reporter

My Commission Expires: 04/01/14

STATE OF SOUTH CAROLINA

County of RICHLAND

In the Court of Common Pleas

Robert Lawrence Dickerson, 113793*Full name and prison number (if any) of Applicant,*

vs.

State of South Carolina*Name of Respondent.*

APPLICATION FOR

POST-CONVICTION RELIEF

FEB - 8 2013

INSTRUCTIONS — READ CAREFULLY

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

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

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

1. Place of detention Lee Corr. Inst., 990 Wisacky Hwy, Bishopville, SC 29010
2. Name and location of Court which imposed sentence Court of General Sessions; Richland,
South Carolina
3. The indictment number or numbers (if known) upon which and the offense or offenses for which sentence was imposed:
 - (a) 2009 GS 405430; armed robbery
 - (b) 2009 GS 404968; murder
 - (c) _____
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 8/30/10; forty (40) years CONCURRENT
 - (b) 8/30/10; forty (40) years CONCURRENT
 - (c) _____

RICHLAND COUNTY
 FILED
 2011 MAY 20 PM 4:27
 ANNETTE M. MCBRIDE
 C.C.P. & G.S.

2011C P4003363

36
5. Check whether a finding of guilty was made

(a) after a plea of guilty XX

(b) after a plea of not guilty

(c) after a plea of nolo contendere

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

no

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

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

i.

ii.

iii.

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

i.

ii.

iii.

(c) the date of each such result:

i.

ii.

iii.

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

i.

ii.

iii.

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

(X) On 8/30/10 I was totally illiterate, did not know I could appeal, and was

(X) not informed by my trial attorney that I could appeal

(c)

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

(a) A violation of my USCA 5th Amend. right to effective assistance of counsel

(b) An error of law accusing murder on 9/21/09, at which date I was in jail

(c)

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

(a) My trial counsel caused me to believe I would receive a 20 year sentence

(b) The SENTENCE SHEET documents: Date of Offense: 9/21/09 TO: Murder/Murder

(c)

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

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

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

(a) the specific nature thereof:

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

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

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

(c) the disposition thereof:

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

(d) the date of each such disposition:

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

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

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

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

no

14. If you answered "yes" to (13), identify:

(a) which grounds have been presented:

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

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

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

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

(a) A USCA 6th Amend violation; I was not informed I was entitled to direct appeal

(b) _____

(c) _____

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

(a) your arraignment and plea? yes

(b) your trial, if any? yes

(c) your sentencing? yes

(d) your appeal, if any, from the judgment of conviction or the imposition of sentence? _____

(e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? no

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

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

i. unknown

ii. _____

iii. _____

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

i. plea and sentencing

ii. _____

iii. _____

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

I want to be resentenced to the 20 years my attorney told me I would get

if I would plead guilty

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

no

STATE OF SOUTH CAROLINA

VERIFICATION

County of _____

I, Robert Lawrence Dickerson, 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.

Robert L Dickerson

SWORN to and subscribed before me this 19
day of May, 2011
J. Bracy Simon (L.S.)
Notary Public

RICHLAND COUNTY
FILED
2011 MAY 20 PM 4:28
JENNIFER W. HODGSON
C.C.P. & C.S.

My Commission Expires: 5-16-14

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

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

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

Robert L Dickerson
Applicant

SWORN or affirmed to and subscribed before me this
19 day of May, 2011
J. Bracy Simon
Notary Public

My Commission Expires 5-16-14

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

DICKERSON Robert L -
00113793,

2011CP4003363

Applicant,

v.

RETURN

State of South Carolina,

Respondent.

RICHLAND COUNTY
FILED
2012 FEB - 6 PM 12:40
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

The Respondent, making its Return to the application for post conviction relief (PCR) filed May 20, 2011, would respectfully show this Court:¹

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. The Applicant was true bill indicted at the September 2009 term of the Richland County Grand Jury for Armed Robbery (2009-GS-40-5430) and Murder (2009-GS-40-4968). The Applicant was represented by J. Rhodes Bailey, Esquire, and Jay Cooper, Esquire, on the charges. On August 30, 2010, Applicant pled guilty as indicted before the Honorable G. Thomas Cooper, Jr., and was sentenced to forty (40) years imprisonment on each charge, to run concurrently.

¹

<http://www4.rcgov.us/publicindex/PCaseDetails.aspx?County=40+&Casenum=2011CP4003363&CourtType=G&CaseType=Civil&CourtAgency=40002>

II.

Attached herewith and incorporated herein are the records of the Richland County Clerk of Court regarding the subject conviction(s), the Applicant's records from the South Carolina Department of Corrections, and the trial transcript, and the Applicant's applicable direct appeal files.² The Respondent reserves the right to amend this Return upon receipt of any relevant materials or submit an amended Return to reflect any amended allegations and/or to provide a more detailed procedural history.

Direct Appeal

The Applicant did not appeal his conviction and/or sentence .

The application for post conviction relief (PCR) was filed May 20, 2011.

III.

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

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 - (a) A violation of my USCA 6th Amend. right to effective assistance of counsel
 - (b) An error of law accusing murder on 9/21/09, at which date I was in jail
 - (c) _____
10. State concisely and in the same order the facts which support each of the grounds set out in (9):
 - (a) My trial counsel caused me to believe I would receive a 20 year sentence
 - (b) The SENTENCE SHEET documents: Date of Offense: 9/21/09 TO: Murder/Murder
 - (c) _____

² The Respondent will utilize the Record on Appeal if the direct appeal was an Anders appeal.

IV.

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

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

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 80 L.Ed.2d 674. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial. Johnson v. State, 325 S.C. 182, 480 S.E.2d 733 (1997). Even with respect to guilty plea counsel, the applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pled guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985)

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

V.

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

therefore requests that this Court convene an evidentiary hearing solely on the issue of ineffective assistance of counsel. As to all other allegations, the Respondent moves for summary dismissal pursuant to S.C. Code Ann. § 17-27-70 on the basis that there is no genuine issue of material fact which would necessitate an evidentiary hearing and that those allegations should be dismissed as a matter of law.

VI.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held. The Respondent will coordinate with the Applicant's attorney who is, according to the Respondent's file, R. Scott Wallinger, Esquire, Esquire regarding when the hearing should be set.³

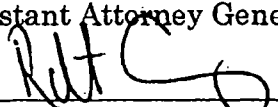
Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney
General

ROBERT D. CORNEY
Assistant Attorney General

By: 

ATTORNEYS FOR RESPONDENT

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

February 1, 2012

³ The current PCR Roster for the 5th Circuit is available at <http://www.scag.gov/criminal-litigation/postconvictionrelief>

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

DICKERSON Robert L -
00113793,

2011CP4003363

Applicant,

v.

CERTIFICATE OF SERVICE

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

**R. Scott Wallinger, Esquire, Post Office Box 12487 1330 Lady Street,
Columbia, SC 29201**

DATED February 1, 2012.


Jean R. Indriago
Legal Assistant

RICHLAND COUNTY
FILED
2012 FEB -6 PM 2:40
JEANNETTE W. MCBRIDE
C.C.P. & G.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) 2011-CP-40-3363

Robert L. Dickerson,)
Applicant/Plaintiff,)
vs.) TRANSCRIPT OF RECORD
The State of South Carolina,)
Defendant.)

May 25, 2012
Columbia, South Carolina

B E F O R E:

HONORABLE L. CASEY MANNING, JUDGE.

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

R. SCOTT WALLINGER, JR., ESQUIRE
Attorney for Applicant/Plaintiff

ROBERT D. CORNEY, ESQUIRE
Attorney for the Defendant

Crystal Holmes
Official Court Reporter

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVD.</u>
P-1	DMH Packet		13
P-2	Report on Criminal Capacity to Conform		19
P-3	Richland County Sheriff's Department Advice of Rights Form		26
P-4	Richland County Sheriff's Department Advice of Rights Form Dated 06-08-09		28
P-5	Reason of Insanity Research Memo		30

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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J. Rhodes Bailey				
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By Mr. Wallinger	8		69	
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By Mr. Corney		64		70
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Robert L. Dickerson				
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By Mr. Wallinger	71			
------------------	----	--	--	--

1 FRIDAY, MAY 25, 2012:

2 MR. CORNEY: May it please the Court, Your
3 Honor.

4 THE COURT: Yes, sir.

5 MR. CORNEY: Judge, this is the PCR of Robert
6 Dickerson, docket number 2011-CP-40-3363. Mr. Dickerson
7 was true bill indicted at the September 2009 term of the
8 Richland County Grand Jury for armed robbery and murder.
9 Mr. Dickerson pled guilty August 31st, 2010 before Judge
10 Cooper as indicted for those charges. He was represented
11 by Mr. Rhodes Bailey and Mr. Jay Cooper, both of the
12 Public Defender's office at the time.

13 He was sentenced to 40 years imprisonment on
14 each count to run concurrently. He did not have a direct
15 appeal but filed a timely PCR application May 20th, 2011.
16 Mr. Dickerson is represented by Scott Wallinger here
17 today and I think that's the background of the case, Your
18 Honor.

19 THE COURT: All right. Mr. Wallinger, are you
20 ready to go, sir?

21 MR. WALLINGER: Yes, Your Honor.

22 THE COURT: All right.

23 MR. WALLINGER: May it please the Court. And,
24 Your Honor, could I give you a brief introduction ---

25 THE COURT: Sure, go ahead.

1 MR. WALLINGER: --- one minute before I call any
2 witnesses?

3 THE COURT: Yes, sir.

4 MR. WALLINGER: Your Honor, I was appointed to
5 represent Mr. Dickerson and thereafter I obtained a copy
6 of the file of his defense counsel in the underlying
7 matter. I reviewed that. I also spoke with the Attorney
8 General and then I went and met Mr. Dickerson at his
9 facility in Lee County.

10 THE APPLICANT: Yes, sir.

11 MR. WALLINGER: And thereafter reviewed the
12 applicable law to be ready here today. We haven't had
13 the benefit of any discovery so some of the questions I
14 may ask of his former counsel, for example, may be ---

15 THE COURT: Let me help you out. I'm not going
16 to stop you.

17 MR. WALLINGER: Thank you.

18 THE COURT: I mean, even if he objects -- this
19 is how I run it. Even if he objects, this is non-jury,
20 you have a right to proffer. So I try to keep the record
21 straight but, you know, we'll get through it, just do the
22 best we can.

23 MR. WALLINGER: Thank you.

24 THE COURT: I'm not going to stop you. This is
25 his one and only chance, so.

1 MR. WALLINGER: Sure.

2 THE COURT: Don't worry about me. If I yell,
3 it's not anything -- it's not personal. So, I'm not
4 going to stop you from doing your job the best you can.

5 MR. WALLINGER: Thank you, Your Honor.

6 THE COURT: All right.

7 MR. WALLINGER: Mr. Dickerson was arrested and
8 indicted for killing his step-father that was not his
9 biological father but he considered his father.

10 THE COURT: Uh-huh.

11 MR. WALLINGER: The -- the underlying crime was
12 objectively considered to be gruesome in that it involved
13 an alleged blunt forced trauma injury to the head with a
14 hammer.

15 THE COURT: Uh-huh.

16 MR. WALLINGER: The State's motive and theory
17 was that the -- Mr. Dickerson had robbed his father to
18 get some money to buy drugs and then concealed his
19 actions by leaving the scene and not coming back for a
20 while.

21 THE COURT: All right.

22 MR. WALLINGER: The two stated grounds in the
23 PCR application are that Mr. Dickerson did not know and
24 understand and was not advised that he could appeal the
25 guilty plea sentence.

1 THE COURT: Uh-huh.

2 MR. WALLINGER: There was also an asserted
3 ground that he believed from the discussions with his
4 defense counsel that if he -- if he pled guilty and the
5 Court went through the plea process ---

6 THE COURT: He would get 20 years.

7 MR. WALLINGER: He'd get 20 years.

8 THE COURT: All right.

9 MR. WALLINGER: There may be some testimony
10 about those issues today, Your Honor, but I will also
11 mention that I feel it incumbent upon me to explore an
12 additional issue of whether he had a proper defense on
13 the issue of his competency and capacity and whether
14 essentially they should have litigated those issues more
15 so than was done.

16 THE COURT: Was there a Blair hearing wasn't had
17 ---

18 MR. WALLINGER: To my knowledge, there was not.
19 I will let his lawyer explain that.

20 THE COURT: Okay.

21 MR. WALLINGER: So I just wanted to give you the
22 preview, Your Honor, that I may be looking to see whether
23 there was effective assistance on those issues because to
24 me it jumped out as a matter from the records I have.

25 THE COURT: Okay.

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

8

1 MR. WALLINGER: Of course, I wasn't allowed to
2 take any depositions so I'm learning with you today.

3 At this time, I would call the -- his former counsel
4 ---

5 THE COURT: Mr. Rhodes Bailey, come around, Mr.
6 Bailey.

7 MR. WALLINGER: Thank you, Your Honor.

8 (J. RHODES BAILEY, having first been duly
9 sworn, testified as follows:)

10 THE COURT: All right. Are those new glasses,
11 Mr. Bailey?

12 THE WITNESS: I don't think so.

13 THE COURT: All right. Please take a seat.
14 Tell us your full name, spell your last name for the
15 record.

16 THE WITNESS: My name is John Rhodes Bailey. I
17 go by Rhodes, R-h-o-d-e-s. Spell my last?

18 THE COURT: Yeah, spell it -- you already did
19 some ---

20 THE WITNESS: Right, Bailey, B-a-i-l-e-y and
21 John is J-o-h-n.

22 THE COURT: All right. Mr. Wallinger.

23 DIRECT EXAMINATION

24 BY MR. WALLINGER:

25 Q Good morning, Mr. Bailey, how are you?

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

9

1 A Fine, how are you, sir?

2 Q Fine, thank you for asking. As I understand it, at
3 the time you came to represent Mr. Dickerson, you
4 were appointed to do so as your position in the
5 Public Defender's office, is that right?

6 A That's correct.

7 Q And is it correct then that at the time you were
8 appointed, Mr. Dickerson had already been arrested
9 for murder and armed robbery?

10 A That's right. When we end up with a murder case
11 though, we try and get down to the jail as quick as
12 possible, sometimes right when they're appointed or
13 -- let's just say the appointment process or the
14 assignment from our boss, Doug Strickler, was -- is
15 always quick, especially if it's in the news and
16 we're notified early.

17 So I -- we were -- it was assigned to me as
18 quickly as I'm sure our boss could so I could go down
19 and see him.

20 Q Okay. And thereafter I understand you served a
21 discovery motion get the State's evidence?

22 A Yes, sir.

23 Q Okay. Just for the record, how many times do you
24 think you met with Mr. Dickerson in the course of
25 your representation?

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

10

1 Q Let's see, I'm looking at my notes. I didn't write
2 everything down. (Pause.) I don't have that. We
3 keep it in the record, I don't have with me but I
4 would guess -- we made sure we -- I would say --
5 let's see, I represented him from June of '09 until
6 the plea that was August 2010. So I probably saw him
7 at least eight times, maybe more than that. I don't
8 have that on me.

9 Q Okay. Did the State perform -- let me back up. Did
10 you assert in response to any State discovery
11 requests that Mr. Dickerson would assert a defense of
12 lack of competency or lack of capacity or guilty but
13 mentally ill or not guilty by reason of insanity?

14 A We had -- we served the State with notice that we
15 would be -- while we were still on the trial docket,
16 we served the State with the affirmative defense of
17 not guilty by reason of insanity.

18 Q Okay. And thereafter did the State then decide to
19 have Mr. Dickerson evaluated by experts to assess his
20 competence and capacity?

21 A He was actually evaluated long before that. Early in
22 my conversations with Mr. Dickerson, it seemed that
23 we would need to get him evaluated. Both me, myself,
24 and the State prosecutor both signed an order -- or
25 both consented to an order that the Judge eventually

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

11

1 signed ordering him to be evaluated and the State had
2 access to those results.

3 I also submitted an ex parte order, not for
4 competency but for criminal responsibility which was
5 privileged to us but was also done by the Department
6 of Mental Health. That was done -- looking at it, it
7 took a little while because the Judge that was on the
8 bench was out of town and they were waiting on some
9 records, some records from his school. But it looks
10 like, I believe he was evaluated in November of '09.

11 MR. WALLINGER: Okay. Your Honor, may I
12 approach the witness?

13 THE COURT: Yes, sir.

14 (Pause.)

15 THE COURT: I was wondering why this was not
16 part of the record, it should have been made a part of
17 the record. It's not -- it's not in the file?

18 MR. CORNEY: Judge, I haven't seen this until
19 right now. I may have some objections to it.

20 THE COURT: All right, that's fine.

21 MR. WALLINGER: I'm going to let Your Honor see
22 it as soon as I have it marked.

23 THE COURT: Oh, no, that's fine. What I mean,
24 it should have been part of the record. I mean, it
25 should have been in this file, I don't know why.

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

12

1 MR. CORNEY: Judge, I wasn't privy to this. I
2 would assume this in the Public Defender's file which I
3 have not seen.

4 THE COURT: Well, it should be a matter of
5 public record, it should have been in the Clerk's files
6 and everybody else's file.

7 MR. CORNEY: And if it's in the Clerk's files, I
8 apologize, I should have pulled this, Your Honor.

9 THE COURT: That's fine.

10 MR. CORNEY: If he's -- I don't know if he's
11 marked it or introduced it. I do have an objection to
12 it.

13 THE COURT: What is it?

14 MR. CORNEY: Just based on the fact that the
15 examiner is not here in Court today to testify to this.
16 Anything contained in the report I believe would be -- a
17 statement submitted would be hearsay. I think he can
18 testify to what he recognizes from it and what he did as
19 a result of looking at this but for the truth of the
20 matter asserted in the report I think ---

21 THE COURT: All right. There's an exception to
22 the hearsay rule on this particular matter. Let's see, I
23 could say, business records, medical records ---

24 MR. CORNEY: I understand, Your Honor, I had to
25 object.

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

13

1 THE COURT: You did your job. Go ahead and mark
2 it over the State's objection. Go ahead.

3 (Whereupon, Plaintiff's Exhibit Number 1, DMH
4 Packet, was admitted into evidence.)

5 MR. WALLINGER: Your Honor, now at this time, I
6 hand to the witness Plaintiff's Exhibit Number 1 which is
7 a cover letter from DMH to Luck Campbell along with an
8 eight page evaluation report.

9 THE COURT: Okay.

10 Q Could you take a look at that for me?

11 (Pause.)

12 A I think I recognize this to be the report that went
13 to Ms. Campbell. And I remember -- I don't remember
14 specifically why but it looks like they had to
15 interview him numerous times, I should say about
16 three times. His initial interview was November 25th
17 of '09 and then they had to interview him again
18 February and then again in March. I don't remember
19 offhand why, I think it had something to do with
20 getting records from when he was younger.

21 But occasionally when we send them to get
22 evaluated, it takes -- you know, it's over a long
23 period of time. But without looking at it, I just --
24 I didn't recognize it.

25 (Pause.)

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

14

1 A Now, this might be -- you might not even have asked
2 this yet, but you might not want to talk about it
3 until later, but I did have him also evaluated by a
4 Dr. Thomas Martin independently that we got funds to
5 evaluate him ---

6 THE COURT: Have you got that evaluation, Mr.
7 Wallinger?

8 MR. WALINGER: I do not.

9 Q All right. Well, let's talk about this report first.
10 (Pause.)

11 Q If you could turn over to page 3 on the bottom where
12 it says, mental health history.

13 A Uh-huh.

14 Q And just to expedite this I'll quote, the author of
15 the report stated, Mr. Dickerson denied a history of
16 mental health treatment but he endorsed auditory,
17 visual and tactile hallucinations.

18 Do you see that language?

19 A Yes.

20 Q You were familiar with that information at the time
21 of your representation?

22 A Yes, I was.

23 Q Okay.

24 (Pause.)

25 Q All right. We'll turn over to page 4 and under the

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

15

1 section called, Current Presentation.

2 A Yes.

3 Q All right. Going down to about the fifth line, the
4 author states, he stated he was unable to read from
5 the form or spell the word world, you see that?

6 A Yes.

7 Q Was it your understanding at the time you represented
8 Mr. Dickerson that he could not read and write?

9 A He did tell me that he was illiterate.

10 Q Okay.

11 A And that was something I kept in mind when I reviewed
12 documents with him.

13 Q Okay.

14 A I -- I usually -- relevant as much as you can with
15 discovery, I usually sit down or it was typical that
16 I would go over all the pages with a client anyway,
17 even if they can read it.

18 Q Uh-huh.

19 A It's helpful for discussion, not just, here you go
20 look at this and then we'll talk about it. We -- we
21 can answer the questions, when we have time, about
22 it, so.

23 Q Okay.

24 A So I read -- I would usually review things with him,
25 you know, bit by bit when we were talking. I do that

1 even when my clients can read.

2 Q Okay. All right. And then going back to page 2
3 under, Educational History, the author/examiner
4 reported or indicated that, Mr. Dickerson reported he
5 discontinued his education during the 12th grade
6 because he just couldn't read. That's what it states
7 there, correct?

8 A Yes, that's what it states, yes.

9 Q Okay.

10 (Pause.)

11 MR. WALLINGER: Bear with me, Your Honor, I'm
12 just trying to make sure I cover everything.

13 THE COURT: That's fine.

14 (Pause.)

15 Q Go back to page 1 under the Notification section, the
16 middle of the page, about the third sentence it
17 states by the author, he, meaning Mr. Dickerson, did
18 not demonstrate a full understanding of the nature or
19 the purpose of the evaluation or the limitations to
20 confidentiality, period. Nonetheless, he signed a
21 form that explains these issues and agreed to
22 proceed. Is that correct?

23 A I mean, that's what he says, yes, sir.

24 Q Okay.

25 (Pause.)

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

17

1 Q All right. And then, if we go to page 6, just for
2 the Court's benefit, it appears, as stated in the
3 last half of the page by the author, Mr. Dickerson
4 was interviewed again in March of 2010 as a
5 supplement to the initial evaluation, is that
6 correct?

7 A Yes.

8 Q Okay. Then you get to the last page here, the final
9 paragraph that kind of sums up the opinions ---

10 A I'm sorry, which page?

11 Q The last page, 8.

12 A Yes.

13 Q The psychologist, Dr. Gaston (phonetic) said,
14 although he presented with memory and comprehension
15 difficulties as noted above, these appear to be part
16 of the attempts to appear cognitively impaired and
17 mentally ill, among other things, he found that
18 Robert was competent, had the capacity to understand
19 the procedure against him and to assist you in the
20 defense.

21 Is that the opinion of the examiner?

22 A It appears to be.

23 Q Okay.

24 MR. WALLINGER: Your Honor, I noted that Exhibit
25 1 had at the back a fax coversheet. I don't care about

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

18

1 that being a part of the record and I'm going to withdraw
2 that, with the Court's permission.

3 THE COURT: That's fine.

4 MR. WALLINGER: Thank you.

5 THE COURT: I mean without objection too.

6 MR. WALLINGER: All right.

7 MR. WALLINGER: The next exhibit I would like to
8 have marked for the record.

9 THE COURT: I beg your pardon, is this the
10 follow-up evaluation? Do you have a copy of it, Mr.
11 Corney?

12 MR. WALLINGER: Uh...

13 THE COURT: We'll stop and make it, we'll make
14 some extra copies.

15 MR. WALLINGER: That would be helpful, Your
16 Honor. It's the only one I have.

17 THE COURT: Oh, that's fine. Make three copies,
18 we'll be at ease while you do that.

19 MR. WALLINGER: Thank you.

20 THE COURT: Let's see, there's one copy. Let's
21 go ahead and make another copy of that too.

22 (The Court was in recess.)

23 THE COURT: I apologize for the delay.
24 Everybody has a copy of everything they need now.

25 MR. WALLINGER: I believe so, Your Honor.

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

19

1 THE COURT: All right.

2 MR. WALLINGER: All right. I would like to mark
3 another exhibit.

4 First of all, the Court had a copy made of
5 another report which I now mark as Exhibit 2.

6 THE COURT: You have the same objection, Mr.
7 Corney?

8 MR. CORNEY: Yes, Your Honor.

9 THE COURT: All right, overruled.

10 (Whereupon, Plaintiff's Exhibit Number 2, Report
11 of Criminal Capacity to Conform, was admitted
12 into evidence.)

13 Q I'm going to give you Plaintiff's Exhibit 2 which is
14 -- appears to be a supplement report of evaluation.
15 I noted in the top that it's got an additional date
16 of evaluation of February 24th, 2010, is that
17 correct?

18 A That's right.

19 Q Okay. And you were provided that as well?

20 A That's right. This is the criminal responsibility
21 evaluation.

22 THE COURT: This is the report, Mr. Bailey, that
23 you requested, is that correct?

24 THE WITNESS: Yes, sir, that's correct.

25 Q All right.

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

20

1 MR. WALLINGER: And may I mark another one,
2 Plaintiff's Exhibit 3?

3 THE COURT: And does Mr. Corney have a copy of
4 this?

5 MR. WALLINGER: I believe he does. I will ask
6 him now.

7 (Pause.)

8 MR. WALLINGER: Let me make sure I haven't
9 marked the same report twice.

10 THE COURT: Do you have it?

11 MR. CORNEY: I want to make sure that ---

12 THE COURT: Okay, that's fine.

13 MR. WALLINGER: Can I see Exhibit 2 just for a
14 brief moment?

15 (Pause.)

16 MR. WALLINGER: I'm sorry, Your Honor, I
17 remarked the same report. I withdraw number 3 briefly
18 and I'll mark another document.

19 Q Okay, did you consider the contents of Plaintiff's
20 Exhibit 2 ---

21 THE COURT: All right, hold on for a minute.
22 You withdraw number 3?

23 MR. WALLINGER: Yes, Your Honor, because I
24 marked Exhibit 3 which was a document I've already put
25 in.

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

21

1 THE COURT: That was Number 2?

2 MR. WALLINGER: Yes.

3 THE COURT: All right, that's fine.

4 MR. WALLINGER: So we'll just forget about that.

5 Q Did you consider the contents of Exhibit 2 in the
6 course of your representation of Mr. Dickerson?

7 A I did.

8 Q All right.

9 (Pause.)

10 THE COURT: You don't look happy. That's all
11 right.

12 Q Now, one of these reports references -- I'm sorry.
13 Some of the notes I saw referenced the fact that you
14 had had Dr. Martin do an independent assessment as
15 well, is that right?

16 A That's right, I did.

17 Q And Dr. Martin is Thomas Martin, a psychiatrist in
18 Columbia?

19 A Yes, that's right,

20 Q And he's a forensic psychiatrist.

21 A I believe that's right. I don't -- I don't have his
22 CV with me but.

23 Q All right. Was he on retainer with the Public
24 Defender or how did you get up with him?

25 A I'm pretty sure that we got an order -- we got an

1 order to -- for funding to get a, you know, a second
2 opinion.

3 Q Okay. Did you move for an independent exam, is that
4 what happened?

5 A Yes, that's correct.

6 Q All right. And I've never seen that motion, that's
7 why I asked.

8 A Yes, it's an ex parte thing so we don't have to share
9 the results with the Solicitor's office unless we
10 choose to.

11 Q All right. I have a copy of your file that I saw via
12 the subpoena, and I do not have a copy of any report
13 by Dr. Martin. Did he do a report?

14 A No, he did not do a report.

15 Q Okay. To your knowledge, what kind of work did he do
16 at your request?

17 A We had him evaluate Mr. Dickerson. We were there for
18 evaluations, me and my co-counsel, Jay Cooper --
19 James Cooper, III. And I made notes of his findings
20 myself. Basically ---

21 Q Was the evaluation at the County Jail?

22 A Yes, it was at the County Jail.

23 Q When was that done?

24 A August the 3rd.

25 Q Of?

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

23

1 A 2010.

2 Q Okay.

3 A And I can read my notes from those results if you
4 like or...

5 Q Well, let me ask you this.

6 A Sure.

7 Q Dr. Martin never provided a written opinion to you,
8 correct?

9 A That's right.

10 Q Did you have a conversation with him in which he
11 related his oral opinions, if any, at that time?

12 A Yes.

13 Q Just tell me generally what he related to you about
14 his findings or opinions?

15 A Basically he said -- he said that he thought Mr.
16 Dickerson was malingering, that he didn't think there
17 was anything wrong with him. I mean, I was -- I was
18 pretty convinced that Mr. Dickerson suffered from
19 some -- from some type of mental health issues and
20 that's why I asked for another evaluation, that's why
21 I asked for funding for it.

22 He did say that Mr. Dickerson was, you know,
23 some factors in his behavior could be that he had
24 been using drugs and also that he was diabetic which
25 certainly wouldn't help for, you know, chemical

1 balance. He could have some mental health side --
2 you know, side effects. These are things I later
3 brought up during mitigation that they could be, you
4 know, this is the best I could work with. But he
5 basically said that Mr. Dickerson wasn't mentally ill
6 and that he was embellishing it.

7 Q At the time?

8 A But that's what he said for -- that's what he related
9 to me and Mr. Cooper after evaluating Mr. Dickerson.

10 Q Okay. Did anybody else evaluate Mr. Dickerson at
11 your request?

12 A No.

13 Q Were any psychological tests administered to him?

14 A Dr. Martin did some tests. I don't know
15 specifically.

16 Q Okay. Are you aware of whether a psychiatrist can
17 administer a psychological test?

18 A I would assume so. I mean, I don't know what you
19 mean by the question, can psychiatrist do
20 psychological test?

21 Q Yes, a written test?

22 A Right, yes.

23 Q Okay. Can a psychiatrist administer, for example, the
24 Minnesota Multiphasic Personality Inventory Test?

25 A I think so.

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

25

1 Q Okay. Do you know that or are you speculating?

2 A I remember this test. I mean, I remember the
3 Minnesota test, I've heard it mentioned and I would
4 think that they would be able to.

5 Q Okay. So, in any event, to your knowledge then, you
6 don't know if any such tests were done?

7 A I don't remember specifically what tests were done.
8 He -- I can tell you that we didn't want him to write
9 a report and I think this is, I guess, when there's a
10 report, then there's, you know -- it wouldn't help
11 us. Any kind of -- we didn't ask him to do a report,
12 I should say.

13 Q It quietly went away?

14 THE COURT: A typical type of maneuver with
15 Public Defenders and other defense lawyers not to get a
16 written report when they think it's going to hurt.

17 THE WITNESS: Right.

18 THE COURT: I've made that observation. Go
19 ahead.

20 MR. WALLINGER: Thank you.

21 A We didn't think it would help to have documentation
22 that Mr. Dickerson was malingering so we didn't think
23 it was necessary to move -- to go further with it.

24 Q Okay. I'm going to hand you what's marked as
25 Plaintiff's Exhibit 3 which I'm going to show defense

1 counsel first.

2 (Pause.)

3 MR. CORNEY: Your Honor, my objection to this
4 would be kind of the same basis that -- I'm assuming Mr.
5 Bailey will be able to identify this as part of his file
6 and coming in for the reasonableness. But again, I think
7 those were prepared by an investigator or an officer of
8 some sort and we don't have them here today to testify to
9 that.

10 THE COURT: All right. Same ruling and what
11 I'll do if I have to at the end, I'll give you a chance
12 to respond in kind.

13 MR. CORNEY: Great, thank you, Judge.

14 THE COURT: All right.

15 (Whereupon, Plaintiff's Exhibit Number 3,
16 Richland County Sheriff's Department Advice of
17 Rights, was admitted into evidence.)

18 Q I'm going to hand you Exhibit 3 which is a packet of
19 documents. Do you recognize that as a Miranda form
20 signed by Mr. Dickerson together with a typewritten
21 statement that he had signed as part of the
22 Mirandization?

23 A Yes.

24 Q And this was part of your file and you were aware
25 that he had signed that, is that right?

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

27

1 A Yes.

2 Q Okay. If you'll turn to the first page, the Miranda
3 form, at the bottom there's a star and something
4 handwritten there. Do you see that?

5 A Right.

6 Q Okay. And do we know who the author of that is?

7 A I believe that that was Robert -- I can't remember
8 his -- let's see, no, no, no, not Robert. I'm sorry,
9 this was the officer. I don't know which -- which
10 officer would have -- that initialed this.

11 Q One of the interviewing officers made a note at the
12 bottom of the page that Mr. Dickerson initialed,
13 correct?

14 A Right.

15 Q And what does the note by the officer say?

16 A It says, doesn't read very well but can spell name
17 and other few words, can spell cat, stop, dog.

18 Q Okay. Was it your belief in representing Mr.
19 Dickerson that they would attempt to introduce his
20 confession at trial to prove their case against him?

21 A Oh, I'm sure they would attempt to introduce it.

22 Q Okay.

23 MR. WALLINGER: I'd like to mark another
24 document. This will be number 4.

25 THE COURT: All right.

1 (Whereupon, Plaintiff's Exhibit Number 4,
2 Richland County Sheriff's Department Advice of
3 Rights Form Dated 06-08-09, was admitted into
4 evidence.)

5 Q Now with regard to Plaintiff's 3, he did not actually
6 admit to a murder or robbery in that document,
7 correct?

8 A I'll have to review it, it's been a little while.

9 Q Sure, take your time.

10 (Pause.)

11 A Without looking at it more closely, I don't think he
12 says he murdered his dad in the statement, if that's
13 what your question is.

14 Q He admitted to a lot of things that weekend but it
15 doesn't indicate in there that he struck his father
16 with a hammer?

17 A Right.

18 Q Okay. Then to move on to 4, he was interrogated the
19 next day and Mirandized again, correct?

20 A It is my understanding.

21 Q Okay. And once again, the form has been signed by
22 him at the bottom and there's been a typewritten
23 statement prepared by the police that he signed on
24 each page, correct?

25 A To the best that I can see, yes.

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

29

1 Q Okay. And in that form, generally speaking, he
2 admitted to things relating to the death of his
3 father that he hadn't acknowledged previously,
4 correct?

5 A Right.

6 Q Okay. Was there ever a Denno hearing in the trial
7 phase to attempt to determine whether those
8 statements or confessions were admissible at trial?

9 A We definitely would have had one had the case
10 proceeded to trial but it ended up pleading out,
11 turning into a plea, when we were up on the docket
12 for trial.

13 Q Okay. So there was no hearing held to rule on the
14 admissibility of those statements?

15 A That's right. I mean, we certainly would have made
16 arguments especially dealing with his literacy and
17 the willingness and understanding of the statements
18 that he gave but it didn't get to that point.

19 Q Okay. Was there ever a conversation with Mr.
20 Dickerson to discuss, from a strategic standpoint,
21 whether that could be attempted as far as the trial
22 phase?

23 A I don't remember. I mean, I think that whenever we
24 have a statement, it's pretty standard that we have a
25 Denno hearing. I don't remember if we explained to

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1 Mr. Dickerson every aspect of what we had done. We
2 were preparing for trial at this point until it ended
3 up being a plea so I'm pretty sure we were, you know,
4 ready for a Denno hearing.

5 Q Okay.

6 A I'm sure we talked to him about his statements. I
7 don't remember how thoroughly we discussed pre-trial
8 motions with him.

9 Q Okay.

10 MR. WALLINGER: I'd like to mark another
11 document. This will be Plaintiff's 5. I've showed it to
12 defense counsel. This is a multipacket document, if you
13 could take a look at that.

14 THE COURT: Yes, sir.

15 MR. CORNEY: Without objection, Your Honor,
16 pending Mr. Bailey's identification of that document. He
17 prepared it.

18 THE COURT: All right.

19 (Whereupon, Plaintiff's Exhibit Number 5, Reason
20 of Insanity Research Memo, was admitted into
21 evidence.)

22 Q Do you recognize that as being a memo that was in the
23 file maintained by the Public Defender's office
24 relative to Mr. Dickerson's case?

25 A Yes, I do.

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1 Q And that is essentially a memo to you by another
2 person explaining in great detail the legal standards
3 for proof of guilty by reason of insanity, not guilty
4 -- I'm sorry, not guilty by reason of insanity,
5 guilty but mentally ill and all those kind of things,
6 correct?

7 A That's right, I had Taylor Bell who was at the time a
8 clerk and now a lawyer at the Richland County Public
9 Defender's office, I asked him to research the
10 statutes and draw distinctions between ---

11 THE COURT: All right, hold on, Mr. Bailey.

12 Yes, sir, Mr. Corney.

13 MR. CORNEY: Your Honor, just hearing his
14 testimony, I'm going to object to that on the grounds
15 that whoever prepared that is not here today to testify
16 to it. I'm happy with him saying what he did as a result
17 of that and what he saw on that report. The same
18 objection that I posed.

19 THE COURT: What now?

20 MR. CORNEY: I need to slow down.

21 THE COURT: That's all right.

22 MR. CORNEY: Now that he's testified as to who
23 prepared that report, I'm going to pose an objection to
24 it because I don't think the person that prepared that is
25 in the courtroom today. I'm fine with it coming in to

1 prove or for him to testify as to what he did as a result
2 of reading that report but as to the truth of the matter
3 asserted in the report again, I move on the hearsay
4 grounds to ---

5 THE COURT: All right, overruled.

6 MR. CORNEY: Thank you, Judge.

7 Q All right, Mr. Bailey, did you have that information
8 prepared to review specifically for the Dickerson
9 case?

10 A I did.

11 Q Okay. And prior to receiving that memo, had you ever
12 defended a criminal case where a client had to assert
13 either an NGRI or a lack of competency type of
14 defense that related to psychiatric or psychological
15 issues?

16 A I don't remember the dates but I know I've had other
17 clients that were found -- that were guilty but
18 mentally ill. I had not asserted a not guilty by
19 reason of insanity defense before so that was why I
20 wanted, you know, a better and more thorough
21 understanding of the distinction. And, of course,
22 it's a pretty big distinction.

23 Q Okay. And had you ever defended a murder case prior
24 to Mr. Dickerson's case?

25 A I've had a number of murder cases. I believe that

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1 Mr. Dickerson might have been the first murder case
2 that was assigned to me.

3 Q Okay. Had you ever by yourself tried a murder case
4 prior to Mr. Dickerson's case?

5 A We -- no but we never tried our cases -- we never
6 tried cases by ourselves. We always had a second
7 chair in the Public Defender's office, as was policy.

8 Q Okay, had you ever tried a murder case with the
9 assistance of another lawyer prior to Mr. Dickerson's
10 case?

11 A No.

12 Q All right.

13 (Pause.)

14 MR. CORNEY: The transcript's already part of
15 the record, Your Honor.

16 THE COURT: Yeah, yeah.

17 MR. WALLINGER: Your Honor, I'm going to have
18 him refer to the transcript and if I don't need to mark
19 it as my own exhibit, that's fine but I'd like to give
20 him something to look at.

21 THE COURT: Yeah.

22 THE WITNESS: I've got a copy.

23 THE COURT: You've got a copy?

24 THE WITNESS: I have a copy of the transcript.

25 Q Okay. I understand that there is a transcript

1 already in the Court's records of the guilty plea
2 hearing on August 31, 2010. Do you that in front of
3 you?

4 A Yes, I was provided a copy of this, I assume it's the
5 same one from the Attorney General's office, they
6 provided me with a copy.

7 Q All Right. Let's turn over to page 29 of the
8 transcript. And I'm going to cherry pick a little
9 bit and I'll expect opposing counsel will talk to
10 whatever they want from it as well. It's already in
11 the record and His Honor can read it.

12 But page 29, if you can read lines 9 through 13
13 which I understand to be your -- part of your
14 statement to the Court in mitigation.

15 Q Okay. Starting at line number 9, and I say this
16 because I do believe that although he has been found
17 competent, I think that Mr. Dickerson was not just
18 out of character but in some ways somewhat out of his
19 mind. He understood what he did when it was over. I
20 think he wasn't entirely clear.

21 Q Okay. Well, let's turn over to page 30, look at
22 around the middle of the page, if you could read
23 lines 19 through 22, please.

24 A All right. I think he was out of his mind at the
25 time but I believe that he -- he is responsible, Your

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1 Honor. I think that he -- and he has never said, I'm
2 not responsible, I've heard a lot.

3 Q Okay. And then finally if you will turn to page 31.
4 If you'll just relate your statements at lines 2
5 through 5, thank you.

6 A Additionally -- additionally, he was found to be a
7 pretty low functioning IQ and he also has been
8 illiterate. He spent all of his time in -- he spent
9 all of his time in special ed classes when he was
10 young.

11 Q All right. I'm through with that document. Let's go
12 to the timeframe for the guilty plea. Now when the
13 guilty plea was taken, was the case up for trial that
14 week?

15 A I believe so.

16 Q Okay. And had the jury been selected yet?

17 A No, I don't think so.

18 Q Was the -- was it your expectation that the case
19 would be tried during the term that the guilty plea
20 was held if the guilty plea had not been taken?

21 A Yes.

22 Q Okay. So the back was to the wall kind of thing?

23 A Right.

24 Q And if you could, please, summarize what, if any,
25 plea negotiations transpired prior to and up to the

1 term of court in which the guilty plea was held.

2 Q Well, the Solicitors were -- basically said they were
3 asking for life and that they wouldn't back off of
4 that. The -- you know, obviously there were
5 confessions from Mr. Dickerson. They were -- you
6 know, they had the number of times, there were
7 numbers of witnesses to it. Additionally, there were
8 jail phone conversations, they provided tapes where
9 he was speaking to, I believe his wife, and I
10 listened to those where he said he had killed his
11 step-father and he was real remorseful and he was
12 crying. So they had recordings of confessions and of
13 course there was the written confession.

14 Essentially we were on the trial docket,
15 although we didn't think it was a particularly
16 winnable case, we were trying to get the Solicitor's
17 office to back off of life which they seemed pretty
18 insistent about, asking for life. The -- as -- as
19 time -- you know, we felt like our only course was,
20 you know, was an insanity defense. And genuinely
21 believed that -- believed that Mr. Dickerson had
22 mental health issues. He was a very pleasant guy to
23 deal with. He seemed very gentle every time I spoke
24 with him and I believed him when he said that he
25 heard voices. I certainly believed him when he said

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1 that his mother had been beaten by his step-father
2 and they were abused when they were children and I
3 would go on to say this during mitigation. But we
4 didn't have -- we believed that the insanity defense
5 was our best option.

6 So I researched it, I had -- we had him
7 obviously evaluated for competency, then we had him
8 evaluated for criminal responsibility, and then we
9 enlisted a independent non-state psychiatrist to
10 evaluate him also. This was all in preparation of
11 this defense.

12 Unfortunately, you know, there was no really --
13 there was nowhere else to go when it came to
14 evaluations. Everyone said that he was competent.
15 Everyone, you know -- there was also people said they
16 thought he was malingering and that he was
17 embellishing. And this left us without any type of
18 expert to support our assertion that he was not
19 guilty by reason of insanity.

20 This was basically going to leave us at trial to
21 basically just have Mr. Dickerson testify himself.
22 And then, of course, I could later argue in closing
23 argument or otherwise -- or, you know, in cross-
24 examining maybe some of the State's witnesses, you
25 know, I could argue, well, you know, he was on drugs.

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1 He has IQ problems and he was diabetic and he wasn't
2 in his right mind.

3 You know, I believe every -- I stand by the
4 things I said in -- in, you know, mitigation that I
5 think that he was in character and that I think that
6 his mind, you know, wasn't functioning the way it
7 should have. But, you know, you can still be
8 competent and behave badly or be influenced by
9 external factors. We -- we tried every avenue we
10 could but when it comes to witnesses, it didn't leave
11 us with much of a defense.

12 However, we were prepared to go full force with
13 this insanity defense. I remember the Solicitors
14 weren't very happy when we served them with the
15 insanity defense, it was like a curve ball. They
16 thought they had an easy slam dunk with these
17 confessions. They weren't pleased that we served
18 them with the insanity defense but that was -- that
19 was pretty much, tactically, I felt, our only sound
20 approach at the time.

21 And as -- as we got closer, I spoke with the
22 Solicitor's office, we met with the trial judge who
23 became the plea judge, Judge Cooper. I was getting
24 the impression that -- that if Mr. Dickerson pled
25 guilty or I feel like the State was kind of backing

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1 off their demand of life and we believed that we
2 could get him something less than a life sentence,
3 despite -- despite the obstacles against him, despite
4 the violent nature of this crime, it was a pretty
5 violent crime.

6 So we spoke with him, Mr. Cooper and myself, and
7 we said, you know, here -- you know, here's the deal.
8 We can -- we think that -- you know, we -- we feel
9 confident although obviously we can't guarantee it
10 but we feel confident that we can get a sentence that
11 is less than life which is at least a chance for you
12 to walk out of jail one day if you live long enough.
13 We made it really clear that -- that our chances at
14 trial, we didn't have much support for the insanity
15 defense. We would argue it fervently but that we
16 didn't have a lot of -- we didn't have any of our own
17 evidence to present to back it up other than his own
18 testimony.

19 So that's kind of what led up to it. When it
20 looked like we had a chance to get him 30 or 35 years
21 as opposed to life, we -- we weighed the options, we
22 discussed it with him and Mr. Dickerson wanted to
23 move forward with the guilty plea.

24 Q Okay. Just to clarify then, there were no plea
25 negotiations prior to the term of court during which

1 the plea was held, is that right?

2 A Right. They weren't -- they weren't backing -- the
3 Solicitor's office was not willing to work with us
4 for a long time. So -- you know, so we were
5 preparing for trial.

6 Q Okay, did they offer, prior to the court term, the
7 option of him pleading as charged and getting life?

8 A Did they offer that?

9 Q Yes.

10 A That is your question? I think they just said --
11 they essentially just said, we're asking for life.
12 And we wanted to -- you know, we wanted to do better
13 for Mr. Dickerson. You know, we -- they did kind of
14 hint when -- when we said we weren't going to plead
15 to life or we weren't interested in that, I believe
16 that they kind of said, well, this can be a death
17 penalty case but I think they said that kind of near
18 the end and that was just sort of posturing. I don't
19 think that they had any intention of serving the
20 death notice.

21 However, I believe, if I remember correctly, he
22 could have been LWOP'd, served with life without
23 parole due to an armed robbery on his record. I
24 don't know if that just stayed out there -- that's --
25 one of the Solicitor's certainly doesn't hesitate to

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1 serve LWOP, one that was involved in this case, and
2 that was sort of another thing.

3 So keeping him out of LWOP or keeping him out of
4 any kind of life sentence was my number one priority.

5 Q Okay. What I want to do then, just to be sure the
6 record is clear, prior to the term of court at which
7 the case was scheduled for trial, there was no
8 negotiations between you and any of the prosecutors
9 to resolve this case with a specific plea in return
10 for a specific recommendation or sentence, is that
11 right?

12 A I mean, we negotiated if you can call it that. I
13 talked to them, I said, come on and give us 30. They
14 were like, oh, this is so terrible, this is the worse
15 case I've ever seen, we're going to ask for life.
16 And I'm like, well, 30, you know, let's move to 30.
17 You know, we had a bunch of discussions about it.
18 And then they said -- and I believe in one of the
19 conversations which I made notes about, the Solicitor
20 said, well, I'll ask the family. The family seems to
21 want life but I'll ask the family.

22 So we negotiated about it but to answer -- if
23 your question is, was there ever -- did they ever
24 finally agree to get a number in exchange for a plea,
25 the answer is no, not until -- not until right up on

1 the eve of trial did they back off life.

2 Q Okay. So you -- you attempted to get them to make a
3 deal and they were not playing ball with you prior to
4 the court term ---

5 A Well, you play ball with yourself a lot of times as
6 the Public Defender. You try to get them to make a
7 deal but I couldn't force one out of them.

8 Q Okay. And so they said, we're going to trial during
9 this particular court term. They had the family
10 members at court, correct?

11 A For the guilty plea? Or I guess -- I mean, they were
12 there.

13 Q All right. Well, was it your understanding when you
14 got to Court on the Monday of the trial term that
15 y'all were going to pick a jury or that you were
16 going to try and resolve it?

17 A I don't specifically remember when we -- I knew we
18 were up for trial and we were -- we were ready. I
19 mean, we were ready to move forward with a defense of
20 not guilty by reason of insanity. And we wanted to
21 try this case. I mean, you know, I -- I didn't think
22 the likelihood of winning was great but Mr. Cooper
23 and I felt confident in our ability to defend him
24 fervently.

25 And I don't remember whether it was like the

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1 weekend before that we kind of -- we realized that
2 this was moving in a plea direction or whether it was
3 that Monday. I know we had conversations with them
4 the day before court. But I can't tell you whether
5 it was, you know, an hour before or if it was the day
6 -- you know, the night before we were talking to him
7 at the jail. You know -- but -- but it became
8 apparent that it was moving in a plea direction. Mr.
9 Dickerson was not -- he wasn't really very zealous
10 about going forward with the trial the closer we got
11 to it.

12 Q All right. So was this guilty plea on a Monday? I
13 don't know what day August 31 was.

14 A It could have been, I don't know.

15 MR. WALLINGER: Can we have the Court take
16 judicial notice of what day of the week that was?

17 THE COURT: If you tell me what it is.

18 MR. WALLINGER: I need to know, I don't have --
19 I don't have my iPhone, Your Honor. I feel completely
20 inept on that issue, but.

21 THE COURT: This is what year?

22 MR. WALLINGER: August 31, 2010.

23 THE COURT: Oh, give us a minute. Ms. Mills
24 over here, she's from Walterboro. They can track that
25 down in no time.

1 (Pause.)

2 THE COURT: It was a Tuesday, apparently.

3 MR. WALLINGER: Okay.

4 Q So let's just kind of reconstruct it as best we can.
5 The guilty plea was on a Tuesday. Was it your
6 understanding -- do your recall if you made an
7 agreement to have a guilty plea on Monday but did it
8 on Tuesday or did you reach an agreement to have a
9 plea on the day it was held?

10 A It is definitely a Tuesday, is that right?

11 Q Yes.

12 A We did determine that August 31st, 2010 was a
13 Tuesday. You know, there's so many cases that -- and
14 Solicitors as well as, you know, Public Defenders and
15 defense lawyers can attest to this. There's so many
16 cases that when you're on the docket for that week,
17 you may be first, you may be second, I believe we
18 were probably first because we were a murder case.

19 Monday comes around, there's jury
20 qualifications, depending on how long that takes,
21 depending on the Judge, sometimes nothing gets done
22 on Monday at all. We probably had a meeting with
23 Judge Cooper that day and he said, what's going on
24 with this case and we kind of talked about it.
25 Sometimes the Solicitors aren't willing to speak with

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1 you until after -- you know, after you've kind of
2 done an assessment and you've got -- you've got an
3 adult in the room like a judge to, you know, kind of,
4 you know, talk about this case.

5 And finally a dialogue opened up. I remember --
6 I'm guessing it was probably -- I could be wrong, it
7 was probably Monday before that we finally started
8 talking about this or it was early Tuesday. I don't
9 ---

10 Q Okay. Now you mentioned co-counsel, Mr. Cooper, who
11 is he?

12 A That's right, James Cooper.

13 Q Is he -- was he senior to you or how would you
14 describe ---

15 A I mean, he was senior to me by a certain amount. At
16 this point I had been at the Public Defender's office
17 for, at the time of this plea, and obviously murder
18 cases go on for a long time, I had been in the Public
19 Defender's office for three years. He was -- he -- I
20 would consider my senior by six months or so.

21 Q Okay. Did he have authority to veto anything you did
22 or didn't do?

23 A No. I was the first chair. But he ---

24 Q What was his role then?

25 A His role was essentially co-counsel. You know, you

1 talk about case theory, you -- you want to talk about
2 approaches. You frequently, especially with a case,
3 you know, as serious and potentially complicated as
4 this, it helps to have co-counsel, it helps to have
5 somebody to consult with.

6 So we were working together on it as a team.
7 But my last -- I mean, I was -- you know, Mr.
8 Dickerson was my client first. So, you know ---

9 Q Okay.

10 A --- the buck definitely stops with me.

11 Q Okay.

12 THE COURT: I'm going to stop you, Mr.
13 Wallinger. I need to see you gentlemen back in chambers
14 for a second ---

15 MR. WALLINGER: Yes, Your Honor.

16 THE COURT: --- to discuss an issue. We'll be
17 at ease.

18 (The Court was in recess.)

19 THE COURT: Let the record reflect that I had a
20 discussion in chambers with Mr. Wallinger and Mr. Corney
21 and probably it's something I should have done in the
22 beginning of this case for Mr. Dickerson's benefit.

23 I think it was May 20th, 2010 when I officiated
24 Mr. Rhodes Bailey's marriage and is that a conflict?
25 Maybe it is, maybe it isn't. But I thought I needed to

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1 disclose this to everybody involved and let you put
2 anything on the record you thought was necessary, Mr.
3 Wallinger.

4 In addition, if we continue with this hearing, I
5 will leave that issue open for you to supplement the
6 record with any objection you might have later on. I'll
7 put it that way.

8 Is that fair enough? But you did discuss it
9 without client and let me know how he feels.

10 MR. WALLINGER: Your Honor, I've talked with
11 Mr. Dickerson at the break and explained what you just
12 related. At this time, we have no objection to your
13 presiding and we don't anticipate having any objection.

14 THE COURT: All right. But out of an abundance
15 of caution, still, I'll leave that -- I will still leave
16 that issue open for you to raise at any time you like.

17 MR. WALLINGER: Thank you.

18 THE COURT: If you so desire after -- you know,
19 through the rest of this hearing up until the time I rule
20 and even after I rule if you want to interpose some
21 objection or some additional information or feelings
22 about how your client ---

23 MR. WALLINGER: Sure

24 THE COURT: You understand. But now or until I
25 rule and even after I rule if you want to interpose an

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1 objection or something, I'm going to leave the record
2 open.

3 MR. WALLINGER: Okay.

4 THE COURT: For that specific reason.

5 MR. WALLINGER: And Mr. Dickerson would probably
6 want me to note in the record that he's a Carolina fan.
7 So I did that.

8 THE COURT: Okay. That's good enough.

9 MR. WALLINGER: We're ready to go forward.

10 THE COURT: All right, go ahead, Mr. Wallinger.

11 DIRECT EXAMINATION CONTINUES

12 BY MR. WALLINGER:

13 Q All right. Before the break we were discussing the
14 period around the court term and how the plea
15 negotiations began and proceeded. I would like to
16 follow-up with that briefly. And I'm not so much
17 interested in hearing about what discussions you had
18 with the other Presiding Judge and the Public
19 Defender but what I do want to understand is what
20 specifically Mr. Dickerson knew from you and what his
21 understandings and expectations would be during that
22 time period.

23 So with that, could you please explain to me how
24 specifically Mr. Dickerson and/or you came to the
25 point of deciding to have a guilty plea instead of a

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1 trial?

2 A Mr. Dickerson and I and also Mr. Cooper, I think it's
3 sometimes beneficial, especially when, you know, it's
4 such a serious decision, we -- we -- all three of us
5 met, I kind of like to have the whole, you know, team
6 there. I think we basically just were talking with
7 him and we said, you know, there's a lot -- you're
8 facing a lot of obstacles if we go to trial. If you
9 lose, they're definitely -- well, almost surely the
10 Judge will sentence you to life probably. There's a
11 chance that we can avoid a full life sentence if we
12 plead guilty or if you plead guilty today.

13 We discussed it and Mr. Dickerson frequently
14 expressed his remorse about -- you know, about his
15 father. He always was really remorseful, I mean,
16 from the very first time I met him. He was
17 frequently emotional, tearful and from my
18 conversations with him, I believe that he wanted to
19 take responsibility for it. He, you know -- he may
20 have wanted to even take responsibility for it sooner
21 than we agreed to a guilty plea. I mean, I'm not
22 saying we -- I'm just saying we were always planning
23 for a trial unless we were -- in case we were going
24 to trial. I'm sure we made it clear to him that
25 there was not -- you know, we didn't have any

1 evidence to present supporting our mental health
2 defense other than -- well, the only evidence we
3 would be able to present was him saying that he had
4 voices in his head.

5 And I remember Mr. Cooper even asking him at one
6 point, and I believe this is in the transcript, he
7 said, you know, Robert, this is up to you, do you
8 want to go forward and fight this or do you want to
9 plead guilty? And, you know, if you -- you have
10 expressed that you want to take responsibility for
11 this, then we can do it as a guilty plea and I think,
12 you know, the biggest advantage to that is that we
13 can probably keep you from a life sentence.

14 Q Okay. Prior to that meeting and discussion, had you
15 received any understanding from either the Solicitor
16 or from the Judge presiding that week, as to what the
17 probable sentence would be if Mr. Dickerson pled to
18 the charges instead of going to trial?

19 A Had I received any assurances?

20 Q Or any -- any general idea as to what the probable
21 sentence could or would be.

22 A In our -- I met with, you know, the Solicitor and the
23 Solicitor finally was willing to at least discuss it
24 with us. And then meeting with the Judge, you know,
25 he just kind of wanted to know generally the status

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1 of the case, he asked the details of the case, things
2 like that. I -- I just got a general impression
3 after a meeting in which the Solicitor finally was
4 willing to talk about it, that Mr. Dickerson would
5 get a sentence other than life. I felt confident --
6 you know, I felt confident because we finally, you
7 know, were able to have a discussion with the
8 Solicitor.

9 The Solicitor said that they, you know, still
10 may be asking for life but they kind of backed -- you
11 know, they backed off the insistence so much. You
12 know, I told Robert, I said, this is what I think is
13 going to happen but there is no assurance. As every
14 client I go through, I say, even if they -- you know,
15 no matter -- you know, it's -- you know, I can't --
16 you know, I can tell you that I think the sun's going
17 to come up tomorrow but I can't guarantee you it's
18 going to come up tomorrow. And, you know, I can't --
19 I can't speak to what the Judge is going to sentence.
20 The Judge is, you know, going to, I think --
21 certainly with not as much confidence as whether or
22 not the sun is going to come up, you know, I think he
23 will sentence you to something that doesn't involve
24 life but I don't know. You know, I cannot tell you
25 that for sure but I feel as confident as I can at

1 this point or I feel pretty confident that we can
2 persuade the Judge, and the Solicitor's office is not
3 as vehement as they were, to give you something less
4 that a life sentence.

5 Now, the Solicitor's office frequently -- you
6 know, they don't -- you now, they -- they have to
7 please the victims so, you know, they -- they
8 forcefully argue or make their point for a tough
9 sentence on the record.

10 Q Okay. So to paraphrase then, am I accurately -- am I
11 understanding accurately that what you would have
12 conveyed to Mr. Dickerson was that if he pled to
13 the charges, he would -- he could get life but he
14 could get less than life?

15 A I told him I thought he would get less than life and
16 I said, you know, I can't guarantee that but if we go
17 to trial and you lose, I'm pretty -- I'm pretty
18 certain, in my experience, that you will be given
19 life.

20 Also, he had expressed, you know,
21 responsibility, he didn't seem to want to fight the
22 charges against him. He didn't want -- you know,
23 want to assert innocence so much. He seemed to want
24 to take responsibility in our conversations.

25 Q Okay..

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1 A I mean, he knew he was going to -- he knew that it
2 was likely he was going to jail for decades no matter
3 what.

4 Q All right. So there was never a written plea
5 agreement, correct?

6 A Very rarely was there a written plea agreement in my
7 four years in the Public Defender's office.
8 Occasionally they might write something down that
9 said --- I mean, very rarely. For a while, I think,
10 they were trying to do them and I got like -- I would
11 get an offer that said something like -- in my mail
12 that would say, we'll let you plea to PWID -- cocaine
13 second to a PWID first. But normally they weren't
14 written.

15 Q Okay. And I'm just trying to make sure the record is
16 clear about this. There was no -- was there any
17 agreement as to whether the State would recommend a
18 specific sentence if Mr. Dickerson pled guilty?

19 A No. No assurance, no, absolutely not.

20 Q Okay. And from one's reading of the transcript, one
21 can infer that they were sort of revved up and ready
22 to tell the Judge all the sorted details and convince
23 him to give the biggest sentence possible?

24 A Well, there was a relatively new Solicitor that was
25 working under one of the head Solicitors. And I

1 don't know -- I can't even remember right now if Ms.
2 Campbell was at the guilty plea. Frequently she
3 would just show up for trials and if -- or she would
4 pass them on to younger -- if it pled guilty, I guess
5 she, you know, wanted to spend her time differently.
6 So a lot of times if a trial pled out, she wouldn't
7 show up.

8 I believe on this she may -- I can't -- I guess
9 she was there but she let Joanne McDuffie do most of
10 the talking and she -- she didn't say so much as
11 McDuffie and Nicole Simpson. But I remember very
12 clearly that in chambers before the plea, she said,
13 well, Nicole Simpson hasn't tried a lot of cases,
14 we'd like her to practice her opening statement
15 during the -- during the guilty plea. And I objected
16 to that, made a note on the record, said this is
17 really serious business, I don't think this should be
18 a trial run for practice for somebody during Mr.
19 Dickerson's guilty plea. I don't really find it
20 respectful and I don't think it's appropriate. And
21 you'll see that I said that there in the record
22 probably.

23 So, I think that that was another reason -- I
24 mean, and -- and, you know -- and this is certainly
25 no disrespect to Ms. Simpson but I think that they

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1 were -- they were very revved up. You know, I think
2 that, you know, they -- they were prepared for a
3 trial and sometimes Solicitors, young Solicitors, and
4 I'm sure young Public Defenders, want to make the
5 most of -- of -- of -- of an experience in court to,
6 you know, for practice or whatever else.

7 Q Okay. Just to back up and be clear because I can't
8 remember exactly what you said earlier. Did you have
9 a conversation with Mr. Dickerson before he agreed to
10 plead guilty in which you explained that if you went
11 to trial, you would have a Denno hearing to try to
12 suppress his confessions?

13 A I don't remember every conversation we had with him.
14 about pre-trial tactics. I -- I think that we talked
15 to him about statements and I'm sure we mentioned
16 that arguments would be made to suppress them, that's
17 kind of standard. You know, we couldn't really have a
18 conversation with him about his statement they were
19 going to introduce without talking about how we would
20 respond to it. I don't remember how -- you know, we
21 also had some other pre-trial motions. I don't
22 remember how extensive the conversation was.

23 Q Okay. Prior to his agreement to enter a guilty plea,
24 did you have a conversation with him to explain that
25 you could have a Blair hearing to try to contest his

1 competency or capacity?

2 A I don't remember. I know that -- I know that Judge
3 Cooper did review the records and find him competent
4 during the guilty plea.

5 Q Okay. And in reviewing the records, you mean he read
6 the reports which had been offered already?

7 A That's right.

8 Q Okay. But there was no cross-examination by you of
9 any of those documents? The Judge read them and took
10 them as they were, correct?

11 A Right. Judge Cooper didn't ask me any questions.

12 Q Okay. And there was never a Blair hearing held,
13 correct?

14 A You know, I had some Blair hearings -- I don't --
15 it's been a while. Sometimes I remember the Blair
16 hearing not being much more than a couple of
17 questions, you know. I mean, I -- we wanted to make
18 sure that Judge Cooper reviewed it and made a finding
19 on the record. We didn't ask him to ask further
20 questions and he chose not to.

21 Q So the short of it is, there is no transcript of a
22 Blair hearing and you don't remember having one,
23 right?

24 A I -- I, you know, if -- what's in the transcript is
25 in the transcript.

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1 Q Okay. You never cross-examined the State's doctors
2 in open court?

3 A I spoke to -- I wouldn't call them the State's -- I
4 mean, they were my doctors too. I talked to -- I
5 mean, they did an ex parte examination for me that
6 the State didn't get to see until we submitted it to
7 the Judge for -- during the guilty plea.

8 Q Please understand I'm not suggesting bias. I'm just
9 saying they work for the State of South Carolina the
10 Department of Mental Health, right?

11 A Mr. Gaston -- hold on, I'm trying to find. I spoke
12 with him on the phone because whenever a doctor says
13 my client is malingering, I want to know more about
14 it, especially when I think my client is -- when I
15 initially think my client is mentally ill. So I
16 remember talking to him on the phone and he said --
17 and basically he said, no, he's malingering. It was
18 Dr. Michael Gaston. And I always -- it's just pretty
19 normal for me to call the doctor. I don't want to
20 just take the report, I want to understand it better.
21 I want to -- you know, I want to understand but in
22 this case, they evaluated him three times for a
23 competency evaluation and a fourth time for the
24 criminally responsible.

25 And so, you know, their results were more

1 harmful to our case than the State's case because the
2 State's say he was competent and they would present
3 that evidence. But I certainly spoke with Dr. Gaston
4 and I wanted to better understand. And, you know,
5 you want to kick the tires yourself.

6 Q Okay. So did you ever consider -- prior to the
7 decision by Mr. Dickerson to enter a plea, did you
8 ever consider selecting a jury, having a Denno and
9 Blair hearing, seeing how those rulings went and then
10 thinking about pleading guilty in the middle of the
11 trial at that point?

12 A You know, I've certainly been in situations where
13 that happened. Mr. Dickerson did not seem interested
14 enough to go through these, you know, pre-trial
15 matters. I mean, it became evident it was going to
16 be a guilty plea. I didn't see any reason to go
17 through that just to posture when it wasn't going to
18 make any difference in the long run. You know, I'm
19 not going to drag him through the pre-trial hearings
20 if he's decided he wants to plead guilty. And I
21 didn't -- I don't think anything would have
22 benefited.

23 Q Okay.

24 A If I had thought it would have helped, if I thought
25 we could have got the State down by doing the jury

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1 first, all this kind of stuff, I would have urged him
2 to stick with it longer but ---

3 Q All right..

4 A --- there wasn't any benefit from doing that.

5 Q Okay. We can agree he was in his early 50's at the
6 time of his guilty plea, right?

7 A Right.

8 Q Okay. If he pled guilty to the charges as lodged,
9 there was potential for the Judge to sentence him to
10 life, correct?

11 A Absolute -- yes, sir.

12 Q And there was a potential for the Judge to sentence
13 him to some number of years in prison less than life
14 for which he would have to do a day for a day,
15 correct?

16 A Right.

17 Q No parole?

18 A That's right.

19 Q Okay. And so given Mr. Dickerson's age, if he got a
20 sentence in excessive of 30 years under a guilty plea
21 -- well, we're not going to delve into actuarial
22 information, that's pretty much equivalent to a life
23 sentence ---

24 MR. CORNEY: Your Honor, I would object to that.

25 I don't think he has any idea, he knows how long Mr. --

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1 Mr. Dickerson is going to live. I don't think he knows.

2 I think it's a speculative answer ---

3 THE COURT: I'm going to allow the question. I
4 mean, he can live two weeks, he can live 20, who knows,
5 so.

6 MR. CORNEY: That's just my objection, there's
7 no way to know that.

8 THE COURT: I understand. All he's saying is
9 like, if you're 50 years old, you get a 30 year sentence,
10 you're probably going to die in jail.

11 MR. WALLINGER: Your Honor, I'm going to
12 withdraw the question just to kind of move forward.

13 THE COURT: Okay. Go ahead.

14 Q The -- in terms of tactics in defending Mr.
15 Dickerson, the main downside of going to trial,
16 rolling the dice, would be that he would get
17 convicted and get life without parole, correct?

18 A You're saying it's the worse thing that could happen?

19 Q Yes.

20 A That's right.

21 Q Okay. Then let's say they changed their whole tactic
22 and notice of death penalty after all that time, his
23 worse day is going to be he got convicted and got
24 life without parole, right?

25 A I'd say it's a pretty bad day but, yes, that's the

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1 worst it gets.

2 Q Okay. And his best day would be that he got
3 acquitted on either or both charges, based upon
4 whatever robust defense you could put together,
5 right?

6 A I -- right.

7 Q Okay. And you considered it possible although
8 unlikely that he would be able to get a jury to
9 acquit him, correct?

10 A Here was one of the big obstacles. My understanding,
11 and I don't have research on me right here, is that
12 the way the statute is written, not guilty by reason
13 of insanity -- and I don't know -- I don't remember
14 what it was in, and then guilty but mentally ill, the
15 problem is the State was likely going to give
16 instruction to the jury that they could convict him
17 guilty but mentally ill. My understanding is that
18 since the statute has been updated, juries always
19 pick guilty but mentally ill instead of not guilty --
20 not guilty by reason of insanity. But guilty but
21 mentally ill basically means nothing, it means guilty
22 and you get the same penalty you get if it's just a
23 guilty and competent. It doesn't really matter.

24 So, you know, I kind of feel, my own personal
25 beliefs, you know, are I guess not that important but

1 my analysis of it essentially, I believe that it was
2 put in the statute so that juries wouldn't let people
3 walk based on mental illness. The jury doesn't know
4 the difference between the punishment. The jury --
5 the jury will look at Mr. Dickerson and they would
6 say, well, I have a choice between guilty, guilty but
7 mentally ill or not guilty by reason of insanity. So
8 let's say the jury decides, you know, he's got mental
9 health problems. Well he did it, he says he did it,
10 that's what they're thinking. Well, you know,
11 they're not allowed -- they're not -- the jury will
12 never get to hear what the difference between
13 insanity but -- insane or not guilty by reason of
14 insanity and guilty but mentally ill is. And they're
15 not -- they're not allowed to know the repercussions
16 of one versus the other. And my understanding is
17 that since -- when the two are put together -- are
18 put together as options, the jury always picks guilty
19 but mentally ill.

20 So a -- the likelihood of a jury -- I don't
21 think that since they amended the statute to include
22 both to these -- it's my understanding, I don't have
23 it on me and this was, you know, two years ago when
24 we were researching this, but I couldn't find the
25 record of a situation where a jury had a choice

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1 between guilty but mentally ill and not guilty by
2 reason of insanity in the instructions and they
3 picked not guilty by reason of insanity.

4 I think our state legislators were clever when
5 they did that so that -- so that people wouldn't, you
6 know, be acquitted for mental health purposes. I
7 personally think it's, you know -- I don't agree with
8 what our state legislature did but I think it was
9 kind of a judicial trap that they set up. And
10 because the cards were stacked against him, I think
11 it was -- I think that even if the jury believed that
12 Mr. Dickerson was mentally ill, they would do as
13 juries always do in South Carolina, they would have
14 found him guilty but mentally ill, not guilty by
15 reason of insanity.

16 So ---

17 THE COURT: Mr. Bailey, you're going on record
18 as saying that we have a clever legislature?

19 (Laughter.)

20 THE COURT: Is that your position?

21 THE WITNESS: Occasionally when they're ---

22 THE COURT: All right.

23 THE WITNESS: When they want to advance a
24 certain agenda.

25 THE COURT: All right. Go ahead.

J. RHODES BAILEY -- DIRECT BY MR. WALLINGER:

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1 MR. WALLINGER: I'm not even going to go this
2 route, Judge. I enjoyed listening to him.

3 Q All right. Mr. Dickerson pled guilty as noted in the
4 record, correct?

5 A Yes, sir.

6 Q And he got 40 years concurrent on murder and the
7 armed robbery charges, correct?

8 A Yes, that's my understanding.

9 Q All right. And he has to do a day for a day on these
10 charges, right?

11 A Correct.

12 MR. WALLINGER: I don't think I have any more
13 questions for the witness, Your Honor.

14 THE COURT: All right.

15 MR. WALLINGER: Thank you.

16 THE COURT: Mr. Corney.

17 MR. CORNEY: May it please the Court, Judge.

18 THE COURT: Yes, sir.

19 MR. CORNEY: And I will be very brief.

20 CROSS-EXAMINATION

21 BY MR. CORNEY:

22 Q Based on your discussion with Mr. Dickerson, you feel
23 that he was -- that he was aware of the realistic
24 time he was facing on these charges?

25 A Yes.

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1 Q And I know you said you had the opportunity to review
2 some of the discovery materials with him. Because
3 you were aware of his illiteracy, as you went through
4 that discovery, you took that into account to read
5 him his discovery where necessary?

6 A Yes.

7 Q Based on the evidence and your discussions with Mr.
8 Dickerson, was there any real question that he did in
9 fact commit this crime?

10 A He -- you know, obviously there are things I don't
11 like to discuss but, you know, in the context of a
12 PCR hearing, I -- you know, to talk about our
13 conversations ---

14 Q I'm not asking for any specifics between your
15 conversations, just based on your review of the
16 entire case.

17 A Yeah, there was -- and -- there was no evidence or
18 argument presented that -- that he -- or -- and there
19 was never a discussion about a tactic being made that
20 he didn't commit the acts in our discussions.

21 Q Okay. And what I was asking, the reason I was asking
22 that, and I didn't mean to ---

23 A No, you didn't do anything wrong, I'm just proceeding
24 as lightly as I can.

25 Q I'm not pushing you to divulge those conversations.

1 A No, no.

2 Q So the defense was going to have to be either an
3 excuse or justification for this murder?

4 A That -- that was the strongest chance, the defense we
5 had, in mine and Mr. Cooper's opinion.

6 Q All right. All the mental evaluations that have been
7 discussed, those were all submitted to the plea Judge
8 on the day of the plea?

9 A Yeah.

10 Q Okay.

11 A Yeah -- I'm sorry.

12 Q Go ahead, I'm sorry.

13 A Right, we just, you know -- and we submitted the
14 criminal responsibility too in case I referred to it.
15 I mean, you know, it wasn't particularly helpful but
16 it wasn't any more harmful than the competency and I
17 like to get, you know, especially the guilty plea, I
18 wanted to make sure that we just put forth to him
19 what we had.

20 Q Okay. Based on your discussions with Mr. Dickerson
21 and again your view of the case, would it be fair to
22 say that at the time Mr. Dickerson had a pretty
23 serious crack addiction, crack problem that you noted
24 in the record as well?

25 A I mean I think so, yeah. I mean, I think -- I think

J. RHODES BAILEY -- CROSS BY MR. CORNEY:

1 he was heavily under the influence of drugs at the
2 time of his -- his arrest and the incident.

3 Q And the incident. So, I just wanted to ask you,
4 voluntary intoxication based on his crack use at the
5 time wouldn't have been a defense in South Carolina
6 for the crimes?

7 A No, no.

8 Q Okay. You said you were prepared to go to trial at
9 the time of the plea?

10 A Right. And this was, you know, we were -- and
11 because it was -- well, yeah, we were prepared. I
12 can elaborate if you want me to.

13 Q Okay. And would you have proceeded to trial if Mr.
14 Dickerson had insisted on doing so?

15 A Absolutely. We just kind of got the -- well, first
16 before, having discussions and we just got the
17 impression closer and closer we got that he was not
18 interested in moving forward.

19 Q Okay. Did you feel that you spent sufficient time
20 preparing the matter for trial?

21 A Yeah, yes, I do.

22 Q And do you feel that you gave -- not his
23 interpretation of it but just based on your -- the
24 steps that you took, do you feel that you gave Mr.
25 Dickerson all the information and advice to make a

1 voluntary and intelligent decision on whether to
2 plead?

3 A Yes, I was careful to be thorough because of the
4 serious nature of the charges. I was extra, extra,
5 extra careful.

6 Q Okay ---

7 A And ---

8 Q I apologize.

9 A No, there's no -- there's no more serious a charge
10 than a murder case where you're possibly facing the
11 death penalty, so.

12 Q I apologize for jumping in there. Ultimately, whose
13 decision was it to enter this plea?

14 A Mr. Dickerson's. We went over it several times. I
15 also read him his rights. I also read him his rights
16 again. I don't know if that's in the file but I
17 always had a held hand form that we go over all of
18 his rights and have him sign it.

19 MR. CORNEY: That's all the questions I have,
20 Your Honor. Thank you.

21 THE COURT: All right. Mr. Wallinger, is there
22 anything further on direct, I guess or recross, however
23 you want to say it. Any further questions?

24 MR. WALLINGER: Just one follow up matter, Your
25 Honor, about his petition.

J. RHODES BAILEY -- REDIRECT BY MR. WALLINGER:

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REDIRECT EXAMINATION

BY MR. WALLINGER:

Q The petition alleges that Mr. Dickerson had understood and believed prior to entering the guilty plea that he would be sentenced to 20 years on each charge. Do you agree or disagree with that allegation?

A I disagree with that allegation.

Q Okay. The petition also alleges that Mr. Dickerson had not been advised by counsel after the guilty plea that he could appeal the guilty plea and how to do that?

MR. CORNEY: Your Honor, I don't think that was brought up on direct first time around and I don't think it's appropriate to bring it up at this point in time.

THE COURT: I'm going to let him do it anyway.

MR. CORNEY: Thank you, Judge.

MR. WALLINGER: Thank you, Your Honor.

THE COURT: Go ahead.

Q Do you agree or disagree with that?

A I disagree because I typically -- I mean, every time, it's one of those things I was really methodical and specific about. You may have a copy of the folder. I don't know, I always had a client fill out the advice of rights form in which I go over the charges;

J. RHODES BAILEY -- RECROSS BY MR. CORNEY:

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1 go over his rights to a jury and the last question is
2 you can appeal this within 10 days. And that's
3 always the last question. And then frequently I will
4 write in my own last question which is, you know,
5 I'll write a PCR advisement too that they sign.

6 MR. WALLINGER: I don't having anything else,
7 Your Honor.

8 THE COURT: All right, anything further?

9 MR. CORNEY: Just along that set of lines.

10 RECROSS-EXAMINATION

11 BY MR. CORNEY:

12 Q Did Mr. Dickerson ever ask you to file an appeal on
13 his behalf?

14 A No.

15 Q Did you have any reason to believe he wanted to
16 appeal his plea?

17 A No.

18 MR. CORNEY: Thank you, Your Honor, that's all.

19 THE COURT: You may step down, Mr. Bailey.

20 THE WITNESS: Yes, sir.

21 (The witness leaves the witness stand.)

22 THE COURT: Call your next witness.

23 MR. WALLINGER: I'm going to call the
24 petitioner, Mr. Dickerson, Your Honor.

25 THE COURT: All right. How long do you think

ROBERT L. DICKERSON -- DIRECT BY MR. WALLINGER:

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1 this might take?

2 MR. WALLINGER: 15 minutes.

3 THE COURT: All right.

4 (Pause.)

5 (ROBERT L. DICKERSON, having first been duly
6 sworn, testified as follows:)

7 THE COURT: All right. Please take a seat and
8 tell us your full name, Mr. Dickerson, and spell your
9 last name for the record.

10 THE WITNESS: Robert Dickerson, last name, D-i-
11 c-k-e-r-s-o-n.

12 THE COURT: All right, Mr. Wallinger.

13 DIRECT EXAMINATION

14 BY MR. WALLINGER:

15 Q Robert, since you've been in prison, have you been
16 trying to study and learn to read and write better?

17 A Yes, sir.

18 Q Okay. At the time of your criminal case and your
19 guilty plea we're here about now, could you read and
20 write other than your name?

21 A No, sir.

22 Q Okay. And you've heard the testimony from your
23 attorney here today, is that right?

24 A Yes, sir.

25 Q Okay. When your case came up for court and you had

1 to decide whether to go to trial or plead guilty or
2 whatever you were going to do, do you remember that
3 timeframe?

4 A Yes, sir.

5 Q Okay. And did you have an understanding then of what
6 would happen if you went to trial, what would be done
7 and how your case would go forward through the trial?

8 A Well, they said if I go to trial, they said I would
9 get life sentence.

10 Q Did you have an understanding of what would happen if
11 you pled guilty to the charges instead of going to
12 trial?

13 A No, sir.

14 Q You remember pleading guilty?

15 A Yes, sir.

16 Q You remember putting your hand on the Bible and
17 telling Judge Cooper that you would tell the truth in
18 response to his questions?

19 A Yes, sir.

20 Q Okay. At the time you did that, did you understand
21 that you were pleading guilty?

22 A Yes. I told my lawyer I was going to plead guilty
23 because I had been wrong what I did and, yes, I
24 understand that I was going to plead guilty.

25 Q Okay. And you pled guilty after talking with your

ROBERT L. DICKERSON -- DIRECT BY MR. WALLINGER:

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1 lawyer about what you should do, right?

2 A Yes, sir.

3 Q Did you rely on what the lawyer told you and advised
4 you in deciding whether to plead guilty?

5 A Uh...

6 Q Let me ask you this way. I can tell you don't
7 understand my question. Did you explain to your
8 lawyer what you wanted to do or did your lawyer
9 explain to you what you should do?

10 A He explained to me what I should do.

11 Q Okay. And so part of your decision of whether to
12 plead guilty was that your lawyer told you how things
13 were going to go if you didn't plead guilty, right?

14 A I thought I was going plead guilty for 20 years.

15 THE COURT: If your objection is leading but I'm
16 going to let him anyway.

17 MR. CORNEY: All right.

18 THE COURT: That's all right.

19 MR. CORNEY: Your Honor, I figured that I was
20 going to place it on the record anyway but I understand.

21 THE COURT: That's fine, go ahead.

22 MR. WALLINGER: Sorry about that, Your Honor. I
23 didn't realize I was doing that.

24 THE COURT: That's all right.

25 Q Okay. So, you talked to your lawyer about it, y'all

1 considered your options and you decided to plead
2 guilty, is that right?

3 A Yes, sir.

4 Q Okay. And part of your reason to plead guilty was
5 what your lawyer told you about the case, right?

6 A Yes, sir.

7 Q Okay. You didn't just stand there and say, well, I
8 don't care whether I've got a good chance or a bad
9 chance, I think I should just plead guilty and take
10 my rap because I did all this? That wasn't the way
11 you looked at it, right?

12 A No, sir.

13 Q Okay. You're asking Judge Manning to make a finding
14 that you should essentially go back to square one and
15 get a new trial, you understand that?

16 A Yes, sir.

17 Q And you understand if you were to be granted post
18 conviction relief, that you wouldn't just get out of
19 jail and go on with your life but you would go back
20 to where you were the day you got arrested and then
21 you could get prosecuted again and get life without
22 parole, you understand that?

23 A Yes, sir.

24 Q Okay. Are you asking His Honor to -- to grant you
25 the post conviction relief and let you have a new

ROBERT L. DICKERSON -- DIRECT BY MR. WALLINGER:

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1 trial?

2 A Yes, sir.

3 Q Okay ---

4 MR. CORNEY: Your Honor, can I ---

5 MR. WALLINGER: That's all I have, Your Honor.

6 MR. CORNEY: I apologize, can we approach for
7 just one minute?

8 THE COURT: Sure.

9 (Whereupon, a bench conference was held off the
10 record.)

11 Q Just a follow up question now. If you got granted --
12 if you got granted the post conviction relief by this
13 Judge and he went back -- and he sent you back to
14 have a new trial, you understand that the State of
15 South Carolina might decide that they want to seek
16 the death penalty against you the next time, you
17 understand that?

18 A Yes, sir.

19 Q And if you get sentenced to the death penalty, you
20 might get the death penalty, you understand that?

21 A Yes, sir.

22 Q And despite all that knowledge, what you really want
23 this Judge to do is to give you a new trial and let
24 you start over with another lawyer, is that what you
25 want?

1 A No, sir.

2 Q Okay. I don't know if you understood me. You want
3 -- you want this Judge to -- to set aside your guilty
4 plea and let you start over with a new trial, is that
5 right?

6 A Yes, sir.

7 Q Okay.

8 MR. WALLINGER: That's all I have, thank you.

9 THE COURT: All right.

10 MR. CORNEY: Judge, I don't think I have any
11 questions, thank you.

12 THE COURT: All right, that's fine. Mr.
13 Dickerson, you step down, sir.

14 THE WITNESS: Yes, sir.

15 (The witness leaves the witness stand.)

16 THE COURT: Anything further, Mr. Wallinger?

17 MR. WALLINGER: Your Honor, I would offer into
18 the record the documents previously marked to the extent
19 I haven't introduced them, I would ask that they be
20 introduced.

21 THE COURT: All right.

22 MR. CORNEY: Yes, Your Honor, just for the
23 purpose of the record, I renew my objections ---

24 THE COURT: Okay.

25 MR. CORNEY: I don't have any closing argument

1 or any witnesses, Your Honor.

2 THE COURT: All right, so no further evidentiary
3 -- no further evidence will be offered, is that correct?

4 MR. WALLINGER: Yes, Your Honor.

5 THE COURT: For some reason, people like to
6 argue or make a statement. Mr. Wallinger, you may
7 proceed if you like.

8 MR. WALLINGER: Very briefly, Your Honor.

9 THE COURT: All right.

10 MR. WALLINGER: No one has a perfect defense. I
11 did criminal law seven years, all of those -- almost all
12 of those as a prosecutor. I understand all of those
13 dynamics, I understand that there is a lot of strategic
14 considerations and sometimes you bet and you bet wrong.

15 What I would say with regard to this case as it
16 appears to me is that there wasn't an upside ---

17 THE COURT: There was nothing to lose by going
18 to trial.

19 MR. WALLINGER: That was it.

20 THE COURT: Okay.

21 MR. WALLINGER: And I think that tactically
22 speaking, that needed to be clearly made to Mr. Dickerson
23 so that he could understand that the probable sentence he
24 would get from a guilty plea was equivalent to life, that
25 there wasn't much upside to a guilty plea. Even if he

1 wanted to get it over with, his lawyer was incumbent to
2 try to keep him out of that final scenario. And I think
3 that the evidence suggests that there could have been a
4 Blair hearing, there could have been a Denno hearing,
5 there could have been a mistrial. There could have been
6 something that made his ultimate sentence better than
7 what he got. And I would ask the Court to -- to grant
8 PCR, set him back to square one and to let him go around
9 the track again.

10 No disrespect to his counsel who obviously did a
11 lot of good things but I think he should get PCR granted
12 in this case and that -- and that they should just do it
13 one more time for the sake of fairness and due process.

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

15 Yes, sir, Mr. Corney.

16 MR. CORNEY: Judge, I will be very brief. I
17 don't think that they've met their burden today bringing
18 forth the allegations they've brought forth. I think Mr.
19 Bailey's testimony is pretty straightforward to the
20 Court. I don't think he was unreasonable in any way
21 relying on the reports that were done as to Mr.
22 Dickerson's competency or ability to comprehend criminal
23 responsibility. He -- in fact he even had a private
24 evaluation done in that regard.

25 Mr. Dickerson hasn't brought in evidence of some

1 other evaluation that's been done since that says that
2 Mr. Bailey was incorrect in relying on these reports.
3 They haven't met their burden in that regard. And other
4 than that, Your Honor, the State just rests on the
5 testimony and the record before the Court.

6 Thank you very much.

7 THE COURT: Anything further?

8 MR. WALLINGER: Your Honor, I just would stand
9 by the documents I've put in evidence. I don't think
10 they've been adequately refuted on cross-examination and
11 I think they tilt the scale by the preponderance well in
12 our favor. They've offered nothing in the way of witness
13 testimony or evidence to rebut what I put up and their
14 cross-examination didn't really change anything that
15 we've proven.

16 Thank you.

17 THE COURT: All right. Thank you both. I'll
18 think about it and let you know my decision in due
19 course.

20 Good luck to you, Mr. Dickerson.

21 THE DEFENDANT: Yes, sir. Thank you, sir.

22 MR. WALLINGER: Thank you, Your Honor.

23 MR. CORNEY: Thank you, Judge.

24 ----- END OF TRANSCRIPT OF RECORD -----

25

1 CERTIFICATE OF REPORTER

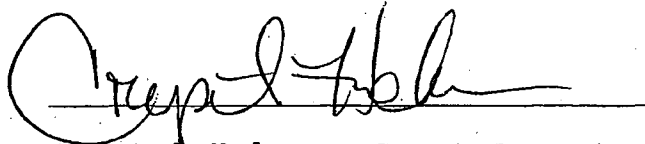
2
3 STATE OF SOUTH CAROLINA)

4 COUNTY OF RICHLAND)

5
6 I, Crystal Holmes, Official Court Reporter for the
7 Fifth Judicial Circuit of the State of South Carolina, do
8 hereby certify that the foregoing is a true, accurate and
9 Complete Transcript of Record of the proceedings had and
10 evidence introduced in the hearing of the captioned case,
11 relative to appeal, in the Court of Common Pleas for
12 Richland County, South Carolina, on the 25th day of May,
13 2012.

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

16
17 April 5, 2013

18
19 
20 Crystal Holmes, Court Reporter

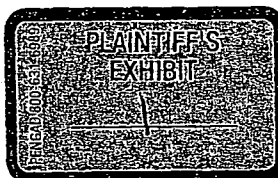


South Carolina
Department of
Mental Health

Division of Inpatient Services
Forensic Evaluation and Treatment Services
Building #6
7901 Farrow Road
Columbia, South Carolina 29203
Information: (803) 935-5600
Fax: (803) 935-5544

April 5, 2010

Luck Campbell
Assistant Solicitor
PO Box 192
Columbia, SC 29202



Re: The State of South Carolina vs. Dickerson, Robert
DMH Case #: 200-6743
Richland County, Court of General Sessions

Dear Assistant Solicitor Campbell:

In accordance with the court order issued by the Honorable J. Michelle Childs, a competency to stand trial evaluation was conducted by the South Carolina Department of Mental Health, pursuant to S.C. Code Ann. § 44-23-410 (1976).

Please see the attached report for the results of this evaluation.

This 9 page document is certified to be the original court-ordered evaluation report issued pursuant to S.C. Code Ann. § 44-23-410 (1976).

4/6/10
Date

Jeffrey E. Musick, Ph.D., ABPP
Jeffrey Musick, Ph.D., ABPP
Chief Psychologist
Forensic Evaluation Services
Department of Mental Health

c J. Rhodes Bailey, Attorney at Law, PO Box 192, Columbia, SC 29202
Melinda Fair, DDSN, PO Box 4706, Columbia, SC 29240

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Report on Competency to Stand Trial**Name:** Dickerson, Robert**Date of Birth (Age):****Dates of Interviews:** 11/25/2009, 02/24/2010, & 03/17/2010**Date of Report:** 04/05/2010**Examiners:** Michael D. Gassen, Psy.D. (DMH Examiner)
Monica Wright, Psy.D. (DDSN Examiner)
Carol David, LISW-CP (on 11/25/2009)

The opinions offered in this report are those of the psychologist examiners listed above

Opinion on Competency to Stand Trial: Competent**Referral Information**

Mr. Dickerson is a 51-year-old African-American male who is charged with Murder and Armed Robbery as a result of events that allegedly occurred on 06/05/2009. The State of South Carolina, County of Richland, Court of General Sessions issued an order to evaluate his competency to stand trial. Pursuant to this order, Mr. Dickerson was evaluated on an outpatient basis on 11/25/2009, 02/24/2010, and 03/17/2010 at the Forensic Evaluation Service of the South Carolina Department of Mental Health (SCDMH). At the time of the most recent evaluation, Mr. Dickerson was a patient at Columbia Care Center, and he was returned to that facility following the evaluation.

Notification

Prior to the interviews, Mr. Dickerson was advised that the results and contents of this evaluation would be used to evaluate his competency to stand trial and would therefore be communicated to the defense counsel, the solicitor, and the judge. He did not demonstrate a full understanding of the nature and purpose of the evaluation or the limitations to confidentiality. Nonetheless, he signed a form that explains these issues and agreed to proceed with the evaluations.

Sources of Information

- State of South Carolina, County of Richland, Court of General Sessions order for competency to stand trial evaluation
- County of Richland Arrest Warrants for the alleged offenses (M-235357, M-235358)
- Richland County Sheriff's Department records for case number 0906075007
- Richland County Coroner's Report of Postmortem Examination of Charles Dickerson
- Mr. Dickerson's RAP sheet
- Records from Richland County District One (from 08/31/1971 to 04/22/1977)
- Records from Earle E. Morris, Jr. Alcohol and Drug Treatment Center (from 12/30/2000 to 01/03/2001)
- Records from Alvin S. Glenn Detention Center (from 06/08/2009 to 01/13/2010)
- Records from Columbia Care Center (from 03/03/2010 to 03/17/2010)

- Clinical/Forensic interviews of Mr. Dickerson on 11/25/2009, 02/24/2010, & 03/17/2010
- Psychological Testing: 1. Test of Memory Malingering (on 02/24/2010)
2. Structured Interview of Reported Symptoms (on 02/24/2010)

Background Information

Mr. Dickerson was seen on 11/25/2009 and reported a history of special education and mental retardation during the interview, and a joint evaluation with DDSN was therefore requested at that time. The following information that is based on Mr. Dickerson's self-report is from the interview conducted by Dr. Gassen and Dr. Wright on 02/24/2010.

Family History

Mr. Dickerson reported he was born in Columbia, SC, and was raised primarily by "my parents." He said he has five brothers and two sisters and that he is 3rd in the birth order. When asked to describe his childhood, he responded, "Rough," and explained that he was physically abused on a regular basis. He denied suffering other forms of abuse, but he asserted that he witnessed domestic violence in the home "all the time." He acknowledged a history of intentionally setting fires. Mr. Dickerson denied a family history of mental illness.

Mr. Dickerson reported he has been married twice. He said he is divorced from his first wife and remains married to his second wife, and he indicated he has "two sons and two daughters." He stated he was living with "my wife" in "East Bay Park" at the time of the alleged offenses.

Educational History

Mr. Dickerson reported he discontinued his education during the 12th grade because "I just couldn't read." He stated he typically made failing grades, and he indicated he was in special education classes because "I couldn't read or write" and was considered learning disabled. He added that the school "passed me every year because I played football." He indicated he nonetheless repeated the 9th, 10th, and 11th grades due to his illiteracy. Regarding behavior problems, he acknowledged he was suspended "five to six times" for fighting, and he acknowledged a history of destroying school property, skipping classes, and disrespecting teachers.

Records from Richland County District One (from 08/31/1971 to 04/22/1977) confirm Mr. Dickerson frequently earned failing grades and was in special education classes. He was in a "special resource class" that was preparing him to earn a graduation certificate. On 04/17/1975, he was administered the Wechsler Adult Intelligence Scale, and his performance during the assessment yielded a Full Scale Intelligence Quotient (IQ) score in the borderline range. His scores on a screening measure of academic achievement were well below his IQ scores, particularly in reading, and he was therefore considered to have a learning disability in reading. Although he struggled to benefit from classes, he also had numerous unexcused absences. The most recent available records indicate he confused "some letters of the alphabet and recognizes few written words by sight." He also could not write basic words, do multiplication or division, or express himself well. However, it was noted, "Robert is very good at telling time, counting

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money and making change."

Employment History

Mr. Dickerson reported he has worked for "steel companies" for approximately twenty years, and he said his longest period of employment at a company was three years. He indicated his wife drove him to work, as he did not have a license, and he reported his wife completed job applications for him due to his inability to read or write. A history of being fired was denied, and he said he does not receive disability benefits.

Medical History

Mr. Dickerson indicated he has diabetes and takes insulin. He also reported he sustained four serious head injuries from age 8 to age 16. He stated he lost consciousness at those times and subsequently experienced headaches and had "a hard time thinking" after some of the incidents.

Substance Use History

Mr. Dickerson reported he began consuming alcohol at age eight and, in the past, consumed a "12-pack a day." He acknowledged a history of developing a tolerance to alcohol, experiencing withdrawal symptoms upon cessation of use, and "sometimes" having blackouts from drinking. He said he last consumed alcohol "before I got arrested," but he denied the ability to specify the exact date. Regarding illicit substances, he reported he first used marijuana at age nine and used it "every day." He reported it "makes me want to do bad things...hurting people." His last reported use was the "day before" he was arrested. Mr. Dickerson also said he began using crack cocaine at age 19 and typically uses it "every chance I get... 'til I run out of money." He stated he sometimes will "smoke it all day." On questioning, he acknowledged developing a tolerance to crack cocaine, craving it when he is unable to use it, and engaging in dangerous and illegal activities to obtain the substance. He reported an almost identical history with using powder cocaine, though he said he first used it at age 13 or 14. A history of using lysergic acid diethylamide (LSD) and "speed" was also endorsed, and he indicated he "sniff[ed] glue" at about age 14. He indicated he has received substance abuse treatment at Morris Village (South Carolina's inpatient drug and alcohol abuse treatment facility) and been in a "drug program."

Records from Earle B. Morris, Jr. Alcohol and Drug Treatment Center (from 12/30/2000 to 01/03/2001) indicate Mr. Dickerson was admitted to that facility for crack cocaine and alcohol dependence. During his admission, he reported a history of consuming "up to a case of beer or liter of liquor per day" and using "between \$100 and \$200 worth of crack per day, primarily in binges." He did not report any significant mental health symptoms. On discharge, he was diagnosed with crack cocaine dependence and alcohol dependence, and he was not prescribed medications.

Mental Health History

Mr. Dickerson denied a history of mental health treatment, but he endorsed auditory, visual, and tactile hallucinations. More specifically, he said he sees and hears his deceased mother "just

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about every night" for "a couple hours" "telling me things gonna be alright." He stated these symptoms began "about four years ago." He reported he hears her voice more in his left ear and that he experiences a tingling feeling in his ear when he hears the voice. He indicated the sound of his mother's voice is in synch with image he sees of her. Mr. Dickerson also said he feels as though "people be holding me down" when he is lying in bed at night. He indicated he recently has been prescribed medication that "make[s] me relax" and "stop seeing things."

Legal History

Mr. Dickerson said he has been arrested on one prior occasion for an Armed Robbery charge. He reported he was convicted, served an 11 year sentence at "Kirkland," and subsequently was on probation.

According to records from Alvin S. Glenn Detention Center (from 06/08/2009 to 01/13/2010), Mr. Dickerson denied hallucinatory experiences on admission, but he subsequently complained of sleeping difficulties, hearing "voices," and "seeing and hearing people come through the walls." He also said his deceased mother comes to visit him. In regards to substance abuse, he reported a history of "a very bad crack addiction." He stated that he "hears his mother's voice every time he smokes crack." A rule-out of a diagnosis of malingering was recommended, but he has been prescribed Celexa (an antidepressant) and Risperdal (an antipsychotic).

Current Presentation

On 02/24/2010, Mr. Dickerson presented as a 51-year-old African-American male of above average height and medium stature who appears his age. He presented for the interview in correctional garb and shackles. His grooming and hygiene were adequate. No physical abnormalities were observed, and no oddities in posture or movement were noted. Mr. Dickerson was alert and attentive, but he offered minimal eye contact. He stated he was unable to read from a form or spell the word "world," and he did not perform well on a basic serial subtraction task. His speech was of normal rate, rhythm, and volume, but he displayed significant latency in responding to questions. No difficulties in articulation or other language disturbances were noted. On questioning, Mr. Dickerson accurately stated his name and identified his location as Columbia, but he denied knowing the current date, and, when asked about the current year, he responded, "2009." Upon inquiry about why he was sent to this facility, he responded, "I don't know." Mr. Dickerson repeated a list of three words, but, after approximately five minutes had elapsed, he seemed to remember only one of the words after clues were provided. However, he did not evidence major impairment in recalling autobiographical information. He described his mood as "not good," and his affect (i.e., observed emotional expression), aside from being tearful at one point, was restricted in range and intensity. While he reported he was experiencing racing thoughts, his thought processes appeared clear and coherent throughout the interview. Mr. Dickerson also reported he has experienced many types of hallucinations (e.g. hearing voices), but he did not appear to be experiencing or responding to internal stimuli during the interview. Mr. Dickerson also reported a history of odd beliefs (e.g., believes others can control his thoughts). He denied any current suicidal or homicidal ideation or intent.

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Psychological Testing

As part of the evaluation on 02/24/2010, Mr. Dickerson completed a psychological test which is used to assess exaggeration and/or fabrication of memory impairment. Although he presented as though he was trying to answer questions correctly, his performance on this test was well below that of individuals with conditions that result in significant memory and other cognitive deficits (e.g., dementia). As such, his results on this measure are considered indicative of an attempt to feign memory deficits.

Mr. Dickerson also completed a test used to assess feigning of psychiatric symptoms on 02/24/2010. His scores on this test were similar to individuals who attempt to significantly exaggerate and/or fabricate psychiatric symptoms.

Current Hospitalization

Given that Mr. Dickerson appeared to be feigning cognitive impairment and psychiatric symptoms during the first two interviews, it was requested by these examiners that he be admitted to DMH for observation and, if appropriate, treatment. Mr. Dickerson was admitted to Columbia Care Center (from 03/03/2010 to 03/17/2010) for 15 days of observation. During his admission, he reported experiencing auditory and visual hallucinations of "old people," and his wife informed staff that he has been reporting these experiences to her for years. Nonetheless, he was taken off of his antipsychotic medication, and no signs or symptoms of a psychotic disorder were observed. He did present with cognitive deficits, though it was unclear whether these were due to malingering or genuine impairments. Indeed, his performance on a competency test was considered suggestive of malingering. Additionally, during a 20-minute meeting with his treating psychiatrist, he was asked a number of legal questions. When Mr. Dickerson was asked to define murder, he responded, "You hurt someone." After being confronted about there being no plausible reason he would not know this, Mr. Dickerson defined murder as, "Kill someone." Subsequently, he correctly defined armed robbery and accurately discussed the roles of the judge, jury, defense lawyer, and solicitor. On discharge, he was diagnosed with psychotic disorder not otherwise specified (NOS) vs. malingered psychosis, cognitive disorder NOS vs. malingering, and borderline intellectual functioning.

Diagnostic Impressions

During the clinical interviews with these examiners, Mr. Dickerson's description of his psychotic symptoms was atypical and not consistent with symptoms experienced by those who have a genuine psychotic disorder. Given the atypical nature of his reported symptoms, the discrepancies between observations and his report of experiencing hallucinations, and the results of psychological testing that indicate he was feigning psychiatric symptoms, it appears that his report of symptoms are an attempt to appear mentally ill and these symptoms do not appear genuine. Likewise, he presented with difficulties in understanding basic words (e.g., "murder") and knowing basic information (e.g., the current year). These comprehension difficulties are typically not observed even among individuals with significant intellectual limitations (e.g., mild mental retardation). Results from psychological testing indicate he was attempting to feign memory deficits. As such, it appears Mr. Dickerson was also feigning cognitive impairment. The discrepancies between Mr. Dickerson's self-report and behavioral observations, his implausible symptoms presentation, and results from psychological testing clearly support a

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diagnosis of malingering. The essential feature of malingering is the intentional production of false or grossly exaggerated psychological symptoms motivated by external incentives, which in this case primarily involves his current legal situation.

Although it appears Mr. Dickerson is feigning mental illness symptoms and cognitive deficits, this does not rule-out the possibility that he has a severe mental illness or cognitive disorder. However, observable symptoms of psychosis were not documented in the records reviewed nor during his current admission to Columbia Care Center despite discontinuance of his antipsychotic medication. In addition, during the interviews with these examiners, his speech, motor activity, and thought processes were within normal limits, and there was no indication of him experiencing hallucinations. As such, despite his report of experiencing a number of different types of hallucinations and holding delusional beliefs, it appears highly unlikely that he has a primary psychotic disorder (e.g., schizophrenia) or other severe mental illness. Likewise, there is no indication from collateral contacts or his records that he has significant cognitive or intellectual impairments that would warrant a cognitive disorder diagnosis or a diagnosis of mental retardation. His records are consistent with diagnoses of borderline intellectual functioning and reading disorder, and those diagnoses are considered appropriate at this time.

Mr. Dickerson reported a history of symptoms consistent with cocaine dependence and alcohol dependence. His records from Morris Village are consistent with his self-report, and he was given those diagnoses upon discharge from that facility. Therefore, diagnoses of alcohol dependence, in a controlled environment; and cocaine dependence, in a controlled environment, are offered. The specifier, in a controlled environment, refers to the fact that he is currently detained and theoretically does not have access to those substances.

Competency to Stand Trial

These examiners attempted to complete a competency interview with Mr. Dickerson on 02/24/2010. On that date, he did not appear to put forth his best effort during the interview. For example, when asked to define "guilty," he responded, "Guilty...I've been charged?" He did not provide a response when asked to tell us the meaning of not guilty. Subsequently, he was given psychological testing which indicated he was feigning cognitive deficits (see above). As such, a competency interview was not completed, as it appeared unlikely that his performance would have been an accurate reflection of his competency-related capacities.

Mr. Dickerson was interviewed again on 03/17/2010, prior to his release from Columbia Care Center, where he had undergone a two week stay for observation. He was more responsive to questions on this date than during the 02/24/2010 interview. The following information is a summary of his performance during the 03/17/2010 competency interview.

Mr. Dickerson signed the consent form and agreed to participate in the evaluation. He was asked the reason he was here, and he stated, "To see if I'm able to go to court." He stated that he believed the evaluation was a secret, but he was given correct information about the limitations to confidentiality by the examiners. He was then asked who would receive the report, and he stated, "The judge, lawyer, and solicitor." When asked to name his charges, he stated, "Murder." He then said that he believed Murder to be a "misdemeanor," and he was told it is a felony. He also reported that a misdemeanor charge is more serious than a felony and was again given the

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correct information. Mr. Dickerson also knew that he was charged with Armed Robbery, although he stated that he did not know the meaning of "armed." When asked if the charges were serious or not, Mr. Dickerson replied that they are "serious" because they involve "taking someone's life."

Mr. Dickerson stated that guilty "means you did the crime" and not guilty "means you are innocent." He initially stated that he "did not know" what happened to people who are found not guilty, although he later responded, "You go home." Mr. Dickerson acknowledged that if a person is found "guilty" they "go to jail." He said he did not know the meaning of "Not Guilty by Reason of Insanity" (NGRI), although on questioning about the meaning of "insane," he stated, "Crazy." When asked where a defendant would be sent if adjudicated NGRI, he responded, "The crazy hospital." He was also asked the meaning of No Contest, and he stated that he did not know the meaning. It was explained to him by the examiners, but he denied being able to repeat or paraphrase the basic definition that was provided to him. Upon inquiry about the definition of a plea bargain, he responded, "You pleading guilty." When asked about the benefit of a plea bargain, Mr. Dickerson said, "Don't know." However, he was able to choose the correct answer when presented with three alternatives (i.e., more time, less time, the same amount of time).

Mr. Dickerson was asked about the requirements of probation, and he stated, "You can be locked up unless you report to the probation people." However, when asked where a person lives while in probation, he responded, "The jailhouse." Mr. Dickerson stated that he did not know the possible penalties that his charges would carry. When encouraged to guess, he responded, "Twenty years." He was given the correct information, although he displayed retention of only some of this information by the end of the interview. For example, he recalled that his murder charge could carry "life" in prison, but he denied recollection that murder convicts sometimes receive the death penalty.

Mr. Dickerson was asked about the roles of various court personnel. He stated that the role of the judge is to "find out if you are guilty or not," and "if he guilty he send you to jail." He stated that he did not know the role of the jury and it was explained to him. Regarding his attorney, he denied being able to remember the name of his attorney, although he did state that the job of his attorney is to "help me out" and, at trial, prove "that I'm innocent." Mr. Dickerson was asked to describe his attorney, and he stated, "He is trying to help me." When asked how he could best handle disagreements between himself and his attorney, he stated, "I don't know." Mr. Dickerson was then asked how to proceed if he did not understand something his attorney was saying, and he replied, "Let him know I don't understand it." When asked about the role of the solicitor, he stated that, at trial, he will try to prove "that I'm guilty." Mr. Dickerson responded that "the judge" decides guilt if a person goes to trial and there is no jury. He also reported that "the judge" is the one who decides the penalty for a defendant who is found guilty. Mr. Dickerson was asked about the role of witnesses in a trial, and he stated that witnesses "testify against you." He knew that a witness had to tell "the truth" and further stated that he did not believe there were witnesses in his case.

Mr. Dickerson was asked to describe appropriate courtroom behavior, and he stated that he "did not know." His response was similar when asked about the consequences if someone

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misbehaved in court. When he was asked about the appropriate time for him to speak, he stated, "When the judge says you can speak." Mr. Dickerson reported that he did not want to testify at his trial, but he did not provide a reason. He knew that he could not be forced to testify. On questioning, he provided a clear, coherent, and linear account of events that occurred around the time of the alleged offenses. Mr. Dickerson stated that if his attorney wanted him to testify he would comply because "he is my attorney." When asked about the appropriate course of action to take if someone were telling lies about him on the witness stand, he stated "I don't know."

A determination of whether Mr. Dickerson is competent to stand trial is within the domain of the Court. Nonetheless, it is the opinion of these examiners that he has the capacity to understand the proceedings against him and to assist his attorney in his own defense. Although he presented with memory and comprehension difficulties, as noted above, these appeared to be part of his attempts to appear cognitively impaired and mentally ill. Despite these attempts, he nonetheless demonstrated a basic understanding of his charges, the possibility of being sent to prison if he is found guilty, the adversarial nature of legal proceedings, the roles of most courtroom personnel, and the ability to provide pertinent information to his attorney and interact appropriately. While he does have a history of borderline intellectual functioning, most people with borderline intellectual functioning are found competent to stand trial. Given this information, it is the opinion of these examiners that he has the capacity to understand the proceedings against him and to assist his attorney in his own defense.

Michael Gassen, Psy.D. 4/5/10

Michael Gassen, Psy.D. Date
Chief Psychologist

Tem

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Report on Criminal Responsibility/Capacity to Conform

Name: Dickerson, Robert

Date of Birth (Age):

Dates of Interviews: 11/25/2009, 02/24/2010, & 03/17/2010

Date of Report: 04/21/2010



Examiners: Michael D. Gassen, Psy.D. (Presiding)
Monica Wright, Psy.D. (on 02/24/2010 & 03/17/2010)
Carol David, LISW-CP (on 11/25/2009)

Opinion on Criminal Responsibility: Criminally responsible

Opinion on Capacity to Conform Conduct: Had capacity to conform

Referral Information

Mr. Dickerson is a 51-year-old African-American male who is charged with Murder and Armed Robbery as a result of events that allegedly occurred on 06/05/2009. The State of South Carolina, County of Richland, Court of General Sessions issued an order to evaluate his criminal responsibility and, if opined to be responsible, his capacity to conform at the time of the alleged offenses. Pursuant to this order, Mr. Dickerson was evaluated on an outpatient basis on 11/25/2009, 02/24/2010, and 03/17/2010 at the Forensic Evaluation Service of the South Carolina Department of Mental Health (SCDMH). At the time of the most recent evaluation, Mr. Dickerson was a patient at Columbia Care Center, and he was returned to that facility following the evaluation.

Notification

Prior to the interviews, Mr. Dickerson was advised that he was here for a Court-ordered evaluation, and the information he provided could therefore be communicated to the defense counsel, the solicitor, and the judge. He did not demonstrate a full understanding of the nature and purpose of the evaluations or the limitations to confidentiality. Nonetheless, he signed a form that explains these issues and agreed to proceed with the interviews.

Sources of Information

- State of South Carolina, County of Richland, Court of General Sessions order for criminal responsibility and capacity to conform evaluation
- County of Richland Arrest Warrants for the alleged offenses (M-235357, M-235358)
- Richland County Sheriff's Department records for case number 0906075007
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- Psychological Testing: 1. Test of Memory Malinger (on 02/24/2010)
2. Structured Interview of Reported Symptoms (on 02/24/2010)

Repeated attempts were made to contact Katherine Dickerson for a telephone interview. At the time of this report was completed, contact had not been made with Mrs. Dickerson.

Background Information

Mr. Dickerson was seen on 11/25/2009 and reported a history of special education and mental retardation during the interview, and a joint evaluation with DDSN was therefore requested at that time. The following information that is based on Mr. Dickerson's self-report is from the interview conducted by Dr. Gassen and Dr. Wright on 02/24/2010.

Family History

Mr. Dickerson reported he was born in Columbia, SC, and was raised primarily by "my parents." He said he has five brothers and two sisters and that he is 3rd in the birth order. When asked to describe his childhood, he responded, "Rough," and explained that he was physically abused on a regular basis. He denied suffering other forms of abuse, but he asserted that he witnessed domestic violence in the home "all the time." He acknowledged a history of intentionally setting fires. Mr. Dickerson denied a family history of mental illness.

Mr. Dickerson reported he has been married twice. He said he is divorced from his first wife and remains married to his second wife, and he indicated he has "two sons and two daughters." He stated he was living with "my wife" in "East Bay Park" at the time of the alleged offenses.

Educational History

Mr. Dickerson reported he discontinued his education during the 12th grade because "I just couldn't read." He stated he typically made failing grades, and he indicated he was in special education classes because "I couldn't read or write" and was considered learning disabled. He added that the school "passed me every year because I played football." He indicated he nonetheless repeated the 9th, 10th, and 11th grades due to his illiteracy. Regarding behavior problems, he acknowledged he was suspended "five to six times" for fighting, and he acknowledged a history of destroying school property, skipping classes, and disrespecting teachers.

Records from Richland County District One (from 08/31/1971 to 04/22/1977) confirm Mr. Dickerson frequently earned failing grades and was in special education classes. He was in a "special resource class" that was preparing him to earn a graduation certificate. On 04/17/1975, he was administered the Wechsler Adult Intelligence Scale, and his performance during the

assessment yielded a Full Scale Intelligence Quotient (IQ) score in the borderline range. His scores on a screening measure of academic achievement were well below his IQ scores, particularly in reading, and he was therefore considered to have a learning disability in reading. Although he struggled to benefit from classes, he also had numerous unexcused absences. The most recent available records indicate he confused "some letters of the alphabet and recognizes few written words by sight." He also could not write basic words, do multiplication or division, or express himself well. However, it was noted, "Robert is very good at telling time, counting money and making change."

Employment History

Mr. Dickerson reported he has worked for "steel companies" for approximately twenty years, and he said his longest period of employment at a company was three years. He indicated his wife drove him to work, as he did not have a license, and he reported his wife completed job applications for him due to his inability to read or write. A history of being fired was denied, and he said he does not receive disability benefits.

Medical History

Mr. Dickerson indicated he has diabetes and takes insulin. He also reported he sustained four serious head injuries from age 8 to age 16. He stated he lost consciousness at those times and subsequently experienced headaches and had "a hard time thinking" after some of the incidents.

Substance Use History

Mr. Dickerson reported he began consuming alcohol at age eight and, in the past, consumed a "12-pack a day." He acknowledged a history of developing a tolerance to alcohol, experiencing withdrawal symptoms upon cessation of use, and "sometimes" having blackouts from drinking. He said he last consumed alcohol "before I got arrested," but he denied the ability to specify the exact date. Regarding illicit substances, he reported he first used marijuana at age nine and used it "every day." He reported it "makes me want to do bad things...hurting people." His last reported use was the "day before" he was arrested. Mr. Dickerson also said he began using crack cocaine at age 19 and typically uses it "every chance I get... 'til I run out of money." He stated he sometimes will "smoke it all day." On questioning, he acknowledged developing a tolerance to crack cocaine, craving it when he is unable to use it, and engaging in dangerous and illegal activities to obtain the substance. He reported an almost identical history with using powder cocaine, though he said he first used it at age 13 or 14. A history of using lysergic acid diethylamide (LSD) and "speed" was also endorsed, and he indicated he "sniff[ed] glue" at about age 14. He indicated he has received substance abuse treatment at Morris Village (South Carolina's inpatient drug and alcohol abuse treatment facility) and been in a "drug program."

Records from Earle E. Morris, Jr. Alcohol and Drug Treatment Center (from 12/30/2000 to 01/03/2001) indicate Mr. Dickerson was admitted to that facility for crack cocaine and alcohol dependence. During his admission, he reported a history of consuming "up to a case of beer or liter of liquor per day" and using "between \$100 and \$200 worth of crack per day, primarily in binges." He did not report any significant mental health symptoms. On discharge, he was

diagnosed with crack cocaine dependence and alcohol dependence, and he was not prescribed medications.

Mental Health History

Mr. Dickerson denied a history of mental health treatment, but he endorsed auditory, visual, and tactile hallucinations. More specifically, he said he sees and hears his deceased mother "just about every night" for "a couple hours" "telling me things gonna be alright." He stated these symptoms began "about four years ago." He reported he hears her voice more in his left ear and that he experiences a tingling feeling in his ear when he hears the voice. He indicated the sound of his mother's voice is in synch with image he sees of her. Mr. Dickerson also said he feels as though "people be holding me down" when he is lying in bed at night. He indicated he recently has been prescribed medication that "make[s] me relax" and "stop seeing things."

Legal History

Mr. Dickerson said he has been arrested on one prior occasion for an Armed Robbery charge. He reported he was convicted, served an 11 year sentence at "Kirkland," and subsequently was on probation.

According to records from Alvin S. Glenn Detention Center (from 06/08/2009 to 01/13/2010), Mr. Dickerson denied hallucinatory experiences on admission, but he subsequently complained of sleeping difficulties, hearing "voices," and "seeing and hearing people come through the walls." He also said his deceased mother comes to visit him. In regards to substance abuse, he reported a history of "a very bad crack addiction." He stated that he "hears his mother's voice every time he smokes crack." A rule-out of a diagnosis of malingering was recommended, but he has been prescribed Celexa (an antidepressant) and Risperdal (an antipsychotic).

Current Presentation

On 02/24/2010, Mr. Dickerson presented as a 51-year-old African-American male of above average height and medium stature who appears his age. He presented for the interview in correctional garb and shackles. His grooming and hygiene were adequate. No physical abnormalities were observed, and no oddities in posture or movement were noted. Mr. Dickerson was alert and attentive, but he offered minimal eye contact. He stated he was unable to read from a form or spell the word "world," and he did not perform well on a basic serial subtraction task. His speech was of normal rate, rhythm, and volume, but he displayed significant latency in responding to questions. No difficulties in articulation or other language disturbances were noted. On questioning, Mr. Dickerson accurately stated his name and identified his location as Columbia, but he denied knowing the current date, and, when asked about the current year, he responded, "2009." Upon inquiry about why he was sent to this facility, he responded, "I don't know." Mr. Dickerson repeated a list of three words, but, after approximately five minutes had elapsed, he seemed to remember only one of the words after clues were provided. However, he did not evidence major impairment in recalling autobiographical information. He described his mood as "not good," and his affect (i.e.,

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observed emotional expression), aside from being tearful at one point, was restricted in range and intensity. While he reported he was experiencing racing thoughts, his thought processes appeared clear and coherent throughout the interview. Mr. Dickerson also reported he has experienced many types of hallucinations (e.g. hearing voices), but he did not appear to be experiencing or responding to internal stimuli during the interview. Mr. Dickerson also reported a history of odd beliefs (e.g., believes others can control his thoughts). He denied any current suicidal or homicidal ideation or intent.

Psychological Testing

As part of the evaluation on 02/24/2010, Mr. Dickerson completed a psychological test which is used to assess exaggeration and/or fabrication of memory impairment. Although he presented as though he was trying to answer questions correctly, his performance on this test was well below that of individuals with conditions that result in significant memory and other cognitive deficits (e.g., dementia). As such, his results on this measure are considered indicative of an attempt to feign memory deficits.

Mr. Dickerson also completed a test used to assess feigning of psychiatric symptoms on 02/24/2010. His scores on this test were similar to individuals who attempt to significantly exaggerate and/or fabricate psychiatric symptoms.

Current Hospitalization

Given that Mr. Dickerson appeared to be feigning cognitive impairment and psychiatric symptoms during the first two interviews, it was requested by these examiners that he be admitted to DMH for observation and, if appropriate, treatment. Mr. Dickerson was admitted to Columbia Care Center (from 03/03/2010 to 03/17/2010) for 15 days of observation. During his admission, he reported experiencing auditory and visual hallucinations of "old people," and his wife informed staff that he has been reporting these experiences to her for years. Nonetheless, he was taken off of his antipsychotic medication, and no signs or symptoms of a psychotic disorder were observed. He did present with cognitive deficits, though it was unclear whether these were due to malingering or genuine impairments. Indeed, his performance on a competency test was considered suggestive of malingering. Additionally, during a 20-minute meeting with his treating psychiatrist, he was asked a number of legal questions. When Mr. Dickerson was asked to define murder, he responded, "You hurt someone." After being confronted about there being no plausible reason he would not know this, Mr. Dickerson defined murder as, "Kill someone." Subsequently, he correctly defined armed robbery and accurately discussed the roles of the judge, jury, defense lawyer, and solicitor. On discharge, he was diagnosed with psychotic disorder not otherwise specified (NOS) vs. malingered psychosis, cognitive disorder NOS vs. malingering, and borderline intellectual functioning.

Diagnostic Impressions

During the clinical interviews with these examiners, Mr. Dickerson's description of his psychotic symptoms was atypical and not consistent with symptoms experienced by those who have a genuine psychotic disorder. Given the atypical nature of his reported symptoms, the

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discrepancies between observations and his report of experiencing hallucinations, and the results of psychological testing that indicate he was feigning psychiatric symptoms, it appears that his report of symptoms are an attempt to appear mentally ill and these symptoms do not appear genuine. Likewise, he presented with difficulties in understanding basic words (e.g., "murder") and knowing basic information (e.g., the current year). These comprehension difficulties are typically not observed even among individuals with significant intellectual limitations (e.g., mild mental retardation). Results from psychological testing indicate he was attempting to feign memory deficits. As such, it appears Mr. Dickerson was also feigning cognitive impairment. The discrepancies between Mr. Dickerson's self-report and behavioral observations, his implausible symptoms presentation, and results from psychological testing clearly support a diagnosis of malingering. The essential feature of malingering is the intentional production of false or grossly exaggerated psychological symptoms motivated by external incentives, which in this case primarily involves his current legal situation.

Although it appears Mr. Dickerson is feigning mental illness symptoms and cognitive deficits, this does not rule-out the possibility that he has a severe mental illness or cognitive disorder. However, observable symptoms of psychosis were not documented in the records reviewed nor during his current admission to Columbia Care Center despite discontinuance of his antipsychotic medication. In addition, during the interviews with these examiners, his speech, motor activity, and thought processes were within normal limits, and there was no indication of him experiencing hallucinations. As such, despite his report of experiencing a number of different types of hallucinations and holding delusional beliefs, it appears highly unlikely that he has a primary psychotic disorder (e.g., schizophrenia) or other severe mental illness. Likewise, there is no indication from collateral contacts or his records that he has significant cognitive or intellectual impairments that would warrant a cognitive disorder diagnosis or a diagnosis of mental retardation. His records are consistent with diagnoses of borderline intellectual functioning and reading disorder, and those diagnoses are considered appropriate at this time.

Mr. Dickerson reported a history of symptoms consistent with cocaine dependence and alcohol dependence. His records from Morris Village are consistent with his self-report, and he was given those diagnoses upon discharge from that facility. Therefore, diagnoses of alcohol dependence, in a controlled environment; and cocaine dependence, in a controlled environment; are offered. The specifier, in a controlled environment, refers to the fact that he is currently detained and theoretically does not have access to those substances.

Information Relevant to Criminal Responsibility and Capacity to Conform Conduct

Records Relevant to the Alleged Offenses

The following is a "highlight of the statement" Mr. Dickerson provided to Richland County Sheriff's Department investigators regarding events that occurred on 06/05/2009:

Robert stated that he got up when his wife got up at 5 am. Robert called his father at 9 or 10 am and his father told him to come over. Robert went to his fathers [sic] house and his father went to the safe took out a black bag that contained money and gave Robert \$20.00 to go and buy beer for the both of them. Robert told us that his father gave him

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the keys to the van . . . Robert stated that he left the house and bought a \$20.00 piece of crack . . . and smoked it. Robert told us that he wanted some more so he went to Mr. Bakers [sic] and borrowed a hammer. Lindler asked Robert why he wanted to borrow the hammer and Robert stated that he was going to go back to the house because he knew his father had more money. Robert made the statement that something in his mind told him to go back and take it. Robert then stated that he went back to the house and did not see his daddy in the front room so he walked to the back bedroom because he heard the TV on. Robert stated that he saw his father sleeping on the bed and he started thinking about his momma and how he use [sic] to bruise her and how his father use to beat him. Robert stated that something came over him and something told him to hit his daddy. Robert further stated that he hit him one time and something told him to hit him again, then something told him to hit him again . . . Robert [stated] that he hit his father in the head, that he hit his father with the hammer, he then stated that he hit his father 4 times. He continued that he would step back, take a look at him . . . Robert was asked if his father was still alive when he hit him and he stated yes. The next question asked was what did you do when you left the room. Robert responded that he went to the hallway sink and washed his hands and used some toilet tissue to clean the hammer. He then went to the living room closet where [sic] the safe was. He observed a black bag on the chair that contained the money and opened it and took the money. The next thing Robert did was return the hammer to Mr. Baker . . . Robert stated that he then went to Reese's pool hall . . . to buy crack cocaine . . . got the crack and . . . smoked it. Robert . . . then [got] another \$100.00 worth of crack and a girl . . . 'Bowlegs' Cynthia Fair. He stated that they smoked some more and then decided to go get a hotel room . . . Robert was asked if he showed 'bowlegs' any of the cash that was stolen from his father and he stated yes. He counted \$3600.00 and he had already spent \$600.00 . . . Robert then went one [sic] to talk about traveling with different girls and drug addicts throughout the weekend . . . The question was asked when he decided to take the van home. Robert responded that after a pretty girl that he had met paid for the room, she stated that she was going to a different hotel and he decided to go home . . . He then took the van to his father's house and dropped it off. He further stated that he went to the front door and knocked in the hope that he was not dead. He did not get an answer and he put the keys in the center console of the van. Robert stated that he left.

According to a statement by Cynthia Ann Fair to Richland County Sheriff's Department investigators, on the date of the alleged offense, Mr. Dickerson came into contact with her following the alleged offenses. She reported he was smoking crack "like a freight train." In addition, he reportedly "kept telling her he couldn't get relaxed . . . [and] was also drinking beer like crazy." When asked to describe his behavior on the evening of 06/05/2009, she said he was "nervous." She asked him why he "was so nervous," and he responded, "You don't want to know." She also reported he had "5000.00 in cash with him" which she knew because "he counted it in front of her."

Records from Richland County Sheriff's Office indicate Katherine Dickerson, Mr. Dickerson's wife, spoke with him following his arrest for the alleged offenses. The following is a statement she provided on 06/09/2009 regarding conversations she had with him after his arrest:

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He said you know that they got me for killing my dad. I asked him if he did it and he said yes. He said that he was high. I asked him if his father was asleep when he went in there and he said he was. He told me that he went to starlight and borrowed a hammer from our neighbor's son. He told me that the son did not know what he needed the hammer for. I asked him what he did with the hammer. He told me that he wiped the hammer real good of the blood and took the hammer back to the person that he borrowed it from. He told me that he told him that he had to work on his daddy's truck. I said why would you want to do a thing like that and he said no it was not like that. He said he had a flashback and something told him to do it. He told me that he blacked out. He told me that Daddy has a safe and I took some money from the safe. He told me that they got him for Armed Robbery and Murder and that was 40 years plus life.

The following information is from a copy of a letter reportedly written by Daniel Gonzales, an inmate at Alvin S. Glenn Detention Center, to Ashley Thomas, Esq. (received by Richland County Sheriff's Department 07/20/2009):

I've talked to Mr. Robert Dickerson some more. He has confided in me details that weren't in the news. He told me what type of hammer he used. He told me his father was asleep on the couch when he killed him. He told me that he hit him four times and that he thinks that he bled to death. He has stated that his mothers [sic] voice was in his head telling him what to do. He says he did not remember at first but after he came down from his high that it all came back to him . . . This guy is a cold blooded killer. He says if he gets 25 yrs or life that he will take a couple of more people with him before he goes.

Defendant's Account of the Alleged Offenses

Mr. Dickerson reported that, in the days leading up to the alleged offenses, he was working from "seven in the morning 'til 3:30 in the afternoon." He said he also spent time "around the house with family" and "cutting the grass." He stated his sleep around that time was "not too good" because he was "smoking crack," and he said his mood also "wasn't good" because "I ain't had no money to get my drugs." Nonetheless, he reported he was using crack and marijuana every day as well consuming alcohol. On 06/04/2009, he reportedly spent the day drinking beer with his father.

Mr. Dickerson reported that, on 06/05/2009, he consumed about "12 beers and a pint of liquor" "early that morning." He stated he went to his father's home, and his father "sent me to the store to get more liquor." Mr. Dickerson said he instead bought crack cocaine "and some reefer," and he stated he smoked about \$100 worth of crack cocaine. Subsequently, he reported he began hearing his mother's voice tell him to borrow a hammer, return to his father's house, and hit him with the hammer. He said he was "telling her no, [but] she was telling me to go ahead and do it." Mr. Dickerson reported he therefore went to a friend's house to borrow a hammer, and he said he merely told the friend "I want to borrow it." Upon returning to his father's house, he reportedly went into the home and saw his father lying down in the bedroom. He stated he heard his mother's voice tell him to "go ahead and hit him," and he said he hit his father in the head with the hammer "four times." When asked what he was thinking while he hit his father, he responded, "It was hurting me; saying why am I doing this." Upon inquiry about what he

thought would happen to his father, he stated, "That he's gonna be alright." He indicated there was blood on the hammer, and he "cleaned it off with toilet tissue in the bathroom" at his father's house. He said he did this because "my momma told me to do it." Mr. Dickerson indicated he then saw approximately \$5000 sitting on his father's dresser, and he said he heard his mother's voice telling him to take the money. On questioning about what he thought when he heard this, he stated, "I ain't want to do it but she said go ahead on, everything gonna be alright." He said he didn't want to do it because "I felt that've been wrong, but she told me to go ahead." He reported his father was lying on the bed while he did this. He stated "something" then "told me to take the van, and I got a hotel room." He added that he returned the hammer to its owner before going to the hotel. Mr. Dickerson reported he stayed in the hotel room overnight, and he said "when I was at the hotel forgot I did it." After he checked out of the hotel, he reportedly took his father's "keys back but there was no answer." He stated he therefore "left the keys inside the car." When asked whether he thought he might get in trouble at the time he committed the acts for which he is charged, he responded, "Yes," and he indicated that he felt guilty at that time. He reported he would not have hit his father with a hammer if a police officer had been present because "he probably wouldn't have let me did it." He also said he would not have taken the money if a police officer had been present because it "never would have been right."

Clinical Impressions Regarding Criminal Responsibility

Based on the available information, it appears that Mr. Dickerson was not suffering from a mental disease or defect at the time of the events that resulted in his current charges. Although he reported a history of psychotic symptoms and cognitive deficits, there is little indication from his records that he has a primary psychotic disorder (e.g., schizophrenia) or cognitive impairments that would cause him to be unable to distinguish right from wrong. Indeed, there is no documentation of a history of psychotic symptoms or significant cognitive deficits in the available records dated prior to the alleged offenses, and, despite Mr. Dickerson's claim he began hearing voices four years ago, it is highly unlikely that an individual would develop a primary psychotic disorder in their late 40's or early 50's. As such, it appears that, if he did not understand the wrongfulness of his actions at the times of the alleged offenses, this would have been due to substance abuse rather than a mental illness. Additionally, even if he had been experiencing symptoms of a primary mental illness on 06/05/2009, records indicate that he cleaned the weapon at the time of the alleged offense and avoided telling others about the alleged crimes shortly thereafter (e.g., he told Cynthia Fair "you don't want to know" when she asked why he was nervous). Such attempts to avoid detection suggest he understood the acts for which he is charged are wrong. Furthermore, during the most recent interview, he said that, at the time of the alleged offenses, he knew his actions were wrong and illegal. Thus, it appears that there is very little evidence to suggest that Mr. Dickerson, as a result of a mental disease or defect, was incapable of distinguishing moral or legal right from moral or legal wrong or recognizing the particular acts charged as morally or legally wrong.

Clinical Impressions Regarding Capacity to Conform Conduct

As noted above, it does not appear that, at the time of the events that led to Mr. Dickerson's current charges, he was suffering from symptoms of a mental disease or defect. Moreover, there

is little evidence to suggest that he lost the ability to control his actions at the time of the alleged offenses. Indeed, records indicate he spent time planning the alleged offenses and did not follow through with his plan until he acquired the hammer. Such an ability to defer engaging in the acts for which he is charged suggests he had the capacity to control his behavior. Moreover, Mr. Dickerson reported he would have been able to refrain from committing the acts for which he is charged if law enforcement had been present. As such, it does not appear that Mr. Dickerson was suffering from a mental disease or defect that would have caused him to lack sufficient capacity to conform his conduct to the requirements of the law.

Michael Gassen, Psy.D. 4/21/10
Michael Gassen, Psy.D. Date
Chief Psychologist



RICHLAND COUNTY SHERIFF'S DEPARTMENT

INTERROGATION: ADVICE OF RIGHTS

DOA 7-16-58

NAME: Robert Lawrence Dickerson PLACE: RCSO

OFFICER (S): Capt JS Smith

DATE: 6-7-09 TIME: 1215 PM

YOUR RIGHTS

- ☒ Before we ask you any questions, you must understand your rights.
- ☒ You have the right to remain silent.
- ☒ Anything you say can be used against you in court.
- ☒ You have the right to talk to a lawyer for advice before we ask you any questions, and to have a lawyer with you during any questioning.
- ☒ If you cannot afford a lawyer, one will be appointed for you before any questioning, if you wish.
- ☒ If you decide to answer questions now, without a lawyer present, you still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

WITNESS: [Signature]

SIGNED: Robert L. Dean

WITNESS: _____

WAIVER OF RIGHTS

- ☒ I have read this statement of my rights and understand what my rights are. I am willing to talk and answer questions. I understand and know what I am doing. No promises have been made to me and no pressure or coercion of any kind has been used against me.

WITNESS: [Signature]

SIGNED: Robert L. Dean

WITNESS: _____

A- Doesn't read very well, but can spell name and other few words. Can spell cat, stop Dog.

[Signature] R L D

Statement
State of South Carolina
County of Richland

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Personally appeared before me this 7 day of June, 2009, at 1400 hours, an officer duly and legally authorized to administer oaths in the above named county and state aforesaid, comes one _____ of Robert Lawrence Dickerson DOB _____ Daytime telephone number _____ Nighttime telephone number same.

Who makes the following statement under oath to wit:

Q: Robert, I have been talking with you over the last couple of hours, is that right?

A: Yes sir.

Q: You have admittedly been smoking crack and drinking within the last 24 hours, is that correct?

A: Yes sir.

Q: Would it be fair to say that things are a bit fuzzy (not clear) to you regarding what you did and who you were with the last several days?

A: I remember what I did and who I was with. I was just high. I don't know people's names, and I don't remember times where I was at places and where I went. I am guessing. I know I was at the motel off and on since Friday.

Q: Let's start from the beginning again, from the time you borrowed the van, and go through it once more, OK?

A: Ok.

Q: Go ahead...

A: My wife went to work at S&S Cafeterias at 5:00 Friday morning. I called my dad sometime after that. I asked him what was up and what he was doing. I asked him if he was drinking on anything and whether he wanted to get something. He said that he did. I walked to his house from my house, which is on Dell Dr. When I got there, dad asked me if I had any money. I told him I did have some money. I really wanted to get the van to go out. He knew I needed to borrow his van to get the beer anyway. He got \$20.00 from the safe in the closet. He told me not to do what I did last time. Last time I took the van I went and got crack and stayed gone three days. I told him I would be right back. I drove the van to Roscoe's on Atlas Rd. I played high school football at Dreher with him. Roscoe went and got me some crack. When he came back we got high together in his room at the pool hall where he stays. That is where he stays. I asked Roscoe if he knew of a girl I could get high with. I wanted to try to have sex with a girl too. Roscoe went and got this girl for me. I don't know her name, but she stays across the street from Roscoe on Atlas Rd. She is light-skinned and has to be in her forties. Roscoe's daddy was going to drive us to a motel but it

This statement was made in the presence of Investigator [Signature] of the Richland County Sheriff's Department.

I make this statement of my own free will and accord, without reward or intimidation. All of the above is the truth, the whole truth and nothing but the truth.

Sworn to and subscribed before me
this 7th day of June 2009.

Signed: [Signature]

Witness: _____

Witness: _____

[Signature]
Notary Public for South Carolina

My commission expires 10/09/2014

Statement
State of South Carolina
County of Richland

was raining too hard. Roscoe got the keys to his daddy's truck, and he took us. Roscoe drove me and the girl to the motel. It was the motel called "Country something". Roscoe left then. We got into the room and got high. We ran out of drugs after awhile, so the girl called the "drug boys". The drug boy came and delivered a \$20.00 or a \$40.00 (I can't remember). I tried to have sex with the girl but couldn't. I told her to call the drug boys back again. I ordered another piece. The girl left with the drug boy. I told them to bring me another girl to get high with. The drug boy soon showed back up with a second girl. She was a skinny and ugly girl. She was also in her forties, or something. I really didn't want to be with her. By this time it was Saturday. We sat around all that day. At one time we went riding around in a taxi cab looking for some more crack. I think that was Saturday morning. We didn't find any crack at first, but she knew another spot off of Two Notch Rd. We went there and bought some crack. The girl didn't want to go back to the room because she knew I didn't have anything. I got the taxi cab back to the room. The drug boy called back to my room and I bought another \$20.00 or \$40.00 piece then. I asked him if he could get another girl for me. He laughed, but said he would try. After about an hour, he did come back with another girl. This girl was fine. She was thirty-something and said she had two children. She had money and dope when she got there. By this time it was Saturday night. She asked me what time my check-out time was. I told her I had the room until Sunday morning. She went down and paid for another night, but she never came back to the room. I went to sleep then, so she could have come back but I had the room key, so I don't know if she came back or not. I woke up this morning and went down to the desk to check out. I went and got a refund of \$90.00. I got a taxi cab to drop me off at Reese's where the van was parked the whole time. I got the van and went to my daddy's house. I knocked on the door but got no answer. I left the keys on the floor of the van. I went to the areas behind Goodwins because I wanted more crack. I wanted a "wake up call". I saw a girl whose name might be Pam. I am not sure of her name. I gave Pam money and she went and bought more crack. I think I gave her \$40.00 or \$50.00. We smoked right there in the woods. I then went to the bootlegger's house and bought some liquor and beer. I bought two half pints of liquor and two beers. I had one more piece of crack in my pocket, so I smoked it at the bootlegger's house. I then went to my house. I was worried my daddy would be mad at me for taking the van, so I called his house. I got no answer then. Later, my daughter Michelle told me that my brothers Trent and Charles called me. I called my brother-in-law Don back because Charles's phone was out of order. Don told me to come on around to my daddy's house. He asked me if I knew what happened. I told him I didn't know. He told me to come on around there. When I got there, one of my brothers, I think it was Trent, told me that somebody killed daddy. Trent told me that daddy's truck had not been there last night. That is when I told him that I had daddy's truck the last couple of days. Later on, I was talking to my oldest sister Dianne. I was explaining to her that I had the truck. She told me not to talk too loud, that they might expect me of doing it.

This statement was made in the presence of Investigator Smith of the Richland County Sheriff's Department.

I make this statement of my own free will and accord, without reward or intimidation. All of the above is the truth, the whole truth and nothing but the truth.

Sworn to and subscribed before me
this 7th day of June 2009

Signed: Roscoe G. Miller

Witness: [Signature]

Witness: [Signature]

[Signature]
Notary Public for South Carolina
My commission expires 10082014

Q: Robert, do you know the first three girl's names who you smoked crack. with?

A: No. I sure don't.

Q: Do you know the drug dealer's name who kept delivering girls and crack to you?

A: No.

Q: What did he look like?

A: He was brown-skinned and was younger.

Q: What was he driving?

A: I didn't pay too much attention.

Q: Did the van keys have your father's house key on the ring?

A: They should.

Q: Where were those keys all weekend?

A: Under the bed mattress in the motel room until I got them this morning to go get the van.

Q: Do you know the combination to your dad's safe?

A: No sir. I don't think nobody knows except him.

Q: Did you identify Roscoe from a photo this afternoon?

A: Yes.

Q: Robert, did you have anything to do with the murder of your dad?

A: No.

Q: Did you take anyone to your father's house this weekend?

A: No sir.

Q: Did you tell anyone about your father's safe?

A: No sir.

Q: How much money is in your pocket now?

A: \$30.00 even.

This statement was made in the presence of Investigator En. H of the
Richland County Sheriff's Department.

I make this statement of my own free will and accord, without reward or intimidation. All of the
above is the truth, the whole truth and nothing but the truth.

Sworn to and subscribed before me
this 14 day of June 2009.

Signed: Robert [Signature]

Witness: [Signature]

Witness: [Signature]

[Signature]
Notary Public for South Carolina
My commission expires 0082014

Statement
State of South Carolina
County of Richland

Q: You started out with how much?

A: About \$180.00 something.

Q: How much was the room each night?

A: It was \$99.00 a night, but the girls paid for two nights of it.

Q: How much do you think you spent on crack?

A: I don't know but I think I spent about \$40.00 or \$60.00. That refund this morning helped me out. That was money that the third girl put on the room.

Q: You didn't return to your dad's house over the course of the weekend at all?

A: No.

Q: Robert, did you ever touch your dad's safe?

A: I don't know if I did or not to be honest. I might have touched the safe when he was looking for his keys on Friday.

Q: What did you have on over the weekend?

A: These shorts I am wearing and a red and white shirt. I had on the same shoes.

Q: Did you take the shirt off or take a shower this morning after you got home?

A: I took my shirt off and put on this white t-shirt.

Q: Did you talk to anyone about your dad at all?

A: No sir.

Q: Is there anything else you think to tell me that I haven't asked you about that may add more detail to what you did over the weekend, or that may shed some light on what happened to your dad?

A: I know I was at the motel the whole time except when I rode around in the cab.

Q: You never asked the cabbie to drive you to your dad's house?

A: No.

This statement was made in the presence of Investigator Smith of the Richland County Sheriff's Department.

I make this statement of my own free will and accord, without reward or intimidation. All of the above is the truth, the whole truth and nothing but the truth.

Sworn to and subscribed before me
this 7th day of June 2009.

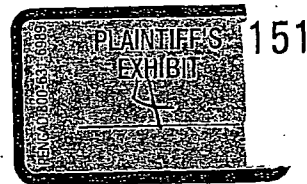
Signed: Robert Smith

Witness: [Signature]

Witness: [Signature]

[Signature]
Notary Public for South Carolina

My commission expires 10/08/2014



RICHLAND COUNTY SHERIFF'S DEPARTMENT

ADVICE OF RIGHTS

NAME: Dickerson - Robert PLACE: R.C.S.D.
OFFICER (S): Whe - J.E.
DATE: 06/03/09 TIME: 1011

YOUR RIGHTS ✓

- ☒ Before we ask you any questions, you must understand your rights.
- ☒ You have the right to remain silent.
- ☒ Anything you say can be used against you in court.
- ☒ You have the right to talk to a lawyer for advice before we ask you any questions, and to have a lawyer with you during any questioning.
- ☒ If you cannot afford a lawyer, one will be appointed for you before any questioning, if you wish.
- ☒ If you decide to answer questions now, without a lawyer present, you still have the right to stop answering at any time. You also have the right to stop answering at any time until you talk to a lawyer.

WITNESS: [Signature] SIGNED: Robert L. Dean
WITNESS: _____

WAIVER OF RIGHTS ✓

☒ I have read this statement of my rights and understand what my rights are. I am willing to talk and answer questions. I understand and know what I am doing. No promises have been made to me and no pressure or coercion of any kind has been used against me.

WITNESS: [Signature] SIGNED: Robert L. Dean
WITNESS: _____

Statement of

Robert Lawrence Dickerson
2908 Dell Dr
Columbia, SC 29209

Made at

Columbia, South Carolina, this 8 day of June, 2009, at 1215 hours, in the presence of Inv. Chris Lindler/Inv. David Unger of the Richland County Sheriff's Department.

I, Robert Lawrence Dickerson, understand that I have the right to remain silent. Anything I say can be used against me in court. I have the right to talk to a lawyer for advice before you ask me any questions, and to have a lawyer with me during any questioning. If I cannot afford a lawyer, one will be appointed for me before any questioning, if I wish. If I decide to answer questions now, without a lawyer present, I still have the right to stop answering at any time. I also have the right to stop answering at any time until I talk to a lawyer.

Do make the following statement:

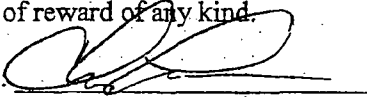
Q. C. Lindler/D. Unger

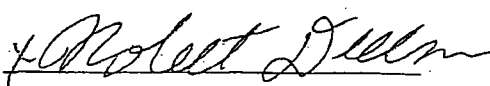
A. Robert Dickerson

Q. Tell us about your day on Friday from the time you got up?

A. My wife went to work at 5 o'clock that morning. I went ahead and got on up. I always get up when my wife gets up. I called my daddy about 9 or 10 o'clock. He told me to come on over and I went around over there. When I got there he asked me if I had some money. I told him I had some. He went over to the closet door and opened it up. Then he opened up the safe and took out a black bag that contained money. He gave me \$20.00 out of it. He came back and sat down on the chair and gave me the \$20.00 and then he was going to give me the keys to the van and at first we couldn't find them. Then we found them. He gave them to me and told me not to do like I did the last time. The last time I took the truck for three days and got high on crack and didn't bring it back. He got upset with me about that. I told him I wasn't going to do that again. I took the van and went and got crack in Eastway Park from the boys in the neighborhood. Then I wanted some more. That is when I went by Mr. Baker's house to borrow a hammer from him.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

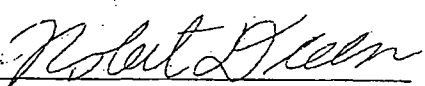
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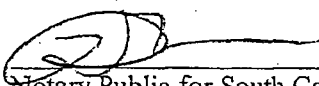
Signed: 

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 8 day of June, 2009.

Sworn to and subscribed before me
 This 8 day of June, 2009

Signed: 


 Notary Public for South Carolina
 My commission expires Dec 17, 2018

Q. Why did you want to borrow a hammer from Mr. Baker?

A. Because I was going to go back to the house and I knew my daddy had some more money. Something in my mind told me to go back and take it. I got back to the house and did not see my daddy in the front room so I walked around to the bedroom because I heard the TV on in the back bedroom. I seen him around there asleep. I started thinking about my momma and how he used to bruise my momma. I also got to thinking about how he used to beat me. He used to beat me in the head and punish me for months because I was bad. It bothered me more though how he treated my Momma. He had to take care of my momma and he didn't like that. She had to have her legs cut off because of her sugar. He would tell me sometimes he was ready for her to die. Momma used to tell me how he used to treat her when we weren't around. Something came over me and something told to just hit my daddy. I hit him one time and something said hit him again. Then something said to hit him again.

Q. Robert where did you hit your father?

A. In the head.

Q. What did you hit him with?

A. The hammer. The one I borrowed from Mr. Baker.

Q. What did the hammer look like?

A. The hammer has a black handle and the metal part is silver.

Q. How many times did you hit your daddy?

A. The first time I hit him about four times.

Q. Where was your daddy laying in the bed when you started hitting him?

A. He was laid cross ways across the bed with his head towards the foot of the bed.

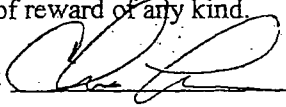
Q. What did your daddy do as you where hitting him?

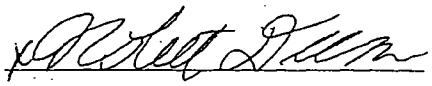
A. He tried to get up and I hit him again. He was trying to sit up. I know I hit about four times. Each time I hit him I would step back and look at him.

Q. How was he laying when you left him?

A. He was laid cross ways in the other direction and his head closest to the door of the room.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

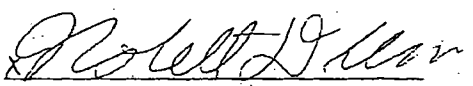
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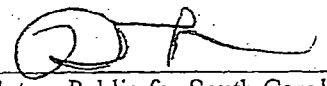
Signed: 

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 8 day of June, 2009

Sworn to and subscribed before me
This 08 day of June, 2009

Signed 


Notary Public for South Carolina
My commission expires Dec 17 2018

Q. Was your daddy still alive when you left the room?

A. Yes.

Q. What did you do when you left the room?

A. I washed my hands and the hammer in the bathroom sink in the hallway. I got some toilet tissue and cleaned the hammer off and put the tissue in the trashcan. I don't remember flushing the toilet or putting anything in the toilet. Then I went to the living room and into the closet where the safe was. There was a black bag on the chair where the money was. He had never put that up from earlier. I opened the black bag and took all the money that was in there. I left the house and locked the front door.

Q. What time of day was this?

A. It was about two something in the afternoon.

Q. Where did you go next?

A. I took the hammer back to Mr. Baker and gave it back to him. He carried it back and put it in his tractor trailer truck that he drives. He put it in the box on the driver's side. It is a green truck.

Q. Where did you go next?

A. I went down Atlas Rd. I seen Roscoe at Reese's pool hall. His daddy owns that club. I stopped by there. I asked him if he knew where to get something to smoke. Then he went and got it. He was gone for about a half hour. I gave him \$100.00 to go and get it. He came back and we sat there and smoked. Then I gave him another \$100.00 to go and get some more. Then I asked him if I knew a woman I could be with. He went and got a girl. Her name was bow-leg. This is when the sun was starting to go down. Roscoe came back with "bowleg" and we smoked some more. I decided then we needed to go and get a hotel room and I asked Mr. Reese to take use to the hotel. He didn't want to do it because it was raining to hard. He said Roscoe could take us and he gave Roscoe the keys.

Q. Where did you leave your daddy's van?

A. Behind the building next to the pool hall. I parked it next to an old broke down truck so nobody could see it from the road.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: Chris L.

Signed: X Robert L. Sullivan

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 8 day of June, 2009

Sworn to and subscribed before me
This 08 day of June, 2009

Signed: Robert L. Sullivan

OS
Notary Public for South Carolina

My commission expires Dec 17, 2018

Q. Which hotel did you go to?

A. Country town Inn and Suites. It is on the road by the interstate and is the middle hotel. We stopped by the filling station first and got some gas. I think it was the Sunoco. "bowleg" and Roscoe went in and I stayed in the car. I gave Roscoe another \$100.00 and "bowleg" got what she needed too.

Q. Who paid for the room?

A. I did.

Q. How did you pay?

A. In cash.

Q. What room did you stay in?

A. Room 328.

Q. What happened next?

A. "bowleg" said she couldn't stay that long because she had to work the next day. I asked her if she knew any other lady that I could be with because I did not want to be by myself.

Q. Did you show her the money and count it out?

A. Yes. I counted about \$3, 600.00.

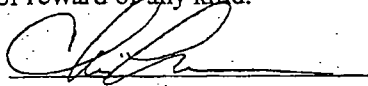
Q. How much had you already spent?

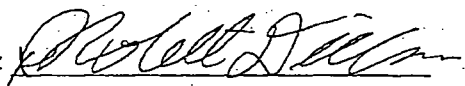
A. About \$600.00 at least.

Q. Did you and "bowleg" do anything?

A. I tried but I couldn't do nothing. I was still nervous and couldn't relax. She called some one to order up more dope. The first time she ordered the dope boy brought it up to us. She left sometime after midnight. She called a taxicab to come and get her. A blue ribbon cab. I went with her when the cab took her home. She had the cab stop close to her house. I had the taxicab to take me on down the road and turn by Bible Way Church. I told the cab to stop. I was looking for

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

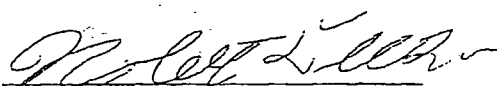
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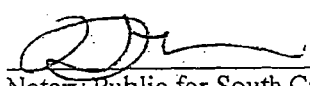
Signed: 

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 8 day of JUNE, 2009

Sworn to and subscribed before me
This 08 day of June, 2009

Signed: 


Notary Public for South Carolina

My commission expires Dec. 17 2018

more drugs and another woman. I found a lady and we went back to the hotel. We sat up there, smoked and we ran out of drugs early Saturday morning. So this girl called the taxicab again for us. We seen this dude she knows on Garners Ferry and he took us to this girl's house. I bought two more slabs. I sent the cab on its way and that dude she knew we went to his place. We smoked some there. That girl didn't want to go back. I asked that guy if he knew another female and he said yes. I asked him if someone could take me back and I would give them some money. He called a guy and he got a girl for me and that guy took both of us back to the room. We smoked some more. I sent her down to pay for another night. She called the drug boys to get me some more dope and when they brought it she left with them. This was late on Saturday. When the drug boys left I asked them to bring me another girl. They came back with another one. She was pretty. I still couldn't do anything with her.

Q. Did the same boy bring you dope all weekend?

A. No the second two girls called the same dope boys. They were different dope boys than who "bowleg" called.

Q. Did you have a problem getting high over the weekend?

A. Friday night I could not get enough to smoke. I couldn't get as high as I wanted and I just kept Smoking.

Q. When did you decide to go and get the van and take it back?

A. After the pretty girl went down to pay for the room. She called the drug boys again. She said she was going to another hotel but would be right back. I decided to leave and take van back. I called blue ribbon cab and they carried me back over to where I parked the van at Reese's. I took the van back to my daddy's house. I got out of the van went to my daddy's front door hoping he wasn't dead. I got no answer. I left the keys on the center console of the van. I walked up the street to Goodman's store. I had one slab of crack left in my pocket. I smoked some of that. And then I went to the bootlegger house in Starlight and got two half pints and two beers. I smoked some of my crack there and gave them the rest of it and then I came back home. I called my daddy again on the phone. He still didn't answer. That is when my daughter told me that two brothers and my brother-in-law called. I called my brother-in-law back and he asked me did I know what happened. I said no, what happened. He stated come on around to my daddy's house. I went around there and that's when I seen all of the people and policemen. I asked my brother what happened and he said something happened to my daddy. My brother was telling the officer that my daddy's van was not home for a few days. He said that my daddy's van is here now. I

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: Chris R

Signed: Robert L Miller

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 8 day of June, 2009

Sworn to and subscribed before me

This 28 day of June, 2009

Signed Robert L Miller

[Signature]
Notary Public for South Carolina

My commission expires Dec 17, 2018

went to the officer and I told him that I had the van. I told him that I brought it back this morning. That's about it.

Q. Did you feel guilty while you were standing out there knowing that you had killed your father?

A. Yes sir I did.

Q. Why did you not tell us this yesterday?

A. I was high and upset and needed to get my thoughts together.

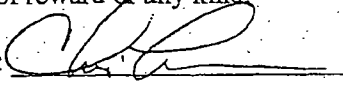
Q. What did you tell your wife this morning?

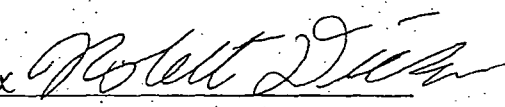
A. I told her that I probably would not be back. I told her that I love her.

Q. Is there anything else that you want to add to your statement?

A. I did not intend for any of this to happen. I was thinking about how he treated me and my mother and it just happened. I am sorry that it happened.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

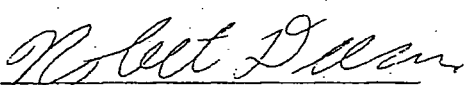
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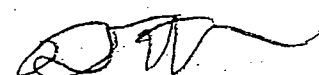
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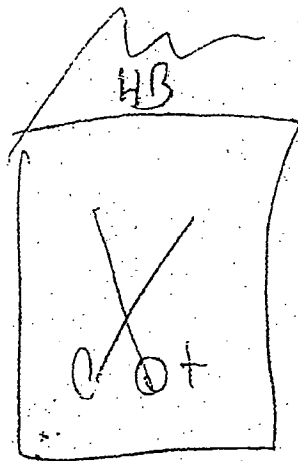
Sworn to and subscribed before me
This 8 day of June, 2009

Signed: 



Notary Public for South Carolina

My commission expires Dec. 17 2018

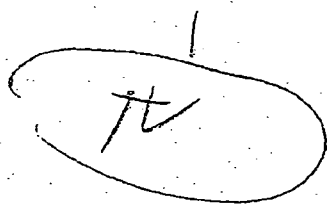
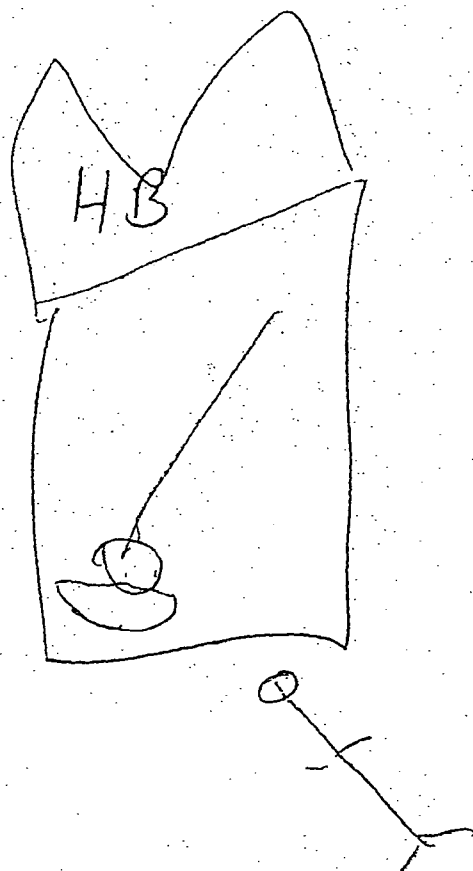


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* - Final position

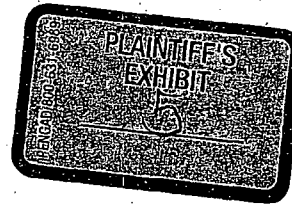
RLD

06-08-08



RLD
06.08.09

TO: RHODES BAILEY
 FROM: TAYLOR BELL
 DATE: JULY 19, 2010
 RE: NOT GUILTY BY REASON OF INSANITY / GUILTY BUT
 MENTALLY ILL



I. NOT GUILTY BY REASON OF INSANITY

§ 17-24-10 is South Carolina's insanity defense statute. If successfully, "not guilty by reason of insanity" is a complete defense, however, the person likely will be involuntarily committed as a result of this verdict.

In every criminal case, it is presumed that the defendant is sane, State v. Lewis, 328 S.C. 273, 494 S.E.2d 115 (1997), and in South Carolina the defendant has the burden of proving the defense of insanity by a preponderance of the evidence. § 17-24-10(B).

§ 17-24-10(A) provides, it is an affirmative defense to the prosecution for a crime that, at the time of the commission of the act constituting the offense, the defendant, as a result of mental disease or defect, *lacked the capacity to distinguish moral or legal wrong or to recognize the particular act charged as morally or legally wrong.* (emphasis added). This standard for determining whether a defendant's mental condition at the time of the offense to render him criminally responsible is the *M'Naughten* test. See State v. Pittman, 373 S.C. 527, 647 S.E.2d 144 (2007).

The key to insanity is the power of the defendant to distinguish right from wrong in the act itself - - to recognize the act complained of is either morally or legally wrong. State v. Lewis, 328 S.C. 273, 494 S.E.2d 115 (1997).

§ 17-24-30 requires the submission of four different verdict forms: guilty, not guilty, "not guilty by reason of insanity", and "guilty but mentally ill" where, in a

prosecution for a crime, the defendant raises the affirmative defense of insanity and the defendant cannot waive a guilty but mentally ill verdict form since § 17-24-30 mandates such a submission. State v. Rimert, 315 S.C. 527, 446 S.E.2d 400 (1994).

In the event a verdict of "not guilty by reason of insanity" is returned, the trial judge must order the person who was the defendant committed to the South Carolina State Hospital for a period not to exceed one hundred twenty days. During that time, an examination must be made of the person to determine the need for hospitalization of the person pursuant to the standards set forth in § 44-17-580. § 17-24-40(A). A report of the findings must be made to the chief administrative judge of the circuit in which the trial was held, the solicitor, the person, and the person's attorney. § 17-24-40(B). Within fifteen days after receipt of this report by the court, the chief administrative judge of the circuit in which the trial was held must hold a hearing to decide whether the person should be hospitalized pursuant to the standard of § 44-17-580. § 17-24-40(C)(1). If the chief administrative judge finds the person not to be in need of hospitalization, the judge may order the person released upon such terms or conditions, if any, as the judge considers appropriate for the safety of the community and well-being of the person. § 17-24-40(C)(2)(a). In the event the chief administrative judge finds the person to be in need of hospitalization, the judge must order the person committed to the South Carolina State Hospital. § 17-24-40(C)(2)(b). If at a later date it is determined by officials of the State Hospital that the person is no longer in need of hospitalization, the officials must notify the chief administrative judge, the solicitor, the person, and the person's attorney. Within twenty-one days after the receipt of this notice, the chief administrative judge, upon notice to all parties, must hold a hearing to determine whether the person is in need of

continued hospitalization pursuant to the standard of § 44-17-580. If the finding of the court is that the person is not in need of continued hospitalization, it may order the person released upon such terms and conditions, if any, as the chief administrative judge considers appropriate for the safety of the community and the well-being of the person. § 17-24-40(C)(2)(c).

§ 44-17-580(A) provides, if, upon completion of the hearing and consideration of the record, the court finds upon clear and convincing evidence that the person is mentally ill, needs involuntary treatment and because of his condition: (1) lacks sufficient insight or capacity to make responsible decisions with respect to his treatment; or (2) there is a likelihood of serious harm to himself or others, the court shall order in patient or out-patient treatment at a mental health facility, public or private, designated by the Department of Mental Health and may order out-patient treatment following in-patient treatment. If the court finds that the person is not mentally ill and not in need of involuntary treatment, the court shall dismiss the proceedings.

Any terms and conditions imposed by the chief administrative judge must be therapeutic in nature, not punitive. Therapeutic terms must include, but not be limited to, requirements that the person: (1) continue taking medication for an indefinite time and verify in writing the use of medication; (2) receive periodic examinations and reviews by psychiatric personnel; and (3) report periodically to the probation office for an evaluation of this reaction to his environment and his general welfare. § 17-24-40(D).

If a person is committed to the supervision of the Department of Mental Health pursuant to § 17-24-40 after having been found not guilty by reason of insanity of a violent crime, the person may not leave the facility or grounds to which he is committed

at any time unless accompanied by an employee of the department who must be responsible for and in the physical presence of the person at all times. A violent crime includes those offenses described in § 16-1-60 and the common law offense of assault and battery of a high and aggravated nature. § 17-24-40(F).

In no case shall a defendant found not guilty by reason of insanity be confined or be under supervision longer than the maximum sentence for the crime with which he is charged without full civil commitment proceeding being held. § 17-24-50.

Under § 17-24-80, should a defendant be released pursuant to § 17-24-40, the solicitor shall immediately notify the local probation office and it shall then be the responsibility of the probation office to monitor compliance by the defendant of the terms and conditions of his release.

II. GUILTY BUT MENTALLY ILL

§ 17-24-20 is South Carolina's "guilty but mentally ill" statute. Generally, these types of statutes acknowledge that although a defendant may be sufficiently ill to merit treatment, the defendant should not necessarily be acquitted as legally insane. It appears that these statutes simply encourage juries to effect a compromise between the extreme alternatives of acquitting a criminal or incarcerating a madman. With the "guilty but mentally ill" verdict a jury can ease their collective conscience by acknowledging that a person is "sick" but, at the same time, not leaving the actions unpunished. After the verdict is returned, the defendant is committed to a hospital facility; upon recovery, the defendant is incarcerated.

Under § 17-24-30, the submission of four different verdict forms is required: guilty, not guilty, "not guilty by reason of insanity", and "guilty but mentally ill" where,

in a prosecution for a crime, the defendant raises the affirmative defense of insanity and the defendant cannot waive a "guilty but mentally ill" verdict form since § 17-24-30 mandates such a submission. Some courts have recognized that this new verdict can lead to substantial juror confusion and consequently have held that a defendant claiming mental illness is entitled to an instruction that explains the consequences of a "not guilty by reason of insanity" verdict versus a guilty but mentally ill verdict.

§ 17-24-20(A) provides, a defendant is "guilty but mentally ill if", at the time of the commission of the act constituting the offense, he had the capacity to distinguish right from wrong or to recognize his act as being wrong as defined in § 17-24-10(A), but because of mental disease or defect he lacked sufficient capacity to conform his conduct to the requirements of the law.

Under § 17-24-20(B), to return a verdict of "guilty but mentally ill" the burden of proof is upon the State to prove beyond a reasonable doubt to the trier of fact that the defendant committed the crime, and the burden of proof is upon the defendant to prove by a preponderance of evidence that when he committed the crime he was mentally ill as defined in § 17-24-20(A).

A court may not accept a plea of "guilty but mentally ill" unless, after a hearing, the court makes a finding upon the record that the defendant proved by a preponderance of the evidence that when he committed the crime he was mentally ill as provided in § 17-24-20(A). § 17-24-20(D).

If a verdict is returned of "guilty but mentally ill" the defendant must be sentenced by the trial judge as provided by law for a defendant found guilty, however: (1) if the sentence imposed upon the defendant includes the incarceration of the defendant,

the defendant must first be taken to a facility designated by the Department of Corrections for treatment and retained there until in the opinion of the staff at that facility the defendant may safely be moved to the general population of the Department of Corrections to serve the remainder of his sentence; (2) if the sentence includes a probationary sentence, the judge may impose those conditions and restrictions on the release of the defendant as the judge considers necessary for the safety of the defendant and of the community. § 17-24-70. Should a defendant be released pursuant to § 17-24-70, the solicitor shall immediately notify the local probation office and it shall then be the responsibility of the probation office to monitor compliance by the defendant of the terms and conditions of his release. § 17-24-80(A).

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Robert L. Dickerson, #113793,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

2011-CP-40-03363

ORDER OF DISMISSAL

JEANETTE W. McBRIDE
Clerk of Court
& G.S.

2012 NOV 19 PM 3:06

RICHLAND COUNTY
FILED

NOV 19 2012

PROCEDURAL HISTORY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed May 20, 2011. An evidentiary hearing into the matter was convened on Friday, May 25, 2012, at the Richland County Courthouse. The Applicant was present at the hearing with counsel, R. Scott Wallinger, Esquire. The Respondent was represented by Robert D. Corney of the South Carolina Attorney General's Office.

At the hearing, Applicant testified on his own behalf. Also testifying was Applicant's former plea counsel, J. Rhodes Bailey, Esquire (hereafter "counsel"). This Court had before it a copy of the transcript of the proceedings against Applicant, the records of the Richland County Clerk of Court, and Applicant's records from the South Carolina Department of Corrections.

The records before this Court indicate that Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Richland County Clerk of Court. Applicant was true bill indicted at the September 2009 term of the Richland County Grand Jury for Armed Robbery and Murder (2009-GS-40-4968/5430). He was represented by Fifth Circuit Assistant Public Defenders J. Rhodes Bailey, Esquire, and Jay Cooper, Esquire, on the charges. On August 31, 2010, Applicant appeared before The Honorable

G. Thomas Cooper, Jr., where he pled guilty to the charges as indicted and was sentenced to forty (40) years imprisonment on each charge, to run concurrently. Applicant did not file a direct appeal.

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

9. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
 - (a) A violation of my USCA 5th Amend. right to effective assistance of counsel
 - (b) An error of law accusing murder on 9/21/09, at which date I was in jail
 - (c) _____
10. State concisely and in the same order the facts which support each of the grounds set out in (9):
 - (a) My trial counsel caused me to believe I would receive a 20 year sentence
 - (b) The SENTENCE SHEET documents: Date of Offense: 9/21/09 TO: Murder/Murder
 - (c) _____

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the arguments presented by both parties at the evidentiary hearing. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

In a post-conviction relief action, the Applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRPC; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). 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, 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, 286 S.C. 441, 334 S.E.2d 813 (1985). The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

Involuntary Guilty Plea

Applicant first alleged his guilty plea was involuntarily entered due to counsel's ineffectiveness in investigating and preparing the case with regards to Applicant's mental capacity and competency.

Counsel testified he was appointed to represent Applicant in his capacity as an assistant public defender for Richland County. Counsel said at the time of his appointment to Applicant's case in June of 2009, Applicant had already been arrested. He said in murder cases, the appointment process within the public defender's office moves very quickly, so he was able to visit Applicant at the jail very shortly after Applicant's arrest. Counsel testified that during the course of his representation, he met with Applicant eight (8) or more times to discuss and review

the case. Counsel noted he served the state fairly early on in the process with notice of his intention to present an insanity defense at trial.

Counsel testified that pursuant to the State's request, Applicant was ordered to be evaluated for competency to stand trial. Counsel went on to say that based on his discussions with Applicant, he and co-counsel submitted an *ex parte* request to have Applicant also evaluated for criminal responsibility, which the Court thereafter issued. Pursuant to the orders, counsel said, Applicant was interviewed several times by evaluators. According to the evaluation reports submitted and made part of the record before this Court, Applicant was found to be competent to stand trial, criminally responsible and capable of conforming his conduct to the requirements of the law. While the reports do make mention of Applicant allegedly suffering from hallucinations, the reports consistently note Applicant was feigning those symptoms.

Counsel testified he also had Applicant independently evaluated by forensic psychologist Dr. Thomas Martin, on August 3, 2010, at the county jail, who concurred entirely with the opinions set forth in the reports previously issued. Counsel noted he and Cooper were both present at that independent evaluation where they took notes and were given an oral opinion that Applicant was embellishing his inability to comprehend. Counsel said no *written* report of the independent evaluation was done as such a written report would likely be introduced by the state at trial to greatly impair Applicant's insanity defense if the evaluation in fact confirmed Applicant was competent, criminally responsible and able to conform his conduct to the requirements of the law.

Counsel went on to say he was fully aware of the evaluations' findings, including the fact that Applicant was illiterate, during his meetings with Applicant and kept those things in mind while reviewing the case file with Applicant. Counsel said without an expert willing to testify

that Applicant was insane at the time of the crime, Applicant was left with taking the stand in his defense to submit the facts for counsel to argue to the jury. Counsel noted the state never extended any plea offers to Applicant other than to plead "straight up" for a recommended life without parole sentence, and at one point early on even hinted they may pursue the death penalty. Later in the case, counsel said, he met with the prosecuting solicitor and judge where he "got the impression" and felt "very confident" Applicant would not receive a life without parole sentence if he pled guilty, which counsel said he discussed with Applicant. To that end, counsel testified he never promised or guaranteed Applicant any particular sentence, but told Applicant he thought Applicant could get less than a life without parole sentence if he pled guilty. Counsel said he wanted to take the case to trial and was fully prepared to do so, but Applicant made the voluntary, informed decision to enter the plea in an effort to avoid a life without parole sentence.

Regarding a potential "not guilty by reason of insanity" defense to be pursued at trial, counsel stated he did not believe that was a strong defense to be used since jury's are also charged with "guilty but mentally ill" in those instances. Counsel explained that where both are charged, he believed juries almost *exclusively* choose "guilty but mentally ill" verdicts, under which Applicant would still be facing the remainder of his life in custody. Therefore, counsel said, even if the jury believed Applicant was insane at the time, he likely would have still been found "guilty but mentally ill", which was "no better" to Applicant's goal of avoiding life without parole than a guilty verdict would be.

On cross-examination, counsel testified that based on the evidence against Applicant, the only defenses that could be effective were justification or excuse defenses as there was no doubt Applicant had in fact committed the killing. He went on to note Applicant's contention that he

was temporarily insane during the killing as a result of smoking crack was an insufficient defense to be presented at trial since voluntary intoxication does not excuse murder.

Applicant testified counsel told him that if he went to trial, he would receive a life without parole sentence, but went on to testify he had not been sure of the sentence he would receive if he pled. Applicant went on to say he remembered the plea hearing and was aware at the time that he was entering a guilty plea to the charge. Applicant conceded he told counsel he was going to plead guilty because he was guilty of the charges and was "wrong for what [he] did". He finished by testifying that he considered his options and decided to plead guilty based on his lawyer's advice.

Based on a thorough review of the record and the testimony presented, this Court finds counsel was not ineffective in this regard. As a preliminary matter, this Court finds counsel's testimony to be **credible**, while conversely finding Applicant's testimony to be wholly **not credible**. Counsel undertook diligent and thorough preparation and investigation to ensure Applicant was of sound mental capacity to proceed to trial or otherwise enter a guilty plea, as well as to gauge their ability to present an insanity defense at trial. All indications from the multiple evaluations done on Applicant are conclusive in finding Applicant was fully competent to stand trial, was criminally responsible and was able to conform his conduct to the requirements of the law. Counsel reviewed these evaluation results with Applicant and discussed their significance with him in detail to ensure Applicant fully understood how the findings drastically impacted their ability to present a valid insanity defense at trial. This court finds counsel's performance as outlined above to fall well within the objective range of reasonableness required of criminal defense attorneys.

Further, this Court finds Applicant freely and voluntarily entered the guilty plea after being fully and adequately advised of all relevant matters pertaining thereto by competent counsel acting well within the wide range of reasonableness demanded of criminal defense attorneys. See Boykin v. Alabama, 395 U.S. 238, 89 S.Ct. 1709 (1969). Applicant fully understood the nature and consequences of the plea he entered as a result of his in depth conversations with counsel on the various issues involved in the case. Therefore, this Court finds no deficiency in this regard.

Additionally, Applicant has failed to prove resulting prejudice as he failed to present any evidence that he was in fact incompetent to stand trial or otherwise enter a guilty plea at the time he did. See State v. Lambert, 266 S.C. 574, 225 S.E.2d 340 (1976) (*the test of competency to enter a plea is the same as required to stand trial*). In fact, based on the record and counsel's credible testimony, this Court finds Applicant did have sufficient capability to consult with his lawyer with a reasonable degree of rational understanding, and had a rational and factual understanding of the proceedings against him. See Carners v. State, 275 S.C. 353, 271 S.E.2d 121 (1980). Applicant additionally failed to convince this Court that had counsel undertaken some further action, he would not have pled but rather gone to trial to present an insanity defense. Applicant also did not produce any evidence (expert testimony, mental evaluation, fact witnesses, etc.) to support a claim that he would have been successful in presenting an insanity defense at trial. Further, the evidence against Applicant was insurmountable, especially without independent evidence to support some valid defense at trial. Counsel was fully prepared to proceed to trial and credibly testified that he, in fact, "wanted" to go to trial with Applicant. It was Applicant's own decision to plead that prevented the matter from going to trial.

Therefore, this Court finds Applicant has failed to satisfy his burden of proof in proving deficiency and resulting prejudice in this regard.

Failure to File Pretrial Motion Challenging Confession Pursuant to Jackson v. Denno

Applicant's second allegation was counsel was ineffective for failing to challenge the admissibility of his confession statement to police through a pretrial Jackson v. Denno¹ hearing.

Counsel testified Applicant gave a written statement to law enforcement fully confessing to killing his father, the victim in this instance, with a hammer. On the Miranda advisement of rights form used to inform Applicant of his rights prior to the interrogation, the questioning officer noted Applicant did not read or write very well. Counsel noted that while the statement was not written by Applicant, Applicant had signed each and every page of the statement. Counsel said he would have filed a motion for and was prepared to argue a pretrial Jackson v. Denno hearing for suppression of the statement, through which he intended to use Applicant's illiteracy and limited mental capabilities to prove involuntariness. Counsel stated Applicant was not interested in going through the pretrial motions/hearings prior to entering the plea because he openly admitted his remorse for killing his father and wanted to "take responsibility" for his actions by entering a plea. Counsel testified he could not recall specifically whether he had discussed potential suppression of the statement with Applicant or not, but noted he reviewed various trial options with Applicant prior to the plea.

Applicant provided no testimony regarding potential suppression of his confession statement.

This Court finds neither deficiency nor resulting prejudice in this regard. First, counsel's credible testimony reflects he was fully prepared to file and argue a motion to suppress the statement in a pretrial Jackson v. Denno hearing had Applicant opted to proceed to trial. It was

¹ Jackson v. Denno, 378 U.S. 368, 84 S.Ct. 1774 (1964).

Applicant's own voluntary decision to "take responsibility" for his actions by entering a plea that precluded counsel from presenting the motion. Applicant failed to convince this Court that counsel's performance was objectively unreasonable in this regard.

Further, this Court finds Applicant failed to carry his burden in convincing this Court that this alleged deficiency resulted in prejudice. Specifically, Applicant failed to prove that had the motion been presented, the statement would have been suppressed thereby altering Applicant's decision to forego jury trial; or, alternatively, had the motion been successful, there is a reasonable probability the outcome at trial would have been different. During a pretrial Jackson v. Denno hearing, the trial judge must make a determination based on the totality of the circumstances surrounding the statement whether the state carried its burden in showing by a preponderance of the evidence that the defendant's statement was made voluntarily. See State v. Miller, 375 S.C. 370, 652 S.E.2d 444 (Ct. App. 2007). Once the trial judge determines the statement is admissible, it is up to the jury to ultimately determine, beyond a reasonable doubt, whether the statement was voluntarily made, as well as the evidentiary weight to be assigned to the statement. Id. at 383, 652 S.E.2d at 451. Applicant has failed to present evidence to convince this Court that Applicant's statement to law enforcement was inadmissible for consideration by the jury or that it was involuntarily obtained. Additionally, the record reflects there was substantial incriminating evidence against Applicant to secure a conviction; therefore, this Court finds no reasonable probability that the outcome at trial would have been different *even if* Applicant's statement to police had been suppressed through pretrial hearing.²

² The record reflects that the state was in possession of a recorded phone call during which Applicant confessed to the murder to his wife; therefore, if the tape was admitted at trial, the statement to law enforcement may have only been cumulative to Applicant's other confessions.

Failure to File Direct Appeal

The only other allegation Applicant presented at the PCR hearing was that counsel was ineffective for failing to file and perfect a direct appeal of the plea on Applicant's behalf.

Applicant alleges counsel never informed him of his right to appeal the plea. Counsel conversely testified he always advises his clients of the right to appeal, but said Applicant never requested an appeal. Counsel also said he never had any reason to believe Applicant wanted to appeal the plea.

This Court finds the allegation to be entirely without merit based on counsel's credible testimony. Absent extraordinary circumstances, such as when there is reason to think a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal) or when the defendant reasonably demonstrated an interest in appealing, there is no constitutional requirement that a defendant be informed of the right to direct appeal from a guilty plea. Roe v. Flores-Ortega, 528 U.S. 470 (2000). The South Carolina Supreme Court has applied this standard to guilty pleas, saying:

...absent extraordinary circumstances, there is no constitutional requirement that a defendant be informed of the right to appeal from a guilty plea... The bare assertion that a defendant was not advised of appellate rights is insufficient to grant relief. Instead, there must be proof that extraordinary circumstances exist such that the defendant should have been advised of the right to appeal.

Weathers v. State, 319 S.C. 59, 459 S.E.2 838 (S.C. 1995). Therefore, even if taken as true, Applicant's allegation that counsel did not inform him of the right to direct appeal is not *per se* reason to warrant a belated direct appeal. Further, based on the credible testimony provided by counsel in this regard, Applicant did not request counsel file an appeal on his behalf, nor did any extraordinary circumstances exist such that counsel reasonably *should have* known Applicant

wanted an appeal. Finally, Applicant failed to establish any non-frivolous grounds existed for appeal. Accordingly, this Court finds Applicant is not entitled to relief and the current application must be denied and dismissed with prejudice.

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.

Except as discussed above, this Court finds that the Applicant failed to raise all additional allegations raised in his application at the hearing and has, thereby, waived them. A waiver is a voluntary and intentional abandonment or relinquishment of a known right. Janasik v. Fairway Oaks Villas Horizontal Property Regime, 307 S.C. 339, 415 S.E.2d 384 (1992). A waiver may be express or implied. "An implied waiver results from acts and conduct of the party against whom the doctrine is invoked from which an intentional relinquishment of a right is reasonably inferable." Lyles v. BMI, Inc., 292 S.C. 153, 158-59, 355 S.E.2d 282 (Ct. App. 1987). The Applicant's failure to address these issues at the hearing indicates a voluntary and intentional relinquishment of his right to do so. Therefore, any and all remaining allegations are denied and dismissed.

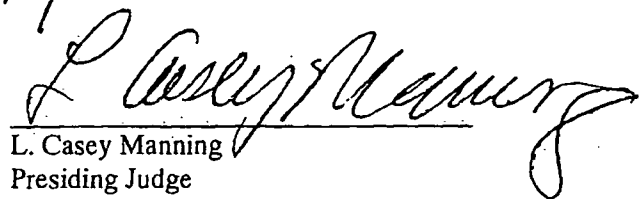
This Court notes Applicant must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of PCR. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, PCR

counsel must serve and file a Notice of Appeal on the Applicant's behalf. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. 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 19 day of Nov, 2012.



L. Casey Manning
Presiding Judge
Fifth Judicial Circuit

Columbia, South Carolina.

WITNESSES

(s) CHRISTOPHER LINDLER, RCSD ✓

ARREST WARRANT NUMBER

M235357

ACTION OF GRAND JURY

TRUE BILL

SEP 16 2009

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009-GS-40-4968

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2009

42

THE STATE

vs.

ROBERT L. DICKERSON

Indictment for

MURDER

SC Code: 16-3-10, 20

CDR Code: 0116

Class FEL/EXM(V)

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

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

CERTIFIED TRUE COPY
OF ORIGINAL FILED
JUL 17 2009
CLERK OF COURT
RICHLAND COUNTY, SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

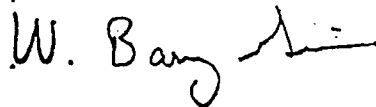
INDICTMENT

At a Court of General Sessions, convened on SEPTEMBER 16, 2009, the Grand Jurors of Richland County present upon their oath:

MURDER

That ROBERT L. DICKERSON did in Richland County on or about JUNE 5, 2009, feloniously, willfully and with malice aforethought, kill one CHARLES DICKERSON, by means of hammer wounds, and that the said victim died as a proximate result thereof. All in violation of §16-3-10, 20, *Code of Laws of South Carolina*.

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



Warren B. Giese, SOLICITOR

WITNESSES

(s) CHRISTOPHER LINDLER, RCSD ✓

DOCKET NO. 2009-GS-40-5430

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

SEPTEMBER

TERM 2009

42

ARREST WARRANT NUMBER

M235358

ACTION OF GRAND JURY

TRUE BILL

SEP 16 2009

Foreperson of Grand Jury

Date:

VERDICT

Foreperson of Petit Jury

Date:

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

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment on

Defendant

Witness:

C.C.C. PLS. AND G.S.

ROBERT L. DICKERSON

Indictment for

ARMED ROBBERY

SC Code: 16-11-0330(A)

CDR Code: 0139

Class FEL-A(V)

CERTIFIED TRUE COPY
OF ORIGINAL FILED,
JAN 16 2010
C.C.C. PLS. AND G.S.
RICHLAND COUNTY
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on SEPTEMBER 16, 2009, the
Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That ROBERT L. DICKERSON did in Richland County on or about JUNE 5, 2009, commit an armed robbery by feloniously taking from the person or presence of CHARLES DICKERSON, by means of force or intimidation goods or monies of, CHARLES DICKERSON, such goods or monies being described as US Currency, with the intent to deprive the owner permanently of such property, while armed with a pistol, rifle, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, all in violation of §16-11-330(A), Code of Laws of South Carolina, (1976, as amended).

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

W. B. Giese

WARREN B. GIESE, SOLICITOR