

The State of South Carolina
In the Court of Appeal

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APPEAL From Lexington County SC Court of Appeals
Court of General session

Honorable Williams P Keeley Circuit Court Judge

Case No: 2013-001849

James Chester Williams 282929 Appellant
State of South Carolina V. Respondent

designation of matter
To be included in the Record on Appeal

Appellant Proposes the Following be included in the Record on Appeal

- (1) Transcript of Record on Appeal PP 41-46
- (2) Transcript of Record of the Guilty Plea on Appeal PP 60-71

I Certify that this designation contains no matter which is irrelevant to this appeal

James Chester Williams
James Chester Williams 282929
Kershaw Corr- inst MA 04
4848 Gold Mine Hwy
Kershaw South Carolina 29067
Appellant Pro Se

September 14, 2014

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State of South Carolina
County of Lexington

Court of General Sessions

State)
)
)
 v.)
)
 James Chester Williams)
)
 Defendant.)

Transcript of Record
00-GS-32-689

June 20, 2013
Lexington, South Carolina

B E F O R E:

The Honorable William P. Keesley, Judge.

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

John Walter Whitmire, Assist. Attorney General
S. Rick Hubbard, III, Deputy Solicitor
Attorneys for the State

David M. Mauldin, Assist. Public Defender
Attorney for the Defendant

Stacy L. Sheppard, RPR
Circuit Court Reporter

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I N D E X

WITNESS

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Certificate of Reporter

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(There were no witnesses.)

E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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1 (The following proceedings were held on June
2 20, 2013.)

3 **THE COURT:** All right. I had asked or directed
4 that a status conference be held on the record
5 concerning the case of the State versus James
6 Chester Williams. Mr. Williams was convicted of
7 murder and perhaps other offenses. And he was
8 sentenced by Judge Westbrook on March 21st, 2002, to
9 a term of imprisonment of 30 years with credit from
10 September of 1999.

11 He forwarded to the court, Clerk of Court,
12 various documents, the essence of which is that he
13 claims that he is entitled to a new trial based on
14 after-discovered evidence. He has filed numerous
15 documents pro se. I've read through all of this and
16 I tried to do a search of the website to see what
17 showed up. It appeared that he filed a
18 post-conviction relief action in 2003. It was
19 dismissed by Judge Johnson. And the Court of
20 Appeals reviewed it, did not change the decision.

21 Another PCR case appears to have been filed in
22 2008. It's difficult to tell from what I was
23 looking at, but it appeared that the Supreme Court
24 did not grant any relief on that post-conviction
25 relief action.

AB

1 I did a five-page order on October the 25th,
2 2012, which recited all of this. And part of it
3 reads that the present motion is submitted by the
4 defendant in a self-represented capacity. He seeks
5 appointment of counsel. The motion is somewhat
6 confusing because it claims that there is
7 after-discovered evidence presumably in the form of
8 a SLED report that contained exculpatory evidence
9 that was concealed from the defendant. So there
10 appears to be a claim of a violation of Rule 5 South
11 Carolina Rules of Criminal Procedure and Brady
12 versus Maryland. The materials submitted to the
13 Court do not contain a copy of this SLED report.

14 Then I noted that the motion made a reference
15 to Rule 29(e) of the South Carolina Rules of
16 Criminal Procedure, which I didn't see how that
17 applied. It seemed perhaps that the intent was to
18 cite Rule 29(b) which sets out the rule related to
19 new trials based on after-discovered evidence.

20 Mr. Williams seems to be aware, from what he
21 has sent in, that those motions are supposed to be
22 made within one year after the date of actual
23 discovery of the evidence or a date when the
24 evidence could have been ascertained by the exercise
25 of reasonable diligence. The motion that was filed

5
1 claiming after-discovered evidence was filed on July
2 23rd, 2012.

3 Reading the documents, it seems that there's a
4 claim that the decedent was shot accidentally and a
5 claim that there is evidence that would exonerate
6 him. Though it did appear, from reading the
7 submissions, that this report was in existence at
8 the time the case was tried.

9 There's a claim of a coercive guilty plea, if I
10 read that correctly.

11 I noted that Mr. Williams was also citing a
12 civil rule, a Rule of Civil Procedure, Rule 60(b)(3)
13 for relief from a judgment or order. I noted that I
14 was unaware of any civil proceeding that was
15 pending. Claims of this nature typically come
16 through writs and are handled in civil court;
17 though, as I mentioned previously, there is a Rule
18 of Criminal Procedure.

19 There's also references in the submissions
20 about a lack of knowledge about testimony that
21 Mr. Williams claims was available from his children.
22 The decedent, I believe, was his wife.

23 I took the extraordinary step of appointing an
24 attorney to look into this. So I appointed the
25 public defender's office and Mr. Mauldin was

1 assigned to the case. My understanding is that he
 2 has met with Mr. Williams. Mr. Williams has now
 3 filed a motion to relieve Mr. Mauldin. This was
 4 filed March -- it's hard to read because the writing
 5 on the stamp is the same location where there's
 6 writing, but I think it's March 11th, 2013 -- I'm
 7 sorry, that's -- that's proof of service.

8 The motion to relieve counsel was put in
 9 another file. It's in the file for possession of a
 10 firearm or knife during the commission of a violent
 11 crime. It's dated May 30th, 2013, filed June the
 12 4th, 2013. That charge was nol prossed. I don't
 13 know why Mr. Williams uses that case number.

14 So I felt like the most expeditious thing to do
 15 was to ask Mr. Williams to be brought from the
 16 department of corrections.

17 Are you James Chester Williams, sir?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** And ask him to tell me what he
 20 claims is after-discovered evidence and what he
 21 claims he's entitled -- what he claims is entitling
 22 him to a new trial. I'd be happy to hear from
 23 Mr. Mauldin.

24 You're Mr. Whitmire?

25 **MR. WHITMIRE:** Yes, Your Honor.

1 **THE COURT:** You're from the Attorney General's
2 office?

3 **MR. WHITMIRE:** Yes, Your Honor.

4 **THE COURT:** Do y'all have anything you want to
5 put on the record before I find out from
6 Mr. Williams what it is he is seeking or what he
7 bases it on?

8 **MR. MAULDIN:** Yes, sir, Your Honor.
9 Mr. Williams and I have engaged in written
10 correspondence since I was appointed this case. You
11 appointed the office a little earlier. I came back
12 some time in mid, late December and that's when I
13 got the case.

14 And regarding the SLED report, Bill Gorski, the
15 trial attorney, no longer had his file. He had sent
16 it to Appellate Defense. So I had gone to Appellate
17 Defense to review that. We had also filed a motion
18 with the Solicitor's office for them to provide us
19 with discovery they had at the time. The SLED
20 report was located in the discovery for the
21 Solicitor's office and it was also located in
22 Mr. Gorski's file at Appellate Defense.

23 I've explained that to Mr. Williams. I think
24 Mr. Williams' contention is that there is an item of
25 clothing, a skirt, that was not tested in the SLED

1 report, that he believes that the gunshot residue
2 would be located on that skirt and that would
3 indicate that it would be more of an accidental
4 shooting, that there was a struggle and the gunshot
5 went over a broader area. There's also some
6 information he says regarding the gun might have
7 been broken at the time and that's why gunshot
8 residue would come out.

9 I have checked with the evidence custodian at
10 the sheriff's office. This was a guilty plea and
11 not a trial. So the evidence was not preserved by
12 the Clerk of Court. It was kept at the sheriff's
13 office. Apparently that evidence was destroyed some
14 time after his PCR, so that evidence is unavailable
15 for me to have tested to see if there is gunshot
16 residue. And I've explained to Mr. Williams that,
17 you know, this report existed at the time. His
18 attorney at the time could have looked into it or
19 his PCR attorney, in reviewing the discovery, could
20 have made that an issue in his PCR.

21 Mr. Williams tells me that he was not made
22 aware of the SLED report even though his lawyer at
23 the trial level seems to have had access to it. I'm
24 not sure about his PCR lawyer, but he was saying
25 that the evidence had not been provided to him by

8

1 either his trial lawyer or his PCR lawyer, but
2 nonetheless it was in existence at the time. And,
3 of course, his children were listed in the police
4 report as potential witnesses and Mr. Gorski could
5 have talked to them or his PCR lawyer could have
6 talked to them and brought them up at a PCR as well.

7 I think Clark v. State, 315 S.C. 385, has five
8 elements of obtaining a new trial based on
9 after-discovered evidence. And the third one of
10 that is that it could not have been discovered
11 before trial. Obviously, I'm not certain to the
12 level of what the attorney shared in discovery with
13 Mr. Williams, but it appears that his trial attorney
14 and possibly his PCR attorney had access to this
15 evidence and could have questioned it for that
16 trial. But Mr. Williams feels that the evidence was
17 withheld from him, not necessarily maybe from his
18 attorneys. He feels that that is inappropriate.

19 I discussed with him that it probably should
20 have been brought up as a PCR issue or if his PCR
21 lawyer was deficient, there's a federal habeas
22 issue, if he had filed one of those at that point in
23 time. But nonetheless Mr. Williams is not satisfied
24 with my investigation and my opinion in the matter
25 so here we are today.

1 **THE COURT:** All right. Mr. Williams, what do
2 you want to tell me?

3 **DEFENDANT:** It seem like everybody is putting
4 evidence about what each person should have known --
5 have, right, but what I want to know, what evidence
6 they got that charge me with murder? Murder is a
7 serious crime and I don't see no evidence. They
8 don't have no gun, no fingerprint. They ain't had
9 no forensics on my hand. They ain't had no DNA on
10 me. They had nothing. So how can they charge me
11 with murder?

12 **THE COURT:** Well, apparently, they not only
13 charged you with it, you pled guilty to it.

14 **DEFENDANT:** They threatened me with my kids. I
15 love my kids, Your Honor, and I couldn't put them
16 through that.

17 **THE COURT:** That's not -- you're going off on
18 issues that have nothing to do with this precise
19 issue before me. You claim that there is
20 after-discovered evidence.

21 **DEFENDANT:** Yeah, the forensics right here. I
22 didn't see these until 2012 when SLED brought them
23 down and delivered them. This is what I got.

24 **THE COURT:** Let me see what he's talking about.

25 **DEFENDANT:** This is what they turn over to me,

1 but they hid this from me.

2 **THE COURT:** When you say this, what are you
3 talking about?

4 **DEFENDANT:** Forensics. They turned that over,
5 but they didn't turn that over. They withheld that
6 from me.

7 **THE COURT:** Make copies of those, please.

8 (Pause.)

9 **THE COURT:** Give those back to him, please.

10 Mr. Williams, which one of these did they turn
11 over to you? I've got a SLED report dated April 24,
12 2000, and a trace department report from SLED dated
13 October the 18th, 1999.

14 **MR. MAULDIN:** It would be the ones without the
15 SLED letterhead and the SLED seal on them, Your
16 Honor, the two gunshot residue analysis information
17 forms.

18 It's the opposite, Your Honor. He said he
19 didn't know anything about the ones with the SLED
20 letterhead.

21 **THE COURT:** All right. So, Mr. Williams, you
22 knew about the gunshot residue analysis information
23 forms?

24 **DEFENDANT:** Yeah, I know about that.

25 **THE COURT:** These two?

1 **DEFENDANT:** Yeah, but I didn't know about the
2 other two.

3 **THE COURT:** Mark these as...

4 (Court's Exhibit Number 1, gunshot residue
5 analysis forms, marked for identification.)

6 **THE COURT:** All right. I've had the gunshot
7 residue analysis information forms marked as Court's
8 Exhibit Number 1.

9 Now, there's a SLED report dated April 24th,
10 2000, addressed to Detective O. McIntosh of the
11 Lexington County Sheriff's Office and there's a SLED
12 report dated October the 18th, 1999, addressed to
13 Senior Deputy Carter. You say you did not have
14 these?

15 **DEFENDANT:** Did not have those.

16 **THE COURT:** All right. Did your attorneys have
17 them?

18 **DEFENDANT:** I don't know.

19 **THE COURT:** You don't know.

20 **DEFENDANT:** I don't know.

21 **THE COURT:** All right. I'm going to mark the
22 one that's dated 1999 as Court's 2 and the one
23 that's dated 2000 as Court's 3.

24 (Court's Exhibit Numbers 2 and 3 marked for
25 identification.)

1 **THE COURT:** All right. You filed a
2 post-conviction relief action?

3 **DEFENDANT:** Uh-huh.

4 **THE COURT:** Is that a yes? She has to take
5 down everything you say and if you just nod your
6 head and say uh-huh --

7 **DEFENDANT:** Okay. Talking about in 2002?

8 **THE COURT:** Did you file any post-conviction
9 relief action?

10 **DEFENDANT:** Yeah.

11 **THE COURT:** And what claims did you make
12 against your attorney, Mr. Gorski? Mr. Gorski
13 represented you at the plea?

14 **DEFENDANT:** Yeah. Ineffective assistance of
15 counsel is what I made against him because he didn't
16 investigate the case and he didn't prepare himself
17 for trial because he walked off of trial when I
18 selected a jury and told the judge that he was sick.
19 The judge ordered him to bring back a doctor's
20 excuse. He didn't bring it back and that's when
21 they come back, threatened me with my kids.

22 **THE COURT:** Did you raise all of those issues
23 in the post-conviction relief action?

24 **DEFENDANT:** I had Mr. Robert Border. He didn't
25 want to listen to nothing I said. He done what he

1 wanted to do. I --

2 **COURT REPORTER:** I didn't understand.

3 **THE COURT:** What did you say, sir?

4 **DEFENDANT:** Robert Border or Bourder, whatever
5 his name was, represented me at the PCR hearing, and
6 he didn't want to listen to nothing I had to say.
7 He took it upon himself to do what he wanted to do.

8 **THE COURT:** What proof do you have that these
9 reports were not in your attorney's file?

10 **DEFENDANT:** SLED. I mean, I don't know if it
11 was in his file, but I got proof by SLED it wasn't
12 turned over because SLED brought these reports at
13 Lieber.

14 **THE COURT:** Turned over to who?

15 **DEFENDANT:** Turned over to me. SLED brought it
16 to me at Lieber. I didn't know that my attorney had
17 it in his file.

18 **THE COURT:** Why did SLED bring you reports at
19 Lieber?

20 **DEFENDANT:** Because when he came up there, he
21 told me --

22 **THE COURT:** Who is he?

23 **DEFENDANT:** Last name is Dowling.

24 **THE COURT:** Dowling?

25 **DEFENDANT:** Dowling. I can't remember his

1 first name.

2 THE COURT: This is a SLED agent?

3 DEFENDANT: Yeah, a SLED agent.

4 THE COURT: Why did he come talk to you --

5 DEFENDANT: He came up there to see another guy
6 and he called me out and he told me he was keeping
7 up with my case and he didn't see how that the
8 Solicitor can charge me with the murder. There
9 wasn't no evidence there to support murder. He told
10 me that he didn't see how that Solicitor had charged
11 me with murder because he didn't see no evidence to
12 support that.

13 THE COURT: Why would he be keeping up with
14 your case? Why was he keeping up with your case?

15 DEFENDANT: I don't know, Your Honor. He just
16 told me he was keeping up with the case.

17 THE COURT: Describe this person to me.

18 DEFENDANT: He's about my height.

19 THE COURT: How tall are you?

20 DEFENDANT: About my height.

21 THE COURT: How tall are you? I mean, you're
22 sitting down. I can't tell --

23 DEFENDANT: About six three or six four.

24 THE COURT: You're six three or six four?

25 (Defendant stands.)

1 JAMES CHESTER WILLIAMS,

2 having been duly sworn, testified as follows:

3 **THE COURT:** A SLED agent came to you in the
4 department of corrections and told you he'd been
5 keeping up with your case and he didn't understand
6 how the State could charge you with murder because
7 they didn't have any evidence against you?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** And his name is what?

10 **DEFENDANT:** His last name was Dowling. If I
11 tell you another name, I could be lying on the
12 record, but I know his last name was Dowling. I
13 don't want to sit here and tell you nothing that
14 ain't the truth.

15 **COURT REPORTER:** Is he saying Darling or
16 Dowling?

17 **THE COURT:** I think he's saying D-o-w-l-i-n-g,
18 but I don't know if that's what he's saying. I
19 don't know if he knows.

20 Contact SLED right now, we're going to take a
21 break, find out if y'all can locate this officer for
22 me.

23 **MR. HUBBARD:** Yes, sir.

24 **THE COURT:** All right. Mr. Williams, you can
25 step back to wherever the security people put you.

1 I'm going to keep on working on other cases, okay.

2 (Brief Recess.)

3 **THE COURT:** All right. Mr. Williams, they --
4 is Mr. Whitmire here? We've got Solicitor Hubbard
5 present. I think we can go ahead.

6 Can you find Mr. Whitmire?

7 (Pause.)

8 **THE COURT:** Mr. Mauldin, you said you found Mr.
9 Gorski's file?

10 **MR. MAULDIN:** That's correct, Your Honor.

11 **THE COURT:** And where else did you go to find a
12 file that had the report in it?

13 **MR. MAULDIN:** We filed a discovery motion with
14 the Solicitor's office here and provided us with
15 discovery that they had on the case. I reviewed
16 that first. It had -- when he corresponded with me,
17 he was mainly concerned with the gunshot residue
18 report and a skirt that was not tested in the
19 report. So I was mainly concentrated on finding
20 that report.

21 I found that report. It was in the discovery
22 the Solicitor sent me, but I double checked by going
23 to Mr. Gorski's file, which was in a separate
24 compartment from all the other matters that
25 Appellate Defense had as far as the appeal of his

1 original case, the appeal of his PCR, those matters.
2 They had that separately and it was contained within
3 that discovery. There was a cover letter from the
4 Solicitor's office to Mr. Gorski that contained a
5 list of what he had been provided, as well as the
6 actual report that Mr. Williams had called into
7 question this correspondence.

8 **THE COURT:** All right. So what is this
9 information that has just come to light that would
10 tend to exonerate you, Mr. Williams?

11 **DEFENDANT:** Yes, sir.

12 **THE COURT:** What is it? What have you just
13 discovered that would entitle you to a new trial?
14 What have you just discovered that would help you be
15 found not guilty?

16 **DEFENDANT:** Because I couldn't have discovered
17 it, you know.

18 **THE COURT:** What? That's what I'm asking you,
19 what?

20 **DEFENDANT:** I didn't see no evidence. You
21 know, you got to have evidence to find people
22 guilty, but I didn't see none in my case. I didn't
23 see nothing.

24 **THE COURT:** Mr. Williams, you have filed a
25 whole series of papers. Some of them look like

1 they're kind of boilerplate, that means that I get
2 the same language from all different kind of inmates
3 in different institutions and it says the same
4 thing. And then you've got these assertions that
5 SLED withheld information from you or the prosecutor
6 withheld information from you that if you had known,
7 you would not have pleaded guilty and that that
8 evidence shows that you're not guilty.

9 Okay. My question to you is, what are we
10 talking about? What specific things? Mr. Mauldin
11 mentioned a dress. So what is it that would help
12 your case that you didn't know about?

13 **DEFENDANT:** He said the dress had been
14 disposed. And I didn't know about the forensics on
15 the SLED report and the gun didn't have no
16 fingerprints or nothing on it.

17 (Mr. Whitmire enters the courtroom.)

18 **THE COURT:** Did you know about the fingerprints
19 on the gun?

20 **DEFENDANT:** I got my --

21 **THE COURT:** Mr. Whitmire's back. We just
22 started back.

23 **DEFENDANT:** I got my preliminary hearing
24 transcript and it says all that in there.

25 **THE COURT:** So when did you get that?

1 **DEFENDANT:** I got that back when I got --
2 where's that stuff I showed you?

3 **THE COURT:** Showed me or showed Mr. Mauldin?

4 **DEFENDANT:** Showed Mr. Mauldin, not the SLED
5 report, the other --

6 **THE COURT:** Were you at the preliminary
7 hearing?

8 **DEFENDANT:** No.

9 **THE COURT:** Were you at the preliminary
10 hearing?

11 **DEFENDANT:** No.

12 **THE COURT:** Well, then how did you get a
13 transcript of a preliminary hearing?

14 **DEFENDANT:** I had to get it from the courts.

15 **THE COURT:** Okay. I don't understand. If I
16 heard you correctly, you said that they denied your
17 preliminary hearing.

18 **DEFENDANT:** Excuse me. I'm kind of nervous,
19 Your Honor. Let me get myself together.

20 **THE COURT:** Okay. Well, you've been here a
21 while.

22 **DEFENDANT:** Ms. Sally Henry had my case and
23 they called me downstairs to the holding cell for
24 the preliminary hearing, but her and Mr. McEntire
25 {phonetic}, they shouldn't have got me and they sent

1 me back upstairs.

2 **THE COURT:** So you were not in the room when
3 the preliminary hearing was held?

4 **DEFENDANT:** No, sir.

5 **THE COURT:** And you say that in the preliminary
6 hearing, you were represented by Sally Henry of the
7 public defender's office?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** And that in the transcript you have
10 seen, it indicates there are no fingerprints on the
11 gun?

12 **DEFENDANT:** Yes, sir, said the gun was sent to
13 SLED twice, no fingerprints.

14 **THE COURT:** Okay. And Ms. Henry would have
15 known that.

16 **DEFENDANT:** I mean, she had to know it. I
17 mean, it was in that preliminary hearing transcript.

18 **THE COURT:** Okay. So what else is it that you
19 claim is newly discovered evidence, evidence that
20 you didn't know about before, could not have known
21 about through the exercise of reasonable evidence?

22 **DEFENDANT:** A picture of the gun, that wasn't
23 disclosed to me either.

24 **THE COURT:** A picture of the gun?

25 **DEFENDANT:** Yeah.

1 **THE COURT:** How would that help you be found
2 not guilty?

3 **DEFENDANT:** Well, it had a broke trigger guard
4 on it and she had forensics all over her hand and
5 her clothes. And that skirt, it's disposed of, so I
6 ain't got no evidence on that. But what I'm saying,
7 if I had the gun, don't you think some evidence
8 would have been on me?

9 **THE COURT:** Mr. Williams, here's the thing, I'm
10 not starting at the beginning like -- I'm not
11 rolling back the clock to when you were originally
12 charged with this case. What I have before me is a
13 man who is in prison on a 30-year sentence where he
14 pleaded guilty in front of another judge who is now
15 dead. And this man who is in prison claims that he
16 is entitled to a new trial because there is new
17 evidence that was not known at the time and could
18 not have been discovered through the exercise of
19 reasonable effort -- diligence. That's what I'm
20 looking at. You've got to tell me what it is. If
21 you just tell me you don't think they had any
22 evidence against you, we might as well quit.

23 If that SLED agent told you everything you
24 claim he said, I don't know if it makes any
25 difference at all. But he's on his way and we'll

1 find out what he says he told you.

2 I mean, I'm going out of my way doing
3 everything I know to try to give you an opportunity
4 to be treated fairly by the Court at this point, but
5 you've got to tell me what it is that would make a
6 difference. The outcome of -- this newly discovered
7 evidence would have to be of such a nature that it
8 would most like -- would likely change the outcome
9 of your case.

10 **DEFENDANT:** Well, Your Honor, the only thing
11 that I have that, my opinion, that could have
12 changed the outcome of my case were those forensic
13 reports.

14 **THE COURT:** Okay. So how would they change the
15 outcome of your case?

16 **DEFENDANT:** Because I think the forensic report
17 could say that there wasn't no forensics on my
18 clothes, wasn't no DNA on my clothes. And if I had
19 have been anywhere close to the victim, I should
20 have had blood or residue on my hands. I mean,
21 that's the only thing that I can show.

22 **THE COURT:** Why would you not know that at the
23 time?

24 **DEFENDANT:** Because all that was hid from me at
25 the time, Your Honor. Your Honor, they didn't show

1 me nothing. They didn't tell me nothing, Your
2 Honor. I sat in jail for two and a half years and
3 then they come back, next thing I know they threaten
4 me to plea. I didn't know what was going on. This
5 was my first time I ever been in trouble, Your
6 Honor. I ain't never been in trouble like this
7 before.

8 **THE COURT:** Well, unfortunately, a lot of
9 people that are in prison for murder, it's the first
10 time they ever get in any trouble. It's usually
11 they get mad at somebody or something happens,
12 there's an argument and next thing you know there's
13 a gun and next thing you know somebody's dead.

14 **DEFENDANT:** I don't got no idea where that gun
15 come from. I didn't even see that gun.

16 **THE COURT:** But you would have known back then.
17 You would have known if you were there.

18 **DEFENDANT:** Yeah, I was there.

19 **THE COURT:** You were there.

20 **DEFENDANT:** Yes, sir, I was there. But in the
21 statement, my children told the detective that they
22 didn't see no gun because they don't know where the
23 gun come from either, you know. I don't know where
24 it come from.

25 **THE COURT:** What's new, though?

1 **DEFENDANT:** Your Honor, that's what I was based
2 on that, that forensic that show that, you know, I
3 didn't know anything about the gun or the clothes.
4 That's the only thing.

5 **THE COURT:** Hand me those Court's Exhibits.

6 (Pause.)

7 **THE COURT:** All right. You had, according to
8 what you told me earlier, you had Court's Exhibit 1.
9 You had these two papers.

10 **DEFENDANT:** Yeah.

11 **THE COURT:** All right. One of them is the
12 collecting officer's name, on both of them, is J.L.
13 Hickman of the Lexington County Sheriff's
14 Department. The one on you indicates that you're
15 left handed.

16 **DEFENDANT:** Right.

17 **THE COURT:** That he checked for debris or blood
18 on your hands and both hands appeared to have grease
19 on them, according to this report.

20 **DEFENDANT:** Yes, sir.

21 **THE COURT:** It asks, Has the subject washed his
22 hands since the shooting? No.

23 Your occupation is listed as a mechanic.

24 **DEFENDANT:** Yes, sir.

25 **THE COURT:** Then the shooting information at

1 the bottom says that the shooting occurred on
2 September the 15th, 1999, at 2210 hours, that's
3 10:10 p.m. I believe, inside. And it was a shotgun.
4 One shot was fired.

5 They also, according to this report,
6 Mr. Hickman, I assume that's a man, checked the
7 hands of Cathy A. Williams, who was dead. They
8 found blood splattered on her right back -- back of
9 her right hand and on her left palm. They did not
10 know whether she had washed her hands since the
11 shooting.

12 I don't know the extent of the injury, so I
13 won't comment on that other than she died.

14 And it says the same thing about the time of
15 the shooting, that it occurred inside and that there
16 was one shot fired from a shotgun.

17 So you had that?

18 **DEFENDANT:** Yes, sir.

19 **THE COURT:** Now, what you say you did not have,
20 Court's Exhibit Number 2. This says that
21 examinations were conducted by SLED. Items
22 submitted was a gunshot residue kit from Cathy
23 Williams, a gunshot residue kit from James Williams,
24 a pair of black socks, a pair of blue work pants, a
25 blue button-down work shirt, a pair of underwear

1 that's white in color, a pair of white tennis shoes
2 and a gray T-shirt.

3 As to the gunshot residue kit of Cathy
4 Williams, gunshot residue was found on the left
5 palm. Round lead particles were found on the palm
6 and the back of the right hand. Round lead particles
7 are one of the components of gunshot residue. The
8 results for the back of the left hand were
9 inconclusive.

10 As to the gunshot residue collected on you, it
11 says, No analysis was performed. The samples were
12 collected beyond the six hour timeframe in which
13 probative evidence would be found. So they're
14 saying that your hands were not swabbed within six
15 hours and they didn't test this.

16 On the clothing, other than the gray T-shirt,
17 it says no holes or physical effects indicative of
18 gunpowder residue were found. And on the gray
19 T-shirt, the area around the hole in the upper chest
20 region of the gray T-shirt was examined for the
21 presence of lead and a pattern of gunshot residue --
22 gunpowder residue. Residue and physical
23 characteristics around the hole are consistent with
24 a contact shot.

25 All right. So the black socks, were they

1 yours?

2 **DEFENDANT:** Yes. Yes, sir.

3 **THE COURT:** You were wearing them then?

4 **DEFENDANT:** Yes, sir.

5 **THE COURT:** The work pants were yours?

6 **DEFENDANT:** Yes, sir.

7 **THE COURT:** The button-down shirt was yours?

8 **DEFENDANT:** Yes, sir.

9 **THE COURT:** The white underwear was yours?

10 **DEFENDANT:** Yes, sir.

11 **THE COURT:** And the white tennis shoes were
12 yours?

13 **DEFENDANT:** Yes, sir.

14 **THE COURT:** And it states that they didn't find
15 any holes in them or physical effects indicative of
16 gunpowder residue on those items of clothing.

17 **DEFENDANT:** Yes, sir.

18 **THE COURT:** Is that what you're basing this on,
19 your claim that this is evidence that would affect
20 the outcome of your trial and that you didn't know
21 about?

22 **DEFENDANT:** I mean, yes, sir, that's what --
23 that's what they based it on, you know. Because
24 like I say, I don't know anything about the law or
25 whatever, but that's what I'm basing it on.

1 **THE COURT:** All right. So it's those items and
2 not the gray T-shirt -- I assume she was wearing the
3 gray T-shirt.

4 **DEFENDANT:** She was wearing the gray T-shirt.

5 **THE COURT:** But you're basing it on the clothes
6 that you had on?

7 **DEFENDANT:** Yes, sir.

8 **THE COURT:** All right. Now, Court's Exhibit
9 Number 3 is the one that was sent to the sheriff's
10 office by SLED. It's a pair of black socks, a pair
11 of dark blue work pants, a pair of -- a dark blue
12 work shirt, a pair of underwear and white tennis
13 shoes. They found no blood on the socks. It
14 states, Samples collected and sent to the DNA
15 department for blood identification on the work
16 pants, no blood on the work shirt, on the underwear
17 or the white tennis shoes.

18 Do you know if they found blood on your pants
19 or not?

20 **DEFENDANT:** I don't see nothing in there -- in
21 the report saying they found blood.

22 **THE COURT:** Well, it says they sent those to
23 the DNA department for blood identification. So
24 they took samples off of pants. They must have
25 suspected they were something whether they suspected

1 they were blood or -- they sent them off to be
2 analyzed for DNA. DNA would have to be something
3 like blood or saliva or something of that nature.
4 But you don't know any of that?

5 **DEFENDANT:** Pardon me?

6 **THE COURT:** You don't know what they found on
7 your pants?

8 **DEFENDANT:** No. No, sir.

9 **THE COURT:** They didn't find any blood on your
10 work shirt, your underwear or your tennis shoes.

11 **DEFENDANT:** No, sir.

12 **THE COURT:** And what is it about this report
13 that you're claiming is new evidence that would
14 change the outcome of your case likely, change the
15 outcome of your case?

16 **DEFENDANT:** What I'm saying, Your Honor, they
17 said it was six inches away and the gun has an upper
18 angle when she was shot. And if I had have been
19 anywhere close to her, I would have been washed down
20 in blood, too --

21 **COURT REPORTER:** I didn't hear the last part.

22 **DEFENDANT:** The upper angle, the upper angle,
23 said it was six inches away. If I was standing
24 anywhere close to her, I would have had blood,
25 forensics and everything all over me.

1 **THE COURT:** Why wouldn't you know that
2 immediately after you were arrested?

3 **DEFENDANT:** What's that now?

4 **THE COURT:** Why wouldn't you know that
5 immediately after you were arrested? What's new
6 about that?

7 **DEFENDANT:** I couldn't answer that, sir,
8 because I don't want to tell you nothing wrong. I
9 don't want to keep going over the same thing over
10 and over. But, you know, I just thought that could
11 be an exhibit, you know, that I can show the court
12 that I wasn't no part of that gun or whatever when
13 it discharged.

14 **THE COURT:** You're claiming that she committed
15 suicide?

16 **DEFENDANT:** No. It had a broke trigger guard
17 on it and I think she handled it wrong and her dress
18 tripped that trigger and shot her. And they never
19 sent the dress to SLED that had evidence, that red
20 dress. That red dress could have proved some of the
21 things I'm talking about, but they disposed that.

22 **THE COURT:** She had a dress and a T-shirt on?

23 **DEFENDANT:** A red skirt.

24 **THE COURT:** A skirt?

25 **DEFENDANT:** Yeah.

1 **THE COURT:** She was shot in the chest.

2 **DEFENDANT:** Yeah, six inches away. The gun
3 went up like this (indicating). It was not a
4 straight in shot, you know. And if I had have been
5 anywhere close to her like this with a gun, I would
6 have been everything, sir.

7 **THE COURT:** Where is his PCR file?

8 **MR. WHITMIRE:** Your Honor, Mr. Zelenka
9 relinquished our files to Mr. Hubbard a few months
10 back in this matter. He has filed two applications
11 for post-conviction relief and he has filed appeals
12 on both of those, as well as a federal habeas
13 petition.

14 **THE COURT:** What happened to your federal
15 habeas corpus petition?

16 **DEFENDANT:** Well, I didn't preserve all my
17 remedies. And I wrote the court and ask could they
18 dismiss that without prejudice so I could get some
19 more information.

20 **THE COURT:** Do y'all have the transcript of the
21 guilty plea?

22 **MR. HUBBARD:** Yes, sir. I also have photos,
23 Your Honor, if Your Honor wishes to see where she
24 was shot, what she was shot with and the nature of
25 her wounds. It's attached to the motion.

1 For the record, I'm handing up five
2 photographs. Two are x-ray shots of the victim.
3 Two are cleaned up autopsy close-up shots of the
4 wound. One is an unclean photo shot of the wound at
5 the neck, and a photo of the sawed-off shotgun that
6 he used.

7 As Your Honor will also see in the transcript,
8 there was a fingerprint, it was on the box of
9 shells. One shell was missing, that was the one
10 that went into the victim's neck.

11 **THE COURT:** All right. They've handed me the
12 transcript of the guilty plea in front of Judge
13 Westbrook. And Judge Westbrook asked you a series
14 of questions. And then he asked the prosecutor, it
15 appears the prosecutor was Tracey Carroll, who is
16 now a magistrate in Aiken County, and he asked her
17 to give the facts of the case.

18 She stated that on the night of September the
19 15th of 1999, Lexington County Sheriff's Department
20 responded to an apartment in River Oaks Apartments
21 in Lexington County. When they arrived, they found
22 the body of Cathy Williams, who was 41 years old,
23 who had been obviously shot in the neck area.

24 They also found three of her children who were
25 frantically running around the apartment trying to

1 get help for their mother. Law enforcement
2 questioned the children who were present in the
3 apartment when their mother was shot. At that time,
4 they were ages 8, 13 and 15. The children were able
5 to tell law enforcement that the evening -- I'm
6 sorry -- that that evening their father or
7 stepfather, the defendant, came over to speak to the
8 mother supposedly to bring some money so the
9 youngest child could play football.

10 At that point, the defendant and the victim had
11 been separated. She had moved out of the marital
12 home into these apartments in River Oaks. He was
13 not living there. The victim and the defendant
14 argued a little bit about him coming over all the
15 time.

16 At that point, the defendant left the
17 apartment, went down to his car, armed himself with
18 a shotgun, took one shotgun shell, loaded the gun
19 and went back into the apartment. He went straight
20 back to the victim's bedroom and motioned her to
21 come into the bedroom with him. The children heard
22 some more arguing. Two of the children hear the
23 victim saying in a very stronger voice, What are you
24 going to do, shoot me? And then immediately
25 afterwards they heard a gunshot fired. The

1 defendant runs out of the apartment leaving
2 Ms. Williams alone on the floor to die.

3 Law enforcement gets a tip as to where the
4 defendant may be located. He had some family
5 members, I believe, in Barnwell County. The next
6 morning they're able to go out there. I believe
7 they were actually contacted by his family members.

8 When they went to the brother's house, they
9 found the defendant in that home. They found the
10 car he was driving hidden behind another home in the
11 area, as well as a sawed-off shotgun hidden in an
12 old refrigerator behind the trailer and a box of
13 shotgun shells. Out of the box of ammunition, one
14 shotgun shell was missing. That was sent to SLED
15 and forensic were -- they were able to determine
16 that the defendant's palm print was on the box of
17 ammunition.

18 It talks about the autopsy. It says the
19 autopsy was performed on Ms. Williams. Dr. Carter
20 determined that she died from a gunshot wound to the
21 neck area. He approximates that the gun was less
22 than six inches from her neck when it was discharged
23 and basically it severed her spinal cord. So she
24 had absolutely no chance of surviving after she was
25 shot.

1 Gunshot residue tests were performed on both
2 the defendant and the victim. It obviously came up
3 negative on the defendant due to the lack of or the
4 great period of time that lapsed between the
5 shooting and taking the test. I believe it was over
6 at least 18 hours or a little bit less when they
7 actually did that test on him.

8 But the expert from SLED would have testified
9 that the gunshot residue test that was done on the
10 victim would have been consistent with the victim's
11 hands being up in the surrender position. It was
12 not on the gun at any time.

13 It states then about your prior record of
14 criminal domestic violence and that she was the same
15 person -- she was the victim in that case. You had
16 a grand larceny charge in 1994.

17 And that, We had also had planned on calling
18 witnesses from the defendant's work place who
19 indicated that for at least weeks before this crime,
20 he had threatened to kill his wife, Cathy Williams,
21 as well as killing himself. And we had intended to
22 call them as witnesses if this case had, in fact,
23 gone to trial.

24 In exchange for the defendant's plea today, we
25 are dismissing the charge of possession of a weapon

1 during the commission of a violent offense and we
2 are recommending a 30-year sentences.

3 **MR. HUBBARD:** Your Honor, I've got a couple of
4 other photographs, too. And I don't know how Your
5 Honor wishes to do this, but it might not be a bad
6 idea, if Your Honor's okay with that, we'll be
7 offering these as court's exhibits for this hearing.
8 There's two photos of the victim as she was found.
9 And I don't know if Your Honor wishes to make this
10 transcript part of the record, too. I know you've
11 read it into the record.

12 **THE COURT:** I can get a copy of it.

13 **MR. HUBBARD:** Yes, sir. Thank you.

14 **THE COURT:** All right. Mr. Williams, I had you
15 brought over here to tell me whatever it is you want
16 to tell me about this newly discovered evidence
17 claim or any kind of impropriety and now is your
18 chance.

19 **DEFENDANT:** Well, the only thing I can say,
20 Your Honor, and this might not be newly discovered
21 evidence, I didn't do no crime. I didn't kill no
22 one. That's all I can say. I'm innocent as y'all
23 are.

24 And when the Solicitor said in the transcript
25 that I went downstairs and armed myself and came

1 back with a shotgun, my kids wasn't in the living
2 room. They didn't see no gun. I didn't have no
3 gun. And then the Solicitor said in the transcript
4 the gun was a sawed-off shotgun. This gun is 36
5 inches. I got pictures right here. Your Honor, I
6 need help. I didn't kill nobody.

7 **THE COURT:** Well, then why did you plead
8 guilty?

9 **DEFENDANT:** I plead guilty because they
10 threatened me with my children.

11 **THE COURT:** Threatened you with your children
12 in what way?

13 **DEFENDANT:** They're going to put them on the
14 stand to testify against me. And it was two years
15 after it happened. They hadn't gotten over their
16 mother yet.

17 **THE COURT:** The threat was that they were going
18 to put them on the stand to testify?

19 **DEFENDANT:** Yeah, put them on the stand and
20 testify against me.

21 **THE COURT:** That was the threat?

22 **DEFENDANT:** That was the threat.

23 **THE COURT:** That ain't no threat.

24 **DEFENDANT:** This the first time I been in
25 trouble. I didn't know what they were going to do.

1 **THE COURT:** Mr. Williams, look, if you're
2 innocent and you've got evidence to show actual
3 innocence, that's why I had you brought you over
4 here today, but all you're telling me is that you
5 disagree with what was done to you back then. And
6 you were present and you kept your mouth shut. You
7 didn't object to any of this stuff that was said
8 about you. You didn't tell the judge, No, judge,
9 that's not the way it happened.

10 **DEFENDANT:** Your Honor, that plea, it was an
11 involuntary plea. It was not knowingly and
12 intelligently because I never was advised of my
13 rights.

14 **THE COURT:** What do you mean you weren't
15 advised of your rights?

16 **DEFENDANT:** They didn't tell me my right to a
17 jury trial, my right to confront an accuser.

18 **THE COURT:** Hand me that transcript.

19 **MR. HUBBARD:** Your Honor, I just took it out to
20 photocopy it.

21 **THE COURT:** You raised those kind of issues in
22 the previous proceedings and they were ruled against
23 you, didn't you?

24 **DEFENDANT:** You can check the transcript, Your
25 Honor.

1 **THE COURT:** But you don't get to keep raising
2 the same -- if you get one set of judges to rule on
3 something -- if we just keep having to rule on the
4 same things over and over again, we don't ever get
5 to any of these folks. They just sit in jail.

6 **DEFENDANT:** Well, the issues I raised ain't
7 never been preserved. They never been ruled on,
8 because every time I got to go to court with them,
9 they kick them out.

10 **THE COURT:** Sounds like they're ruling on them
11 to me. You -- I don't want to argue with you,
12 Mr. Williams. I'm trying to give you every
13 opportunity --

14 **DEFENDANT:** I understand.

15 **THE COURT:** In 99 out of a hundred cases, I
16 would have never appointed an attorney to look into
17 this.

18 **DEFENDANT:** I understand, Your Honor. I
19 understand.

20 **THE COURT:** But let me see the transcript.

21 **MR. HUBBARD:** Yes, sir, Your Honor.

22 **THE COURT:** All right. This transcript -- and
23 I don't know why the court reporter wouldn't have
24 taken it down accurately. There's been no assertion
25 that she didn't. Judge Westbrook -- you're placed

1 under oath. Y'all apparently had had a jury
2 selection, a jury was seated.

3 **DEFENDANT:** Yes, sir.

4 **THE COURT:** He told you that the attorneys
5 would make opening statements, that the evidence
6 would start. The State would have to put up
7 witnesses. They would have to testify in open
8 court. Your lawyer would have to -- have a right to
9 question those witnesses. Do you understand that?
10 The answer is, Yes, sir.

11 And you understand the reason that they do that
12 is because they have the burden of proof. They must
13 prove you guilty beyond a reasonable doubt. Do you
14 understand that? The answer is, Yes, sir.

15 And you understand that that means that you
16 don't --

17 **MR. HUBBARD:** Judge, you may need this other
18 one because I don't think it got the other side.
19 We'll substitute a copy.

20 **THE COURT:** You don't have to prove anything.
21 You're not required to prove a thing. And, of
22 course, we will tell the jury that, too. Do you
23 understand that? Yes, sir.

24 And that means that you can testify if you want
25 to, but you wouldn't have to. It's up to you. You

1 can call witnesses if you want to, but again you
2 wouldn't have to. That would be up to you. Do you
3 understand that? Yes, sir.

4 Now, regardless of what you did, once all that
5 was over, then your lawyer would have a chance to
6 speak to the jury again on your behalf at the end
7 and give what's called a closing statement. Do you
8 understand that? Yes, sir.

9 And then following that, the State would have a
10 chance to make a closing statement. I would tell
11 the jury the law and they would go out and come back
12 with a verdict. Do you understand that? Yes, sir.

13 Now, do you understand that during all of this,
14 there are from time to time various motions that can
15 be made on your behalf and your lawyer would be able
16 to make those? You understand that? Yes, sir.

17 And if the jury were to find you guilty, you
18 would have a right to appeal to the State Supreme
19 Court. Do you understand that? Yes, sir.

20 All right. And do you understand basically
21 then what your rights are in the jury trial? Yes,
22 sir.

23 Do you have any questions about this at all?
24 No, sir.

25 And you've been over all that with your lawyer?

1 Yes, sir.

2 And you understand that if you plead guilty,
3 you're going to give all of that up. You
4 understand? Yes, sir.

5 And, of course, that means if you had any
6 defenses that you wanted to bring up or any motions
7 or any claims of your own or any complaints about
8 the way you were treated, you would give all that
9 up. Do you understand that? The answer is, Yes,
10 sir.

11 And understanding that then, do you still want
12 to plead guilty? The answer is, Yes, sir.

13 All right. Now, Mr. Williams, are you pleading
14 guilty of your own free will? Yes, sir.

15 Okay. Has anybody threatened you in any way to
16 make you plead guilty? Answer is, No, sir.

17 All right. Now, there's, except for any
18 argument, anything that may have been worked out
19 between your lawyer -- except for any agreement,
20 anything that may have been worked out between your
21 lawyer and the State, and I don't want to know about
22 that, I'll find out if there has been, except for
23 anything that might have been worked out with that,
24 has anybody promised you anything to get you to
25 plead guilty? No, sir.

1 Okay. Do you admit that you're guilty of this
2 charge? Yes, sir.

3 All right. Now, at this time, are you under
4 the influence of any drugs or alcohol or medication
5 of any kind? The answer is, No, sir.

6 Now, is there any medicine that you're supposed
7 to be taking that you're not taking? No, sir.

8 Okay. Are you satisfied with your lawyer?
9 Yes, sir.

10 Have you had his advice in this matter? The
11 answer is, Yes, sir.

12 Do you feel like he's done everything you
13 wanted him to do? The answer is, Yes, sir.

14 All right. And understanding everything that
15 I've asked, do you still want to plead guilty? The
16 answer is, Yes, sir.

17 And shortly after he talks about the appellate
18 rights, he hears the recitation from the State.

19 All right. Anything else y'all need to put on
20 the record?

21 **DEFENDANT:** Yes, sir. According to Boykin
22 versus Alabama, right, he never advised me of my --
23 privilege --

24 **THE COURT:** He never advised you --

25 **DEFENDANT:** -- self-incrimination, wasn't

1 nothing in there.

2 **THE COURT:** He told you you could testify or
3 not testify. It's up to you.

4 **DEFENDANT:** That's my self-incrimination is
5 what he tell me. He didn't tell me I have the right
6 to remain silent. Ain't none of that in there.

7 **THE COURT:** It's the same thing.

8 **DEFENDANT:** Okay. Your Honor, I appreciate it.

9 **THE COURT:** It's no magic words in all of this,
10 Mr. Williams.

11 **DEFENDANT:** I don't want to waste your time,
12 Your Honor. But I like I said, I'm just as innocent
13 as y'all are. I just got caught up in the spot. I
14 just got caught up in the spot.

15 **THE COURT:** Well, we got that SLED agent
16 probably driving slightly above the speed limit on
17 his way back from Florence, so let's hear what he
18 has to say. We'll be in recess for five minutes and
19 then I'll do guilty pleas or motions or whatever. I
20 want to get as much done today on this case because
21 like I said, Mr. Williams, I'm trying to give you a
22 chance to tell me what it is that entitles you to a
23 new trial, where the problems are, all right.

24 **DEFENDANT:** Yes, sir.

25 Your Honor, can I ask you one question? Those

1 motions what I raised when I got into court, I can
2 raise further, right, like a PCR?

3 **THE COURT:** I can't give you legal advice,
4 Mr. Williams. I just have to make rulings on what's
5 before me and what you do from that point forward is
6 up to somebody with a higher pay raise than mine. I
7 can't give you legal advice.

8 I'm trying to do what the law requires me to do
9 and what I think is fair and right. If I'm wrong, I
10 hope somebody does correct it, but whether
11 procedurally you'll be barred from doing it or what
12 another court might do or a higher court might do, I
13 couldn't say.

14 **DEFENDANT:** Well, I thank you, Your Honor.

15 **THE COURT:** Well, I'm going to get back to you
16 as soon as the SLED agent gets here. All right.
17 Thank you. We're in recess.

18 (Brief recess.)

19 **THE COURT:** All right. We're back on the
20 record on James Chester Williams. Mr. Williams is
21 that Agent Dowling that talked to you in prison?

22 **DEFENDANT:** Yeah.

23 **THE COURT:** And what did he tell you?

24 **DEFENDANT:** Well, I might have misinterpreted
25 what he said.

1 **THE COURT:** Well, I'm not asking you to
2 misinterpret. What did he say?

3 **DEFENDANT:** I think he said, when he came down
4 to see me, he said, he didn't see how I got that
5 much time.

6 **THE COURT:** You didn't say anything about time
7 earlier. You told me that he told you that he'd
8 been keeping up with your case and that he didn't
9 see how you got any murder charge against you. Is
10 that right or wrong?

11 **DEFENDANT:** Well, Judge, I'm like this, right,
12 I'm doing time. I mean, Mr. Dowling here, me and
13 him been knowing each other for a long time. And I
14 don't want to do nothing to get him in trouble at
15 his job. I'm doing time already, so I don't see no
16 way that, you know, that I can get out of everything
17 I tried to do. So ain't no need to put him
18 involve --

19 **THE COURT:** Well, if you give me something to
20 work with, Mr. Williams, I promise you -- I honestly
21 have a whole lot of stuff to do, and I have tried to
22 set aside all the time in the world just so I can
23 find out that -- whether I'm missing anything. I
24 didn't want to just look at the papers and say,
25 well, there's nothing there and throw it out. I

1 wanted to give you a chance to tell me what this
2 newly discovered evidence was.

3 And then I appointed you a lawyer and the
4 lawyer looked into it and he gave you bad news. The
5 dress that you were interested in, the skirt,
6 whether it would have any significance or not, I
7 still don't know, but it's destroyed. It's gone.
8 The other items were in the file. You may have had
9 some claims against your lawyers, but you've already
10 raised two PCR cases. So I'm not looking for
11 anything against you. I'm looking for you to tell
12 me the stuff for you.

13 And I just -- again, this was an extra caution
14 on my part. You said a SLED agent said he'd been
15 keeping up with your case, which I took to mean
16 maybe he'd been investigating your case and maybe
17 there was some evidence out there that you claim to
18 have, but he's driven here from Florence.

19 **DEFENDANT:** I must have misinterpreted what he
20 was saying. I might have misunderstood what he was
21 saying. You know, I don't want to get him involved
22 in my case or get him in trouble. We grewed {sic}
23 up together, you know. And I'm doing time. I got a
24 life sentence because of my age. But I'm going to
25 tell, on the record, I didn't kill nobody. I'm just

1 as innocent as you are. If they had never come at
2 me with my kids, Your Honor, I would have never
3 plead guilty.

4 Mr. Dowling, he's a fine man, you know, and I
5 can't sit here and put him involved because he
6 didn't make me commit this crime, you understand
7 what I'm saying, you know. This doesn't help all of
8 a sudden.

9 **THE COURT:** Mr. Dowling since you came, would
10 you, please, raise your right hand for me, please.

11 JAMES HENRY DOWLING,

12 having been duly sworn, testified as follows:

13 **THE COURT:** What's your full name?

14 **AGENT DOWLING:** James Henry Dowling.

15 **THE COURT:** D-o-w-l-i-n-g.

16 **AGENT DOWLING:** Yes, sir.

17 **THE COURT:** And what's your position with SLED?

18 **AGENT DOWLING:** I'm a regular investigator,
19 sir. You got to excuse my attire because I was out
20 in the field working.

21 **THE COURT:** Listen, I appreciate you coming
22 here today. Like I said, I'm trying to go the extra
23 mile here and we had everybody assembled here today
24 so your name didn't come up until today.

25 **AGENT DOWLING:** Yes, sir.

1 **THE COURT:** Did you have a conversation with
2 Mr. Williams at the penitentiary?

3 **AGENT DOWLING:** Lieber. I believe that's what
4 it was, right?

5 **DEFENDANT:** Yeah, Lieber.

6 **AGENT DOWLING:** We were working on another
7 case, Judge, Your Honor, Sammy Garrett.

8 **DEFENDANT:** Yeah, Sammy Garrett.

9 **AGENT DOWLING:** After the interview, I asked to
10 see him because we grewed {sic} up together. When
11 he and I met, we talked about back in the day. We
12 talked about classes. We talked about other
13 classmates. He brought up, he said, I got an
14 appeal. My attorney's going to appeal my case. I
15 should be out -- did you say 30, 60 days?

16 **THE COURT:** No, just tell me what you --

17 **AGENT DOWLING:** That's what he told me. And I
18 said, Okay, good luck. So we continued to talk
19 about classmates, that's it.

20 **THE COURT:** Did you ever make any statement to
21 him like that you had been keeping up with his case?

22 **AGENT DOWLING:** No, sir, never, never.

23 And you cannot sit there and tell me that --

24 **THE COURT:** Don't talk to him. Talk to me
25 right now.

1 **DEFENDANT:** No, he didn't say that, Your Honor.

2 **THE COURT:** Well, I can get the court reporter
3 to read it back. That's almost word for word what
4 you told me he said before.

5 Let me just put on the record what he says
6 happened and then if you say something -- I mean,
7 that happens all the time. I get one person in here
8 say the sky's blue and I got another one that come
9 in here and say the sky is orange.

10 All right. Have you been keeping up with his
11 case?

12 **AGENT DOWLING:** Never, sir.

13 **THE COURT:** Did you investigate his case in any
14 way?

15 **AGENT DOWLING:** No, sir.

16 **THE COURT:** Do you have any additional evidence
17 that might help him?

18 **AGENT DOWLING:** No, sir.

19 **THE COURT:** Do you know of any impropriety or
20 anything that any law enforcement agent or
21 prosecutor or judge or defense attorney or anybody's
22 done to withhold information from him that would be
23 helpful to him?

24 **AGENT DOWLING:** No, sir.

25 **THE COURT:** Got anything against him?

1 **AGENT DOWLING:** I thought he was my friend,
2 sir. That's why --

3 **THE COURT:** Well, apparently, he thinks y'all
4 are friends and you thought he was your friend.

5 **AGENT DOWLING:** Yes, sir. I didn't figure he
6 would lie on me like that.

7 **THE COURT:** Well, if I was in prison for 30
8 years, I don't know what I would do. I'd be trying
9 to get out.

10 **AGENT DOWLING:** Yes, sir.

11 **THE COURT:** I mean, I understand that. I don't
12 condone if he is lying.

13 **AGENT DOWLING:** Oh, yes, sir, he's lying on me.

14 **DEFENDANT:** Yes, sir, I'm lying.

15 **THE COURT:** Well, don't say that because you'll
16 get indicted for perjury.

17 **DEFENDANT:** He didn't.

18 **THE COURT:** All right.

19 **DEFENDANT:** I'm lying.

20 **THE COURT:** Y'all need to ask any questions of
21 Agent Dowling?

22 **MR. HUBBARD:** No, sir, nothing from the State.

23 **THE COURT:** Mr. Mauldin, do you?

24 **MR. MAULDIN:** No, Your Honor?

25 **THE COURT:** Mr. Williams, do you?

1 **DEFENDANT:** No. I want to tell him I'm sorry I
2 made up that lie on you.

3 **AGENT DOWLING:** No problem, we cool.

4 **THE COURT:** All right. Well, Agent Dowling,
5 thank you very much for coming and I'm sorry you had
6 to --

7 **AGENT DOWLING:** No problem, sir.

8 **THE COURT:** -- make that detour.

9 **AGENT DOWLING:** No problem.

10 **THE COURT:** All right. Mr. Williams, if
11 there's nothing else, I'm going to rule on what you
12 got in writing and there will be a copy of it sent
13 to you. You asked me about an appeal and any appeal
14 you wish to file, I think you know the process, you
15 have to do it in writing. I can't say if you can or
16 cannot file an appeal.

17 **DEFENDANT:** Mr. Keesley.

18 **THE COURT:** Yes, sir.

19 **DEFENDANT:** Truly, sir, from my heart, I didn't
20 kill nobody, a life sentence for nothing. I mean, I
21 don't even know where the gun come from or nothing.

22 **THE COURT:** Well, if you've got proof of actual
23 innocence aside from you just saying it, I'd be
24 happy to try to arrange something for that to be
25 presented, but if --

1 **DEFENDANT:** I mean, what I'm saying --

2 **THE COURT:** The problem was that, like I told
3 you before, we don't just keep going over the cases.

4 **DEFENDANT:** I understand, too.

5 **THE COURT:** Once we move a case, it's moved and
6 you've got to have something that meets those five
7 elements, and you know what the elements are. I
8 think you wrote them in one of your briefs. And,
9 you know, I think one of the cases you were
10 referring to was one of the cases I was very much
11 involved in and I consider it kind of the critical
12 element is that you've got to show that it would
13 have some effect.

14 But I can't just say, Mr. Williams came in here
15 and said he didn't do it, so I've got to give him a
16 new trial. If I did that, the penitentiary would be
17 all over here in the courthouse. You may be telling
18 a hundred percent truth, but you should have told it
19 to Judge Westbrook.

20 **DEFENDANT:** They done me wrong, told me if I
21 pleaded and I come up on PCR, they'd get me out. So
22 they lied to me.

23 **THE COURT:** They lied to you about what?

24 **DEFENDANT:** Told me if I come up on a PCR,
25 they'd get me out.

1 **THE COURT:** Who told you that?

2 **DEFENDER:** Solicitor and Westbrook told me
3 that. They said if I plead guilty, say I was
4 involved and come up on a PCR, they'd help me get
5 out. They lied on me for nothing.

6 **THE COURT:** Judge Westbrook and the Solicitor
7 told you?

8 **DEFENDANT:** And the Solicitor and the man named
9 Gorski, all of them told me that. I wanted to go to
10 trial, I really -- the day of the trial, walking out
11 of trial, tell the lie about he was sick. The man
12 wasn't sick. Got me doing a life sentence for
13 nothing.

14 **THE COURT:** Where did Judge Westbrook say this
15 to you?

16 **DEFENDANT:** Back in the courtroom.

17 **THE COURT:** In the courtroom?

18 **DEFENDANT:** Yeah. We looking for it in the
19 record. They didn't put it in the record. I mean,
20 it's a shame the way they done me.

21 **MR. HUBBARD:** This would be a good time to hand
22 up a clean copy of the transcript, Your Honor.

23 **DEFENDANT:** I didn't know the law was like that
24 to tell you the truth.

25 **THE COURT:** Well, Judge Westbrook is buried out

1 there near the airport, so I don't think we can ask
2 him any questions.

3 **DEFENDANT:** They did me wrong. They did me
4 wrong. I'm innocent. I didn't kill nobody. I got
5 to do a life sentence for nothing. Everywhere I go
6 for help, nobody want to listen to what I say.

7 **THE COURT:** Well, Mr. Williams, you might can
8 say that about somebody else, but I'm telling you
9 the truth, I've listened to you --

10 **DEFENDANT:** Wrong the way they done me. Wrong,
11 Judge. I tell you --

12 **THE COURT:** It's now 1:30. We're 30 minutes
13 past where we normally break for lunch. I've done
14 everything I know to possibly do to hear you out and
15 I've heard you out. I'll make the ruling and I'll
16 do my job. I wish you the best. Good luck to you,
17 sir.

18 Thank y'all very much.

19 (Court's Exhibit Numbers 4 and 5 were marked
20 for identification.)

21

22

END OF PROCEEDINGS

23

24

25

C E R T I F I C A T E

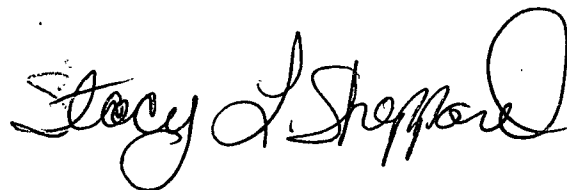
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STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 20th of June, 2013.

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

July 2, 2014



Stacy L. Sheppard, RPR
Circuit Court Reporter

GUILTY PLEA

1 (WHEREUPON, THE PROCEEDINGS CONCLUDED AND RESUMED ON
2 MARCH 21, 2002.)

3 THE COURT: THANK YOU. PLEASE HAVE A SEAT.

4 THE CLERK: INDICTMENT 2000-GS-32-689, THE STATE
5 VERSUS JAMES CHESTER WILLIAMS, INDICTED FOR MURDER. THE
6 DEFENDANT IS PUT TO THE BAR AND ARRAIGNED AND UPON HIS
7 ARRAIGNMENT PLEADS GUILTY AS CHARGED. IT IS SIGNED AND
8 PROPERLY ATTESTED TO, TRUE BILLED, AND REPRESENTED BY MR.
9 GORSKI.

10 THE COURT: MR. GORSKI, YOU REPRESENT MR. WILLIAMS?

11 MR. GORSKI: YES, YOUR HONOR, I DO.

12 THE COURT: HAVE YOU ADVISED HIM OF HIS RIGHTS IN
13 THIS MATTER?

14 MR. GORSKI: I HAVE.

15 THE COURT: DO YOU FEEL LIKE HE UNDERSTANDS HIS
16 RIGHTS?

17 MR. GORSKI: HE UNDERSTANDS HIS RIGHTS, YOUR HONOR.

18 THE COURT: ALL RIGHT. IS HE UNDER OATH, MADAM
19 CLERK?

20 THE CLERK: RAISE YOUR RIGHT HAND.

21 JAMES CHESTER WILLIAMS, AFTER BEING DULY SWORN,
22 TESTIFIED AS FOLLOWS:

23 EXAMINATION BY THE COURT

24 Q. THANK YOU. MR. WILLIAMS, I UNDERSTAND THAT YOU WISH
25 TO PLEAD GUILTY TO A CHARGE OF MURDER. IS THAT CORRECT?

GUILTY PLEA

1 A. YES, SIR.

2 Q. DO YOU UNDERSTAND THAT ON A CONVICTION OF MURDER
3 THAT YOU COULD GET AS MUCH AS A LIFE SENTENCE BUT AT LEAST 30
4 YEARS?

5 A. YES, SIR.

6 Q. DO YOU UNDERSTAND THAT?

7 A. YES, SIR.

8 Q. AND ON THIS CHARGE DO YOU UNDERSTAND WHAT THE STATE
9 ALLEGES THAT YOU'VE DONE TO HAVE BEEN CHARGED WITH MURDER?

10 A. YES, SIR.

11 Q. OKAY. IN FACT, DO YOU UNDERSTAND THEY ALLEGE THAT
12 ON SEPTEMBER 15, 1999, THAT YOU SHOT ONE KATHY ARETHA
13 WILLIAMS AND THAT SHE DIED AS A RESULT OF SHOOTING? DO YOU
14 UNDERSTAND THAT THAT'S WHAT THEY CHARGE YOU WITH DOING?

15 A. YES, SIR.

16 Q. OKAY. NOW, DO YOU UNDERSTAND THAT YOU DON'T HAVE TO
17 PLEAD GUILTY? YOU HAVE A RIGHT TO PLEAD NOT GUILTY. IF YOU
18 PLED NOT GUILTY, YOU WOULD HAVE A JURY TRIAL. DO YOU
19 UNDERSTAND THAT?

20 A. YES, SIR.

21 Q. AND, IN FACT, YOU UNDERSTAND THAT THERE IS A JURY
22 WAITING RIGHT NOW AND YOU WOULD BE AVAILABLE -- YOU WOULD BE
23 ABLE TO HAVE YOUR JURY TRIAL STARTING IN JUST A LITTLE WHILE?
24 DO YOU UNDERSTAND THAT?

25 A. YES, SIR.

GUILTY PLEA

1 Q. DO YOU?

2 A. YES, SIR.

3 Q. OKAY. AND DO YOU UNDERSTAND THAT -- LET ME GO
4 THROUGH THE TRIAL PROCESS NOW, AND I'M SURE YOUR LAWYER HAS
5 BEEN OVER THIS WITH YOU, BUT I'LL GO THROUGH IT WITH YOU SO
6 THAT IT'S ON THE RECORD. YOU UNDERSTAND THAT, OF COURSE,
7 WE'VE BEEN THROUGH PART OF IT WHERE THERE'S BEEN -- THERE'S
8 BEEN JURY SELECTION. THE JURY HAS BEEN SELECTED, AND AS YOU
9 KNOW, YOU WERE ABLE TO TAKE PART IN THAT AND EVEN TO STRIKE
10 SOME JURORS.

11 A. YES, SIR.

12 Q. DO YOU UNDERSTAND THAT WHAT WOULD HAPPEN NOW WOULD
13 BE THAT BOTH YOUR LAWYER WOULD HAVE A RIGHT TO MAKE WHAT'S
14 CALLED AN OPENING STATEMENT TO THE JURY IN WHICH HE WOULD
15 SPEAK TO THE JURY ON YOUR BEHALF? THE STATE WOULD ALSO. AND
16 THEN ONCE THAT'S DONE, THEN ALL THE EVIDENCE WOULD START.
17 THE STATE WOULD HAVE TO PUT UP WITNESSES AND THEY WOULD HAVE
18 TO TESTIFY IN OPEN COURT, AND YOUR LAWYER WOULD HAVE A RIGHT
19 TO QUESTION THOSE WITNESSES. DO YOU UNDERSTAND THAT?

20 A. YES, SIR.

21 Q. AND YOU UNDERSTAND THE REASON THEY DO THAT IS
22 BECAUSE THEY HAVE THE BURDEN OF PROOF. THEY MUST PROVE YOU
23 GUILTY BEYOND A REASONABLE DOUBT. DO YOU UNDERSTAND THAT?

24 A. YES, SIR.

25 Q. AND YOU UNDERSTAND THAT THAT MEANS THAT YOU DON'T

1 HAVE TO PROVE ANYTHING. YOU'RE NOT REQUIRED TO PROVE A THING
2 AND, OF COURSE, WE WILL TELL THE JURY THAT, TOO. DO YOU
3 UNDERSTAND THAT?

4 A. YES, SIR.

5 Q. AND THAT THEN MEANS THAT YOU CAN TESTIFY IF YOU WANT
6 TO, BUT YOU WOULDN'T HAVE TO. IT'S UP TO YOU. YOU COULD
7 CALL WITNESSES IF YOU WANTED TO, BUT AGAIN YOU WOULDN'T HAVE
8 TO. THAT WOULD BE UP TO YOU. DO YOU UNDERSTAND THAT?

9 A. YES, SIR.

10 Q. NOW, REGARDLESS OF WHICH YOU DID, ONCE ALL -- ALL
11 THAT WAS OVER WITH, THEN YOUR LAWYER WOULD HAVE A CHANCE TO
12 SPEAK TO THE JURY AGAIN ON YOUR BEHALF AT THE END AND GIVE
13 WHAT'S CALLED A CLOSING STATEMENT. DO YOU UNDERSTAND THAT?

14 A. YES, SIR.

15 Q. AND THEN FOLLOWING THAT, THE STATE WOULD HAVE A
16 CHANCE TO MAKE A CLOSING STATEMENT. I WOULD TELL THE JURY
17 THE LAW AND THEN THEY WOULD GO OUT AND COME BACK WITH A
18 VERDICT. DO YOU UNDERSTAND THAT?

19 A. YES, SIR.

20 Q. NOW, YOU UNDERSTAND THAT DURING ALL THIS THERE ARE
21 FROM TIME TO TIME VARIOUS MOTIONS THAT CAN BE MADE ON YOUR
22 BEHALF, AND YOUR LAWYER WOULD BE ABLE TO MAKE THOSE. DO YOU
23 UNDERSTAND?

24 A. YES, SIR.

25 Q. AND IF THE JURY WERE TO FIND YOU GUILTY, YOU WOULD

GUILTY PLEA

25

1 HAVE A RIGHT TO APPEAL TO THE STATE SUPREME COURT. DO YOU
2 UNDERSTAND THAT?

3 A. YES, SIR.

4 Q. ALL RIGHT. AND DO YOU UNDERSTAND BASICALLY THEN
5 WHAT YOUR RIGHTS ARE IN THE JURY TRIAL?

6 A. YES, SIR.

7 Q. DO YOU HAVE ANY QUESTIONS ABOUT THAT AT ALL?

8 A. NO, SIR.

9 Q. AND YOU'VE BEEN OVER ALL THAT WITH YOUR LAWYER.

10 A. YES, SIR.

11 Q. AND YOU UNDERSTAND THAT -- THAT IF YOU PLEAD GUILTY
12 YOU'RE GOING TO GIVE ALL THAT UP. DO YOU UNDERSTAND?

13 A. YES, SIR.

14 Q. AND, OF COURSE, THAT MEANS IF YOU HAD ANY DEFENSES
15 THAT YOU WANTED TO BRING UP OR ANY MOTIONS OR ANY CLAIMS OF
16 YOUR OWN OR ANY COMPLAINTS ABOUT THE WAY YOU WERE TREATED,
17 YOU WOULD GIVE ALL THAT UP. DO YOU UNDERSTAND THAT?

18 A. YES, SIR.

19 Q. AND UNDERSTANDING THAT THEN, DO YOU STILL WANT TO
20 PLEAD GUILTY?

21 A. YES, SIR.

22 Q. ALL RIGHT. NOW, MR. WILLIAMS, ARE YOU PLEADING
23 GUILTY OF YOUR OWN FREE WILL?

24 A. YES, SIR.

25 Q. OKAY. HAS ANYBODY THREATENED YOU IN ANY WAY TO MAKE

GUILTY PLEA

1 YOU PLEAD GUILTY?

2 A. NO, SIR.

3 Q. ALL RIGHT. NOW, THERE'S -- EXCEPT FOR ANY
4 AGREEMENT, ANYTHING THAT MAY HAVE BEEN WORKED OUT BETWEEN
5 YOUR LAWYER AND THE STATE -- AND I DON'T KNOW ABOUT THAT.
6 I'LL FIND OUT IF THERE HAS BEEN. EXCEPT FOR ANYTHING THAT
7 MIGHT HAVE BEEN WORKED OUT WITH THAT, HAS ANYBODY PROMISED
8 YOU ANYTHING TO GET YOU TO PLEAD GUILTY?

9 A. NO, SIR.

10 Q. OKAY. DO YOU ADMIT THAT YOU'RE GUILTY OF THIS
11 CHARGE?

12 A. YES, SIR.

13 Q. ALL RIGHT. NOW, AT THIS TIME ARE YOU UNDER THE
14 INFLUENCE OF ANY DRUGS OR ALCOHOL OR MEDICATION OF ANY KIND?

15 A. NO, SIR.

16 Q. NOW, IS THERE ANY MEDICINE THAT YOU'RE SUPPOSED TO
17 BE TAKING THAT YOU'RE NOT TAKING?

18 A. NO, SIR.

19 Q. OKAY. ARE YOU SATISFIED WITH YOUR LAWYER?

20 A. YES, SIR.

21 Q. HAVE YOU HAD HIS ADVICE IN THIS MATTER?

22 A. YES, SIR.

23 Q. DO YOU FEEL LIKE HE'S DONE EVERYTHING YOU WANTED HIM
24 TO DO?

25 A. YES, SIR.

1 Q. ALL RIGHT. AND UNDERSTANDING EVERYTHING THAT I'VE
2 ASKED, DO YOU STILL WANT TO PLEAD GUILTY?

3 A. YES, SIR.

4 Q. OKAY. AND LET ME ALSO NOTE -- DO YOU UNDERSTAND
5 THAT WHEN ALL OF THIS IS OVER WITH THAT IF YOU'RE -- THAT IF
6 YOU FEEL LIKE THERE'S BEEN ANY PROBLEM WITH IT OR ANYTHING
7 WAS DONE WRONG YOU HAVE A RIGHT TO APPEAL -- EVEN THE PLEA
8 YOU HAVE A RIGHT TO APPEAL TO THE SUPREME COURT. DO YOU
9 UNDERSTAND THAT?

10 A. YES, SIR.

11 Q. AND YOU HAVE TEN DAYS TO FILE THAT. DO YOU
12 UNDERSTAND THAT?

13 A. REPEAT THAT AGAIN NOW.

14 Q. YOU WOULD HAVE TEN DAYS -- IF YOU WANTED TO FILE AN
15 APPEAL, YOU WOULD HAVE TEN DAYS TO FILE THE APPEAL WITH THE
16 SUPREME COURT. YOU'D HAVE TO NOTIFY YOUR LAWYER AND GIVE HIM
17 TIME TO DO THAT. DO YOU UNDERSTAND THAT?

18 A. YES, SIR.

19 Q. OKAY. UNDERSTANDING ALL OF THAT THEN, DO YOU STILL
20 WANT TO PLEAD GUILTY?

21 A. YES, SIR.

22 THE COURT: ALL RIGHT. MADAM SOLICITOR?

23 MS. CARROLL: MAY IT PLEASE THE COURT? ON THE NIGHT
24 OF SEPTEMBER 15TH OF 1999 THE LEXINGTON COUNTY SHERIFF'S
25 DEPARTMENT RESPONDED TO AN APARTMENT IN RIVER OAKS APARTMENTS

1 IN LEXINGTON COUNTY. WHEN THEY ARRIVED, THEY FOUND THE BODY
2 OF KATHY WILLIAMS WHO WAS 41 YEARS OLD WHO HAD BEEN OBVIOUSLY
3 SHOT IN THE NECK AREA. THEY ALSO FOUND THREE OF HER CHILDREN
4 WHO WERE FRANTICALLY RUNNING AROUND THE APARTMENT TRYING TO
5 GET HELP FOR THEIR MOTHER.

6 LAW ENFORCEMENT QUESTIONED THE CHILDREN WHO WERE
7 PRESENT IN THE APARTMENT WHEN THEIR MOTHER WAS SHOT. AT THAT
8 TIME THEY WERE AGES 8, 13, AND 15. THE CHILDREN WERE ABLE TO
9 TELL LAW ENFORCEMENT THAT THAT EVENING THEIR FATHER OR
10 STEPFATHER, THE DEFENDANT, CAME OVER TO SPEAK TO THE MOTHER
11 SUPPOSEDLY TO BRING SOME MONEY SO THE YOUNGEST CHILD COULD
12 PLAY FOOTBALL. AT THAT POINT THE DEFENDANT AND THE VICTIM
13 HAD BEEN SEPARATED. SHE HAD MOVED OUT OF THE MARITAL HOME
14 INTO THESE APARTMENTS IN RIVER OAKS. HE WAS NOT LIVING
15 THERE.

16 THE VICTIM AND THE DEFENDANT ARGUED A LITTLE BIT
17 ABOUT HIM COMING OVER ALL THE TIME. AT THAT POINT THE
18 DEFENDANT LEFT THE APARTMENT, WENT DOWN TO HIS CAR, ARMED
19 HIMSELF WITH A SHOTGUN, TOOK ONE SHOTGUN SHELL, LOADED THE
20 GUN AND WENT BACK INTO THE APARTMENT. HE WENT STRAIGHT BACK
21 TO THE VICTIM'S BEDROOM AND MOTIONED HER TO COME INTO THE
22 BEDROOM WITH HIM.

23 THE CHILDREN HEARD SOME MORE ARGUING. TWO OF THE
24 CHILDREN HEAR THE VICTIM SAYING IN A VERY STRONGER VOICE,
25 "WHAT ARE YOU GOING TO DO? SHOOT ME?" AND THEN IMMEDIATELY

1 AFTERWARDS THEY HEARD A GUNSHOT FIRED. THE DEFENDANT RUNS
2 OUT OF THE APARTMENT, LEAVING MS. WILLIAMS ALONE ON THE FLOOR
3 TO DIE.

4 LAW ENFORCEMENT GETS A TIP AS TO WHERE THE DEFENDANT
5 MAY BE LOCATED. HE HAD SOME FAMILY MEMBERS, I BELIEVE, IN
6 BARNWELL COUNTY. THE NEXT MORNING THEY'RE ABLE TO GO OUT
7 THERE. I BELIEVE THEY WERE ACTUALLY CONTACTED BY HIS FAMILY
8 MEMBERS. WHEN THEY WENT TO THE BROTHER'S HOUSE, THEY FOUND
9 THE DEFENDANT IN THAT HOME. THEY FOUND THE CAR HE WAS
10 DRIVING HIDDEN BEHIND ANOTHER HOME IN THE AREA AS WELL AS A
11 SAWED-OFF SHOTGUN HIDDEN IN AN OLD REFRIGERATOR BEHIND THE
12 TRAILER AND A BOX OF SHOTGUN SHELLS. OUT OF THE BOX OF
13 AMMUNITION ONE SHOTGUN SHELL WAS MISSING. THAT WAS SENT TO
14 S.L.E.D., AND FORENSIC WERE -- THEY WERE ABLE TO DETERMINE
15 THAT THE DEFENDANT'S PALM PRINT WAS ON THE BOX OF AMMUNITION.

16 THE AUTOPSY WAS PERFORMED ON MS. WILLIAMS. DR.
17 CARTER DETERMINED THAT SHE DIED FROM A GUNSHOT WOUND TO THE
18 NECK AREA. HE APPROXIMATES THAT THE GUN WAS LESS THAN SIX
19 INCHES FROM HER NECK WHEN IT WAS DISCHARGED, AND BASICALLY IT
20 SEVERED HER SPINAL CORD. SO SHE HAD ABSOLUTELY NO CHANCE OF
21 SURVIVING AFTER SHE WAS SHOT.

22 GUNSHOT RESIDUE TESTS WERE PERFORMED ON BOTH THE
23 DEFENDANT AND THE VICTIM. IT OBVIOUSLY CAME UP NEGATIVE ON
24 THE DEFENDANT DUE TO THE LACK OF -- OR THE GREAT PERIOD OF
25 TIME THAT LAPSED BETWEEN THE SHOOTING AND TAKING THE TEST. I

GUILTY PLEA

1 BELIEVE IT WAS OVER AT LEAST 18 HOURS OR A LITTLE BIT LESS
2 WHEN THEY ACTUALLY DID THAT TEST ON HIM. BUT THE EXPERT FROM
3 S.L.E.D. WOULD HAVE TESTIFIED THAT THE GUNSHOT RESIDUE TEST
4 THAT WAS DONE ON THE VICTIM WOULD HAVE BEEN CONSISTENT WITH
5 THE VICTIM'S HANDS BEING UP IN THE SURRENDER POSITION. IT
6 WAS NOT ON THE GUN AT ANY TIME.

7 THE DEFENDANT DOES HAVE A PRIOR RECORD OF C.D.V. IN
8 THIS CASE FROM 1999 FROM WHEN HE WAS CHARGED AND THE VICTIM
9 WAS, IN FACT, THE SAME VICTIM AS THIS CASE. HE ALSO HAS A
10 GRAND LARCENY CHARGE THAT HE PLED TO IN 1994. WE ALSO HAD
11 PLANNED ON CALLING WITNESSES FROM THE DEFENDANT'S WORKPLACE
12 WHO HAD INDICATED THAT FOR AT LEAST WEEKS BEFORE THIS CRIME
13 HE HAD THREATENED TO KILL HIS WIFE, KATHY WILLIAMS, AS WELL
14 AS KILLING HIMSELF AND WE HAD INTENDED TO CALL THEM AS
15 WITNESSES IF THIS CASE HAD, IN FACT, GONE TO TRIAL.

16 IN EXCHANGE FOR THE DEFENDANT'S PLEA TODAY, WE ARE
17 DISMISSING THE CHARGE OF POSSESSION OF A WEAPON DURING THE
18 COMMISSION OF A VIOLENT OFFENSE, AND WE ARE RECOMMENDING A
19 30-YEAR SENTENCE.

20 THE COURT: OKAY. DID ANY OF THE VICTIMS HAVE
21 ANYTHING TO SAY?

22 MS. CARROLL: NO, YOUR HONOR.

23 THE COURT: OKAY. ALL RIGHT. I'LL ACCEPT THE PLEA
24 AND FIND THE DEFENDANT GUILTY AS PLED. COUNSEL?

25 MR. GORSKI: YOUR HONOR, WE DON'T HAVE ANYTHING TO

1 ADD TO THAT. WE WOULD ASK THE COURT TO ACCEPT THE STATE'S
2 RECOMMENDATION.

3 THE COURT: OKAY. MR. WILLIAMS, DID YOU HAVE
4 ANYTHING YOU WANTED TO SAY?

5 MR. WILLIAMS: I JUST WANT TO APOLOGIZE TO MY KIDS,
6 YOU KNOW, AND WHAT HAPPENED TO THEIR MOTHER BECAUSE, YOU
7 KNOW, I LOVE THEM BOTH -- THEIR MOTHER JUST AS MUCH AS I LOVE
8 THEM, AND I'M BASICALLY ASKING THEM TO FORGIVE ME FOR IT.
9 BUT, YOU KNOW, WHETHER THEY DO IT OR NOT, YOU KNOW, I DON'T
10 KNOW, BUT I WANTED TO LET THEM KNOW THAT I STILL LOVE THEM.

11 THE COURT: OKAY. THANK YOU, SIR. ALL RIGHT.
12 COUNSEL, I WILL -- BASED ON THE PLEA AND THE -- AND THE
13 ENTIRE RECORD OF THE PLEA, I'LL ORDER THE DEFENDANT COMMITTED
14 TO THE DEPARTMENT OF CORRECTIONS FOR A TERM OF 30 YEARS.
15 WE'LL GIVE HIM CREDIT FOR TIME SERVED FROM SEPTEMBER 16 OF
16 1999. THANK YOU.

17 MS. CARROLL: THANK YOU, YOUR HONOR.

18 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED. ALL
19 EXHIBITS WERE RETURNED TO THE POLICE OFFICERS DUE TO THE
20 GUILTY PLEA, AND A RECORD OF THEIR DESCRIPTION IS NOT
21 AVAILABLE.)

42

I, THE UNDERSIGNED DAPHNE D. HELMS, OFFICIAL COURT REPORTER FOR THE ELEVENTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR LEXINGTON COUNTY, SOUTH CAROLINA, ON THE 18TH AND 21ST DAYS OF MARCH, 2002.

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

MAY 1, 2002


DAPHNE D. HELMS, COURT REPORTER